5–19–83
Vol. 48 No. 98
Pages 22499–22700

federal register

Thursday
May 19, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Chemicals
Environmental Protection Agency

Coal Mining
Surface Mining Reclamation and Enforcement Office

Government Contracts
Energy Department

Government Property Management
General Services Administration

Income Taxes
Internal Revenue Service

Marine Safety
Coast Guard

Milk Marketing Orders
Agricultural Marketing Service

Motor Carriers
Federal Highway Administration

Motor Vehicle Pollution
Environmental Protection Agency

Motor Vehicle Safety
National Highway Traffic Safety Administration

Public Lands
Forest Service

Quarantine
Animal and Plant Health Inspection Service

CONTINUED INSIDE

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.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

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.

Selected Subjects

Contents

Federal Register
Vol. 48, No. 98
Thursday, May 19, 1983

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.

Federal Register
Vol. 48, No. 98
Thursday, May 19, 1983

Presidential Documents

Title 3—

The President

Proclamation 5062 of May 17, 1983

Management Week in America, 1983

By the President of the United States of America

A Proclamation

The high level of competence and dedication of the members of the management profession has contributed significantly to the success of the American economy. Management skills are particularly important at the present time because of the need for increased productivity to allow our goods and services to compete more successfully in both domestic and world markets. We urge those with management responsibilities to continue to improve their skills.

It is important that we acknowledge the essential role of management in ensuring the strength of the American economy, both in the past and for the future. We hope that public recognition of the vital role managerial personnel play in furthering the goals of our society will encourage and inspire young Americans to consider management as a career.

In recognition of the essential role of this profession in ensuring the continued strength of the American economy, the Congress, by House Joint Resolution 225, has designated the week beginning on June 5, 1983, as "Management Week in America" and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning June 5, 1983, as Management Week in America and call upon the American people to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of May, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-13624
Filed 5-17-83; 2:44 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 48, No. 98
Thursday, May 19, 1983

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

[Docket 83-062]

Exotic Newcastle Disease; Areas Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document releases a portion of Queens County in New York and a portion of Sonoma County in California from the list of areas quarantined because of the existence of exotic Newcastle disease. Surveys indicate that exotic Newcastle disease no longer exists in such portions of Queens County and Sonoma County. Therefore, in order to relieve unnecessary restrictions, it is necessary to take this action.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: W. W. Buisch, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, Federal Building, Room 748, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION: This document on an emergency basis amends 9 CFR Part 82 by releasing a portion of Queens County in New York and a portion of Sonoma County in California from the areas quarantined because of exotic Newcastle disease, a communicable viral disease affecting all species of poultry and birds. Surveys indicate that exotic Newcastle disease no longer exists in these portions of Queens County and Sonoma County. It is therefore necessary, in order to relieve unnecessary restrictions, to release these areas from quarantine. The restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses, and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the released areas.

Executive Order 12291 and Emergency Action

This final action has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." The Department has determined that this rule will have an annual effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

Dr. E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, has determined that the emergency nature of this final rule warrants publication without opportunity for public comment. This amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Certification Under the Regulatory Flexibility Act

Bert W. Hawkins, 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 it removes the quarantines imposed due to exotic Newcastle disease concerning only two premises and these premises are not owned by small entities.

List of Subjects in 9 CFR Part 82

Animal diseases, Poultry and poultry products, Quarantine, Transportation, Exotic Newcastle disease.

PART 82—[AMENDED]

Accordingly, 9 CFR Part 82 is amended as follows:

§ 82.3 Imposition and removal of quarantine. [Amended]

1. In § 82.3(c)(1), relating to the State of New York, the following premises is removed: Richard King, 256-08 Craft Avenue, Rosedale, Queens County.

2. In § 82.3(c)(2), relating the State of California, the following premises is removed: Mendocino Bird Farm, 5355 Hall Road, Santa Rosa, Sonoma County.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; [21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f]; 7 CFR 2.17, 2.51, 371.2(d))

Done at Washington, D.C., this 13th day of May 1983.

William E. Ketter,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-13441 Filed 5-18-83; 8:45 am]
BILLING CODE 3410-34-M

9 CFR Part 92

[Docket No. 83-011]

Specifically Approved States To Receive Stallions Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which added Ohio to the list of specifically approved States authorized to receive certain stallions imported into the United States from countries affected with contagious equine metritis (CEM). This action is taken because the Deputy Administrator, Veterinary Services,

Animal and Plant Health Inspection Service, determined that Ohio has laws or regulations in effect to require the additional inspection, treatment and testing of such horses to further ensure their freedom from CEM as required by the regulations.

EFFECTIVE DATE: May 18, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, VS, APHIS, USDA, Room 844–AAA, Federal Building, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Background

Section 92.2(i)(2) of the regulations in 9 CFR Part 92, among other things, authorizes the importation of certain male horses (stallions over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into approved States for further inspection, treatment and testing.

A document published in the **Federal Register** on September 21, 1981, (46 FR 46563–46564), set forth an interim rule amending § 92.4(a)(5)(ii) of the regulations in 9 CFR Part 92 by adding Ohio to the list of States approved to receive these stallions. The addition of Ohio to the list was based on the finding that it meets certain criteria concerning treatment, testing, and handling procedures for these stallions.

The interim rule was made effective on the date of publication in order to relieve unnecessary restrictions that had been placed on importers of these stallions.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation which was set forth in the document of September 21, 1981, still provides a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the **Federal Register** on September 21, 1981.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

This action affirms an interim rule which provides a means by which stallions over 731 days of age from countries affected with CEM and bound for Ohio can be imported directly into Ohio. Otherwise, the stallions would be allowed to be imported only to other States which have been approved to receive these stallions from countries affected with CEM. The nearest States to Ohio approved to receive these stallions from countries affected with CEM are Kentucky, Maryland, and Virginia. This action should result in a decrease of transportation costs for such horses.

In fiscal year 1982, two of these stallions were imported into Ohio and it is anticipated that six or fewer of these stallions will be imported into Ohio annually. It is further anticipated that the number of these stallions imported into the United States from countries affected with CEM will be insignificant compared with horses of all classes imported into the United States. In fiscal year 1982 only 70 of these stallions were imported into the United States from countries affected with CEM, compared with 38,983 horses of all classes imported into the United States.

Under the circumstances explained above, Mr. James O. Lee, Jr., Acting 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.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—[AMENDED]

Accordingly, § 92.4(a)(5)(ii) as published in interim form at 46 FR 46 563–46564, September 21, 1981, is adopted as final

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 12th day of May, 1983.

William E. Ketter,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-13469 Filed 5-18-83; 8:45 am]

BILLING CODE 3410-34-M

---

9 CFR Part 92

[Docket No. 83-012]

Specifically Approved States To Receive Mares Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which added Kentucky and Virginia to the list of specifically approved States authorized to receive certain mares imported into the United States from countries affected with contagious equine metritis (CEM). This action is taken because the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, determined that Kentucky and Virginia have laws or regulations in effect to require the additional inspection, treatment and testing of such horses to further ensure their freedom from CEM as required by the regulations.

EFFECTIVE DATE: May 18, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, VS, APHIS, USDA, Room 844–AAA, Federal Building, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Background

Section 92.2(i)(2) of the regulations in 9 CFR Part 92, among other things, authorizes the importation of certain female horses (mares over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into approved States for further inspection, treatment and testing.

A document published in the **Federal Register** on December 24, 1981 (46 FR 62395–62396), set forth an interim rule amending § 92.4(a)(8)(ii) of the regulations in 9 CFR Part 92 by adding Kentucky and Virginia to the list of States approved to receive these mares. The addition of Kentucky and Virginia to the list was based on the finding that they meet certain criteria concerning

treatment, testing, and handling procedures for these mares.

The interim rule was made effective on the date of publication in order to relieve unnecessary restrictions that had been placed on importers of these mares.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation which was set forth in the document of December 24, 1981, still provides a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the **Federal Register** on December 24, 1981.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse affects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512-1.

This action affirms an interim rule which provides a means by which mares over 731 days of age from countries affected with CEM and bound for Kentucky and Virginia can be imported directly into Kentucky and Virginia. Otherwise, the mares would be allowed to be imported only to other States which have been approved to receive these mares from countries affected with CEM. The nearest State to Kentucky and Virginia approved to receive these mares from countries affected with CEM is South Carolina. This action should result in a decrease of transportation costs for such horses.

It is anticipated that 300 or fewer of these mares will be imported into Kentucky and Virginia annually. It is further anticipated that the number of these mares imported into the United States from countries affected with CEM will be insignificant compared with horses of all classes imported into the United States. In fiscal year 1982, 218 of these mares were imported into Kentucky and 36 into Virginia, compared with 38,983 horses of all classes imported into the United States.

Under the circumstances explained above, Mr. James O. Lee, Jr., Acting 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.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—[AMENDED]

Accordingly, § 92.4(a)(8)(ii) as published in interim form at 46 FR 62395-62396, December 24, 1981 is adopted as final.

(Sec. 2, 32 Stat. 792, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 12th day of May, 1983.

William E. Ketter,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-13470 Filed 5-18-83; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-07-AD; Amdt. 39-4651]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to certain British Aerospace BAC 1-11 200 and 400 series airplanes which requires checks of the electrical resistance of the windshield NESA coats and, if necessary, replacement of the windshield. Windshields produced in 1979 and 1980 by P.P.G. Industries, Inc., with serial numbers beginning with 9-H and 0-H may be subject to partial or complete loss of windshield heat generation capability. This condition reduces bird impact resistance and degrades anti-ice functions.

EFFECTIVE DATE: May 31, 1983.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to British Aerospace, Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority of the United Kingdom has classified British Aerospace BAC 1-11 Alert Service Bulletin 56-A-PM5836, Issue 1, as mandatory. P.P.G. Industries Technical Bulletin AP-110481 indicates that windshields produced in 1979 and 1980 with serial numbers beginning with 9-H and 0-H installed in BAC 1-11 airplanes may be subject to partial or complete degradation of the anti-ice heating system because of continuously increasing bus-to-bus resistance. This results in reduced anti-ice capability, visual impairment, and a reduction of bird impact resistance. The service bulletin prescribes checks of the electrical resistance of the windshields NESA coats and, if necessary, replacement of the windshields.

This airplance model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which requires checks of the electrical resistance of the NESA coats on windshields manufactured in 1979 and 1980 and, if necessary, replacement of the windshield.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

British Aerospace: Applies to BAC 1-11 200 and 400 series airplanes, certificated in all categories. Compliance is required as indicated.

For airplanes fitted with pilots windshield No. 1, left and right-hand part numbers AB31A705 and AB31A706 respectively, produced in 1979 and 1980 with serial numbers beginning with 9-H and 0-H, manufactured by P.P.G. Industries, Inc., accomplish the following, unless already accomplished:

A. Check the bus-to-bus electrical resistance of the windshield NESA coat within the next 200 hours time in service or 28 days, whichever occurs first, after the effective date of this AD in accordance with paragraph 2.1 of the Accomplishment Instructions of British Aerospace Alert Service Bulletin 56-A-PM5836, dated March 19, 1982.

Note.—If windshield is replaced with another windshield produced in 1979 or 1980, repeat paragraph A after 200 hours time in service but not later than 300 hours time in service on the replacement windshield.

B. Accomplish the actions of paragraph 2.2, 203, or 2.4 of the service bulletin based upon the resistance values obtained in the check done in paragraph A.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

This amendment becomes effective May 31, 1983.

(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 determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. 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 a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"For Further Information Contact."**

Issued in Seattle, Washington on May 11, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-13438 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 83-ASW-25; Amdt. No. 39-4648; Predecessor Docket No. 78-NE-21]

Airworthiness Directives; Sikorsky S-61 Series Helicopters Certificated in All Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) which requires ultrasonic inspections of the main rotor blade spindles of S-61 type helicopters. This amendment revises the AD by clarifying the applicability; decreasing the initial and repetitive inspection intervals; updating a mailing address; and referencing the latest revision of the Sikorsky service bulletin. The amendment is needed to preclude the possibility of failure of main rotor spindles.

DATE: Effective date May 25, 1983.

Compliance shedule—As prescribed in the body of AD.

ADDRESSES: The applicable service bulletin may be obtained from the United Technologies Corporation, Sikorsky Aircraft, North Main Street, Stratford, Connecticut 06601, Attn: S-61 Commercial Product Support Department.

Copies of the service bulletin are contained in the Rules Docket at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Cheryl McCabe, Aerospace Engineer, ANE-152, Boston Aircraft Certification Branch, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7336.

SUPPLEMENTARY INFORMATION: This amendment further amends Amendment 39-3305 (43 FR 44476), AD 78-20-05, as amended by Amendment 39-3425 (44 FR 12021), Amendment 39-3444 (44 FR 19184), and Amendment 39-3838 (45 FR 47130), which currently requires repetitive ultrasonic inspection of the main rotor blade spindles of Sikorsky S-61 series helicopters.

After issuing Amendment 39-3838, the FAA determined that:

1. The applicability requires clarification because the AD only applies to certain non-modified spindles and this is not clearly specified in the AD as evidenced by a recent inquiry from a foreign authority;

2. The ultrasonic inspection interval and the initial inspection time for the main rotor spindles must be decreased from 180 to 70 hours' time in service because during a periodic ultrasonic inspection on a military helicopter a crack greater than one-half the cross section of the spindle lug was found. The crack origin was located in the outboard edge of the large chamfer (the spindle incorporated nickel sulfamate plating).

3. The FAA mailing address for reporting requires updating due to the recent reorganization in the FAA.

4. The latest revision of the Sikorsky service bulletin should be referenced in the AD to agree with the decreased inspection intervals.

The information collection requirement contained in this regulation (§ 39.13) has been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and has been assigned OMB control number 2120-0056.

Since a situation exists that requires immediate adoption of this regulation, and since this amendment also provides an applicability clarification which imposes no additional burden on any person, it is found that notice and public procedure hereon are impracticable and unnecessary and good cause exists for making this amendment effective in less than 30 days.

Approximately 14 aircraft could be affected by the requirements of this AD for an estimated impact of $70 per aircraft per 180 flight hours.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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 further amending Amendment 39-3305 (43 FR 44476), AD 78-20-05, as amended by Amendment 39-3425 (44 FR 12021), Amendment 39-3444 (44 FR 19184), and Amendment 39-3838 (45 FR 47130), as follows:

1. In the first paragraph and paragraph 1, delete "P/Ns S6112–23027, S6112–23025, and S6110–23325 main rotor spindles" and insert in its place: "main rotor P/N S6112–23025–1 spindles (S6112–23027–006 spindle assemblies) and S6110–23325 series spindles (S6110–23327 series spindle assemblies)."

2. In paragraph 1, delete "Prior to further flight, unless already accomplished within the last 180 hours' time in service," and insert in its place "Within the next 20 hours' time in service, unless already accomplished within the last 50 hours' time in service, after the effective date of this amendment."

3. In paragraph 1, delete the number "180" from the second and third places where it occurs and insert in its place: "70."

4. In paragraphs 1 and 3, delete "Chief, Engineering and Manufacturing Branch" and insert in its place: "Manager, Boston Aircraft Certification Branch."

5. In paragraph 1, delete "61B10–33C" and insert in its place: "61B10–33F."

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 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 United Technologies Corporation, Sikorsky Aircraft, North Main Street, Stratford, Connecticut 06601, Attn: S–61 Commercial Product Support Department. These documents also may be examined in the Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106.

This amendment becomes effective May 25, 1983.

This amendment amends Amendment 39–3305 (43 FR 44476), AD 78–20–05, as amended by Amendment 39–3425 (44 FR 12021), Amendment 39–3444 (44 FR 19184) and Amendment 39–3838 (45 FR 47130).

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

Note.—The FAA has determined that this regulation only involves 14 aircraft that could be affected by the requirements of this AD for an estimated impact of $70 per aircraft. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291, and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Fort Worth, Texas, on May 4, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83–13439 Filed 5–18–83; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7893]

Amendment of Income Tax Regulations To Conform to Repeal of Subpart F Exception for Investments in Less Developed Countries and to Foreign Base Company Shipping Income Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations relating to the taxation of shipping income of controlled foreign corporations and their shareholders. The document also contains regulations concerning investments in less developed countries by controlled foreign corporations. Changes to the applicable tax law were made by the Tax Reduction Act of 1975. The regulations provide the public with guidance needed to comply with the provisions. The regulations affect certain foreign corporations which are controlled by U.S. persons and the U.S. shareholders of those corporations.

DATE: The regulations are effective for taxable years of controlled foreign corporations beginning after December 31, 1975, and for taxable years of U.S. shareholders within which or with which the taxable years of such controlled foreign corporations end; except that the amendments to §§ 1.959–1(d)(2) and 1.964–1(c)(3)(ii) are effective June 20, 1983.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation & Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On February 9, 1978, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 864, 881, 951, 952, 954, 955, 958, 959, 964, 970, and 972 of the Internal Revenue Code of 1954 (43 FR 5529). On August 9, 1976, the **Federal Register** published proposed amendments to the Income Tax Regulations under several sections of the Internal Revenue Code, including section 955. The August 9, 1976, Notice of Proposed Rulemaking proposed a new § 1.955–0. The February 9, 1978, Notice of Proposed Rulemaking proposed a paragraph (a) to this § 1.955–0. All of these amendments were proposed to conform the regulations to sections 602 (c) and (d) of the Tax Reduction Act of 1975 (89 Stat. 58). The proposed amendments which were published on August 9, 1976, are being finalized (with some changes) at the same time as these amendments. No public comments were received concerning the amendments proposed on February 9, 1978. A public hearing was neither requested nor held. The changes to the regulations as proposed are only of a correcting and clarifying nature. The amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7895).

Statutory Bases

The United States taxes foreign corporations only on certain United States source income and income from any source which is connected with the conduct of a trade or business in the United States. As a result, the United States generally does not impose a tax on foreign source income of a foreign corporation even though it is owned or controlled by U.S. persons. When the foreign corporation actually remits its foreign source income to U.S. shareholders as a dividend, the United States imposes a tax. The tax is imposed on the U.S. shareholder, not the foreign corporation. The fact that no U.S. tax is imposed until the income is distributed is what generally is referred to as tax "deferral."

The Internal Revenue Code provides for an exception to the general rule of deferral under the "subpart F" provisions of the Code (sections 951 through 964). Under these provisions, income from certain tax haven activities is taxed at the shareholder level whether or not the income is actually received in the form of a dividend. These rules apply only to U.S. persons owning 10 percent or more of the voting power of a foreign corporation and only if more than 50 percent of the voting power of the corporation is owned by U.S. persons who each own 10 percent or larger interests.

Among the types of subpart F income is "foreign base company income." Before enactment of the Tax Reduction Act of 1975, section 954(b)(1) of the Code excluded from foreign base company income certain dividends, interest, and gains from qualified investments in less developed countries. Under sections 951(a)(1)(A)(ii) and 955, a U.S. shareholder was taxed on its pro rata share of this excluded income only when it was withdrawn from investment in less developed countries. Section 602(c) of the Tax Reduction Act repealed the section 954(b)(1) exclusion. In addition, section 602(c) repealed the provisions of section 955, as it existed before the Tax Reduction Act of 1975, and added a new section 955 concerning amounts invested in foreign base company shipping operations. Congress did not, however, repeal the section 951(a)(1)(A)(ii) imposition of tax on a U.S. shareholder's pro rata share of excluded income when withdrawn from investment in less developed countries. As a result of the retention of section 951(a)(1)(A)(ii), repealed section 955 (as in effect before amendment by the Tax Reduction Act) retains some vitality.

Section 602(d) of the Tax Reduction Act of 1975 also added a new category of income to foreign base company income. The new category is called "foreign base company shipping income." Under section 954(b)(2), foreign base company shipping income is not included in foreign base company income to the extent that the shipping income is reinvested in qualified investments in foreign base company shipping operations. Under sections 951(a)(1)(A)(iii) and 955 (as amended by the Tax Reduction Act of 1975), previously excluded subpart F income withdrawn from investment in foreign base company shipping operations is included in the gross income of U.S. shareholders.

Summary of Regulations, Changes, and Public Comment

The amendments to the regulations provided by this document generally reflect the repeal of the less developed country exception to subpart F and coordinate the existing subpart F regulations with the foreign base company shipping income regulations proposed on August 9, 1976, and which are being adopted on the same day as these regulations. The amendments also update and correct certain cross references to and within the subpart F regulations. In addition, the proposed amendments change certain reporting requirements under subpart F by requiring that taxpayer identification numbers also be furnished in cases in which taypayer names and addesses are currently required to be furnished. The requirement that taxpayer identification numbers be furnished applies only with respect to reports required to be filed after June 20, 1983.

Regulatory Flexibility Act and Executive Order 12291

This regulation was published as a proposed regulation before January 1, 1981, the effective date of the Regulatory Flexibility Act [5 U.S.C Chapter 6). In addition, the Service has concluded that the regulations do not constitute regulations subject to the Regulatory Flexibility Act [5 U.S.C. Chapter 6]. The Commissioner of Internal Revenue has also determined that this regulation is not a major regulation as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

Drafting Information

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

List of Subjects in 26 CFR 1.861–1 Through 1.997–1

Incomes taxes, Aliens, Export, Domestic International Sales Corporation (DISC), Foreign investments in U.S., Foreign tax credit, Source of income, United States investments abroad.

Adoption of Amendments to the Regulations

The amendments to 26 CFR Part 1 which were set forth in the Notice of Proposed Rulemaking appearing in the **Federal Register** of February 9, 1978 (43 FR 5529), are adopted, subject to the revisions set forth below. In addition, other amendments to 26 CFR Part 1 are adopted, as set forth below.

PART 1—[AMENDED]

Paragraph 1. The amendments to § 1.951–1, as set forth in paragraph 4 of the Notice of Proposed Rulemaking, are changed as follows:

1. The last sentence of instructional paragraph 4 is revised by inserting the phrase "of subparagraphs (1)(c), 3, and 5 above" between the words "provisions" and "read".

2. The heading of § 1.951–1(c)(1) is revised by inserting the phrase "*countries.* " immediately after the word "*developed* ".

Par. 2. The amendments to § 1.951–3, as set forth in paragraph 5 of the Notice of Proposed Rulemaking, are changed as follows:

1. The third sentence of paragraph (a) of *Example* (4) of § 1.951–3 is revised by placing the symbol "§" between the abbreviation "CFR" and the number "1.954–1(b)(1)".

2. New paragraph (c) of *Example* (4) of § 1.951–3 is revised by deleting the word "or" and inserting in its place the word "of".

Par. 3. The amendment to § 1.952–1, as set forth in paragraph 6 of the Notice of Proposed Rulemaking, is revised by adding the symbol "§" in paragraph (b)(1) between the abbreviation "CFR" and the number "1.952–1(b)(1)".

Par. 4. The proposed amendments to § 1.954–1(b)(3)(v), as set forth in paragraph 8 of the Notice of Proposed Rulemaking, are deleted.

Par. 5. The amendments to § 1.954–2, as set forth in paragraph 9 of the Notice of Proposed Rulemaking, are changed as follows: Instructional subparagraph 1 of instructional paragraph 9 is revised by deleting the word "Subdivision" and inserting in its place the phrase "Subdivision (i) is revised by deleting the period at the end and inserting a comma in its place and subdivision".

Par. 6. The amendment to § 1.954–3, as set forth in paragraph 10 of the Notice of Proposed Rulemaking is revised by deleting "paragraph(b)(3)(iv)" in the first sentence of subparagraph (2)(i)(*d*) and inserting in lieu thereof "paragraph (b)(4)(ii)".

Par. 7. The amendment to § 1.954–5, as set forth in paragraph 11 of the Notice of Proposed Rulemaking, is revised by inserting the symbol "§" between the abbreviation "CFR" and the number "1.954–5".

Par. 8. The amendment to § 1.955, as set forth in paragraph 12 of the Notice of Proposed Rulemaking, is deleted.

Par. 9. Proposed § 1.955–0, as set forth in paragraph 13 of the Notice of Proposed Rulemaking, is changed as follows: The second sentence of § 1.955–0(a)(2) is revised by placing the symbol "§§" between the abbreviation "CFR" and the number "1.954–1".

Par. 10. The amendments to § 1.959–1, as set forth in paragraph 17 of the Notice of Proposed Rulemaking, are changed as follows:

1. The second sentence of § 1.959–1(c) is revised by adding a comma immediately after the work "operations".

2. The amendment to § 1.959–1(d)(2) is revised by inserting the phrase "(in the

case of information required to be furnished after [date which is 30 days after publication of these final regulations in the Federal Register])" between the words "and" and "taxpayer".

Par. 11. The amendments to § 1.964–1, as set forth in paragraph 19 of the Notice of Proposed Rulemaking, are changed as follows:

1. Instructional subparagraphs (1) and (3) of instructional paragraph 19 are revised by deleting the phrase " "or (3)(B)"," and inserting in its place both times the phrase " "of 1975",".

2. Instructional subparagraph (3) of instructional paragraph 19 is revised by inserting a comma immediately after the number "1.954–6(f)".

3. The last sentence of instructional paragraph 19 is revised by inserting the phrase "of subparagraphs (4), (5), and (6)(d) above" between the words "provisions" and "read".

4. Section 1.964–1(c)(3)(ii) is revised by inserting the phrase "(in the case of statements required to be filed after [date which is 30 days after publication of these final regulations in the Federal Register])" immediately after the phrase "taxpayer identification numbers" the first time it appears and immediately before the phrase "taxpayer identification numbers" the second time it appears.

Par. 12. Instructional paragraph 20 of the Notice of Proposed Rulemaking, amending §§ 1.964–2 (a) and (b)(1), is revised by deleting the phrase "955," and inserting in its place the phrase "955" and before the comma immediately thereafter."

Par. 13. The amendments to § 1.964–3, as set forth in paragraph 22 of the Notice of Proposed Rulemaking, are changed as follows.

1. The last sentence of instructional paragraph 22 is revised by adding the phrase "of subparagraphs (1)(b) and (2) above" between the words "provisions" and "read".

2. Section 1.964–3(c)(1)(i) is revised by deleting the period after the phrase "taxable year", deleting the period after the phrase "April 1, 1975)", and by adding the symbols "§§" between the abbreviation "CFR" and the number "1.954–1(d)(3)(i)".

Par. 14. The amendments to § 1.964–4, as set forth in paragraph 23 of the Notice of Proposed Rulemaking, are changed as follows:

1. Instructional subparagraph (2)(b) of instructional paragraph 23 is revised by deleting the word "both", deleting the comma after the number "1976" and inserting in its place a semicolon, and by deleting the phrase "1.954 and" and inserting in its place the symbol "§".

2. The last sentence of instructional paragraph 23 is revised by adding the phrase "of subparagraphs (1)(a), (1)(c), and 3 above" between the words "provisions" and "read".

3. Section 1.964–4(d)(4) is revised by inserting the symbol "§" between the abbreviation "CFR" and the number "1.964–4(d)(4)".

4. Section 1.964–4(d)(5) is revised by inserting the symbol "§" between the abbreviation "CFR" and the number "1.964–4(d)(5)".

5. Section 1.964–4(d)(6)(v) is revised by deleting the phrase "§ 1.954–6(f)," and inserting in its place the phrase "§§ 1.954–6(f) and 1.954–6(b)(1)(viii),".

6. The flush language at the beginning of §1.964–4(g–2) is revised by adding the word "operations" immediately after the word "shipping".

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: April 26, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

PART 1—[AMENDED]

Part 1 of Title 26 of the Code of Federal Regulations is amended as follows:

Paragraph 1. Section 1.864–5(d)(2) is amended as follows:

1. Subdivision (i) is revised.

2. Subdivision (ii) is revised by changing "30 percent" to "10 percent."

3. Subdivision (ii) is revised by inserting "(30 percent in the case of taxable years of foreign corporations ending before January 1, 1976)" immediately after "10 percent."

The revised provision reads as follows:

§ 1.864–5 Foreign source income effectively connected with U.S. business.

* * * * *

(d) *Excluded foreign source income.* * * *

(2) *Subpart F income of a controlled foreign corporation.* * * *

(i) Foreign base company shipping income which is excluded under section 954(b)(2),

(ii) Foreign base company income amounting to less than 10 percent (30 percent in the case of taxable years of foreign corporations ending before January 1, 1976) of gross income which by reason of section 954(b)(3)(A) does not become subpart F income for the taxable year,

* * * * *

Par. 2. Section 1.881–1 (e)(4)(i) is amended to read as follows:

§ 1.881–1 Manner of taxing foreign corporations.

* * * * *

(e) *Other provisions applicable to foreign corporations* * * *

(4) *Controlled foreign corporations.*—(i) *Subpart F income and increase of earnings invested in U.S. Property.* For the mandatory inclusion in the gross income of the U.S. shareholders of the subpart F income, of the previously excluded subpart F income withdrawn from investment in less developed countries, of the previously excluded subpart F income withdrawn from investment in foreign base company shipping operations, and of the increase in earnings invested in U.S. property, of a controlled foreign corporation, see sections 951 through 964, and the regulations thereunder.

* * * * *

Par. 3. Section 1.951–1 is amended as follows:

1. Paragraph (a)(2) is amended as follows:

a. Subdivision (ii) is revised by deleting "paragraph (c)" and inserting in lieu thereof "paragraph (c) (1)," and by deleting the word "and" at the end thereof.

b. Subdivision (iii) is redesignated as subdivision (iv).

c. Immediately after subdivision (ii) new subdivision (iii) is added.

2. Paragraph (b)(1) is amended by deleting "paragraph (a)(1)" and inserting in lieu thereof "paragraph (a)(2)(i)."

3. Paragraph (c) is revised.

4. Paragraph (d) is amended by deleting "paragraph (a)(3)" both times it appears and inserting in lieu thereof "paragraph (a)(2)(iv)."

5. Paragraph (e)(1) is revised. The added and revised provisions read as follows:

§ 1.951–1 Amounts included in gross income of U.S. shareholders.

(a) *In general.* * * *

(2) * * *

(iii) Such shareholder's pro rata share (determined under paragraph (c)(2) of this section) of the corporation's previously excluded subpart F income withdrawn from investment in foreign base company shipping operations for such taxable year of the corporation, and

* * * * *

(c) *Limitation on a United States shareholder's pro rata share of previously excluded subpart F income withdrawn from investments.*—(1) *Investments in less developed countries.* For purposes of paragraph (a)(2)(ii) of this section, a United States shareholder's pro rata share (determined

in accordance with the rules of paragraph (e) of this section) of the foreign corporation's previously excluded subpart F income withdrawn from investment in less developed countries for the taxable year of such corporation shall not exceed an amount which bears the same ratio to such shareholder's pro rata share of such income withdrawn (as determined under section 955(a)(3), as in effect before the enactment of the Tax Reduction Act of 1975, and paragraph (c) of § 1.955–1) for such taxable year as the part of such year during which such corporation is a controlled foreign corporation bears to the entire taxable year. See paragraph (c)(2) of § 1.955–1 for a special rule applicable to exclusions and withdrawals occurring before the date on which the United States shareholder acquires his stock.

(2) *Investments in foreign base company shipping operations.* For purposes of paragraph (a)(2)(iii) of this section, a United States shareholder's pro rata share (determined in accordance with the rules of paragraph (e) of this section) of the foreign corporation's previously excluded subpart F income withdrawn from investment in foreign base company shipping operations for the taxable year of such corporation shall not exceed an amount which bears the same ratio to such shareholder's pro rata share of such income withdrawn (as determined under section 955(a)(3) and paragraph (c) of § 1.955A–1) for such taxable year as the part of such year during which such corporation is a controlled foreign corporation bears to the entire taxable year. See paragraph (c)(2) of § 1.955A–1 for a special rule applicable to exclusions and withdrawals occurring before the date on which the United States shareholder acquires his stock.

* * * * *

(e) *"Pro rata share" defined.*—(1) *In general.* For purposes of paragraphs (b), (c), and (d) of this section, a United States shareholder's pro rata share of a controlled foreign corporation's subpart F income, previously excluded subpart F income withdrawn from investment in less developed countries, previously excluded subpart F income withdrawn from investment in foreign base company shipping operations, or increase in earnings invested in United States property, respectively, for any taxable year is his pro rata share determined under paragraph (a) of § 1.952–1, paragraph (c) of § 1.955–1, paragraph (c) of § 1.955A–1, or paragraph (c) of § 1.956–1, respectively.

* * * * *

Par. 4. Section 1.951–3 is amended as follows:

1. Example (4) is amended as follows:

a. Paragraph (a) is amended by deleting "paragraph (b)(1) of § 1.954–1" in the third sentence and inserting in lieu thereof "26 CFR § 1.954–1(b)(1) (Rev. as of Apr. 1, 1975)" and by inserting in the sixth sentence ", as in effect before the enactment of the Tax Reduction Act of 1975," immediately after "section 955(a)."

b. A new paragraph (c) is added.

2. Example (5) is amended by deleting "paragraph (a)(3)" each time it appears in paragraphs (a) and (b) and inserting in lieu thereof "paragraph (a)(2)(iv)".

The added provision reads as follows:

§ 1.951–3 Coordination of subpart F with foreign personal holding company provisions.

* * * * *

Example (4). * * *

(c) The principles of this example also apply to withdrawals (determined under section 955(a), as in effect before the enactment of the Tax Reduction Act of 1975) of previously excluded subpart F income from investment in less developed countries effected after the effective date of such Act, and to withdrawals (determined under section 955(a), as amended by such Act) of previously excluded subpart F income from investment in foreign base company shipping operations.

* * * * *

Par. 5. Section 1.952–1 is amended as follows:

1. Paragraph (a)(2) is amended by deleting "1.954–5)." and inserting in lieu thereof "1.954–7.".

2. Paragraph (b)(1) is revised to read as follows:

§ 1.952–1 Subpart F income defined.

* * * * *

(b) *Exclusion of U.S. income.*—(1) *Taxable years beginning before January 1, 1967.* For rules applicable to taxable years beginning before January 1, 1967, see 26 CFR § 1.952–1(b)(1) (Rev. as of April 1, 1975).

* * * * *

Par. 6. Section 1.952–2(c)(5)(i) is revised to read as follows:

§ 1.952–2 Determination of gross income and taxable income of a foreign corporation.

* * * * *

(c) *Special rules for purposes of this section.* * * *

(5) *Treatment of capital loss and net operating loss.* * * *

(i) *Capital loss carryback and carryover.* The capital loss carryback and carryover provided by section 1212(a) shall not be allowed.

* * * * *

Par. 7. Section 1.954–2(d)(2)(iv)(*b*)(*2*) is amended as follows:

1. Subdivision (*ii*) is amended by deleting "and" at the end thereof.

2. Subdivision (*iii*) is amended by deleting the period at the end thereof and inserting in lieu thereof ", and".

3. A new subdivision (*iv*) is added to read as follows:

§ 1.954–2 Foreign personal holding company income.

* * * * *

(d) *Certain income received from unrelated persons in the active conduct of a trade or business* * * *

(2) *Dividends, interest, and gains on securities, received in banking or other financing business from unrelated persons* * * *

(iv) *Income of foreign corporations owned by Edge Act or Agreement corporations* * * *

(b) *Foreign corporations included.* * * *

(2) * * *

(*iv*) Foreign base company shipping income, as defined in § 1.954–6.

* * * * *

Par. 8. Section 1.954–3(b) is amended as follows:

1. The first sentence of subparagraph (2)(i)(*d*) is amended by deleting "paragraph (b)(3)(iv)" and inserting in lieu thereof "paragraph (b)(4)(ii)".

2. The second sentence of subparagraph (3) is amended by deleting "30 percent" and inserting in lieu thereof "10 percent".

Par. 9. Section 1.954–5 is revised to read as follows:

§ 1.954–5 Increase in qualified investments in less developed countries; taxable years of controlled foreign corporations beginning before January 1, 1976.

For rules applicable to taxable years of controlled foreign corporations beginning before January 1, 1976, see section 954(b)(1) (as in effect before the enactment of the Tax Reduction Act of 1975) and 26 CFR § 1.954–5 (Rev. as of April 1, 1975).

* * * * *

Par. 10. Section 1.955–0, as reserved in paragraph 9 of the appendix to the notice of proposed rule making published on August 9, 1976 (41 FR 33296), is added, consisting of paragraph (a) to read as follows:

§ 1.955–0 Effective dates.

(a) *Section 955 as in effect before the enactment of the Tax Reduction Act of 1975*—(1) *In general.* In general, §§ 1.955–1 through 1.955–6 are applicable with respect to withdrawals

of previously excluded subpart F income from qualified investment in less developed countries for taxable years of foreign corporations beginning after December 31, 1962, and to taxable years of United States shareholders (as defined in section 951(b)) within which or with which such taxable years of such foreign corporations end. However, such sections are effective with respect to withdrawals of amounts invested in less developed country shipping companies described in section 955(c)(2) (as in effect before the enactment of the Tax Reduction Act of 1975) only for taxable years of foreign corporations beginning before January 1, 1976, and for taxable years of United States shareholders (as defined in section 951(b)) within which or with which such taxable years of such foreign corporations end. For rules applicable to withdrawals of amounts invested in less developed country shipping companies described in section 955(c)(2) (as in effect before such enactment), in taxable years of foreign corporations beginning after December 31, 1975, see section 955(b)(5) (as amended by such Act) and §§ 1.955A–1 through 1.955A–4.

(2) *References.* Except as otherwise provided therein, all references contained in §§ 1.955–1 through 1.955–6 to section 954 or 955 or to the regulations under section 954 are to those sections and regulations as in effect before the enactment of the Tax Reduction Act of 1975. For regulations under section 954 (as in effect before such enactment), see 26 CFR §§ 1.954–1 through 1.954–5 (Rev. as of April 1, 1975). For taxable years of foreign corporations beginning after December 31, 1975, and for taxable years of United States shareholders (as described in section 951(b)) within which or with which such taxable years of such foreign corporations end, the definitions of less developed countries and less developed country corporations contained in section 902(d) (as amended by such Act) and § 1.902–2 apply for purposes of determining the credit for corporate stockholders in foreign corporations under section 902.

* * * * *

Par. 11. Paragraph (a) of § 1.955–1 is revised to read as follows:

§ 1.955–1 Shareholder's pro rata share of amount of previously excluded subpart F income withdrawn from investment in less developed countries.

(a) *In general.* Pursuant to section 951(a)(1)(A)(ii) and the regulations thereunder, a United States shareholder of a controlled foreign corporation must include in its gross income its pro rata share (as determined in accordance with paragraph (c) of this section) of the amount of such controlled foreign corporation's previously excluded subpart F income which is withdrawn for any taxable year from investment in less developed countries. Section 955 provides rules for determining the amount of a controlled foreign corporation's previously excluded subpart F income for any taxable year of the corporation beginning after December 31, 1962, that is withdrawn from investment in less developed countries for any taxable year of the corporation beginning before January 1, 1976. Except for investment in less developed country shipping companies, section 955 also provides rules for determining the amount of a controlled foreign corporation's previously excluded subpart F income for any taxable year of the corporation beginning after December 31, 1962, which is withdrawn from investment in less developed countries in taxable years of the corporation beginning after December 31, 1975. To determine the amount of a controlled foreign corporation's previously excluded subpart F income withdrawn from investment in less developed country shipping companies described in section 955(c)(2) in taxable years of a controlled foreign corporation beginning after December 31, 1975, see section 955(b)(5) (as in effect after amendment by the Tax Reduction Act of 1975) and §§ 1.955A–1 through 1.955A–4 . For effective dates, see § 1.955–0.

* * * * *

Par. 12. Section 1.955–3 is amended as follows:

1. The first sentence of paragraph (a) is amended by deleting "In lieu of determining the increase under" and inserting in lieu thereof "In lieu of determining the increase for a taxable year of a foreign corporation beginning before January 1, 1976, under".

2. Immediately after the last sentence of paragraph (b)(1) a new sentence is added to read as follows:

§ 1.955–3 Election as to date of determining qualified investments in less developed countries

* * * * *

(b) *Time and manner of making election*—(1) *Without consent.* * * * For taxable years of a foreign corporation beginning after December 31, 1975, no election under this section with respect to a controlled foreign corporation may be made without the consent of the Commissioner.

* * * * *

Par. 13. The first sentence of § 1.958–1(a) is revised to read as follows:

§ 1.985–1 Direct and indirect ownership of stock.

(a) *In general.* Section 958(a) provides that, for purposes of sections 951 to 964 (other than sections 955(b)(1) (A) and (B) and 955(c)(2)(A)(ii) (as in effect before the enactment of the Tax Reduction Act of 1975), and 960(a)(1)), stock owned means—

(1) Stock owned directly; and

(2) Stock owned with the application of paragraph (b) of this section.

* * * * *

Par. 14. Section 1.959–1 is amended as follows:

1. The second and third sentences of paragraph (a) are revised.

2. The third sentence of paragraph (b) is revised.

3. The second sentence of paragraph (c) is revised.

4. Paragraph (d)(2) is revised.

The revised provisions read as follows:

§ 1.959–1 Exclusion from gross income of United States persons of previously taxed earnings and profits

(a) *In general.* * * * The amounts so taxed to certain United States shareholders are described as subpart F income, previously excluded subpart F income withdrawn from investment in less developed countries, previously excluded subpart F income withdrawn from investment in foreign base company shipping operations, and increases in earnings invested in United States property. Section 959 provides that amounts taxed as subpart F income, as previously excluded subpart F income withdrawn from investment in less developed countries, or as previously excluded subpart F income withdrawn from investment in foreign base company shipping operations are not taxed again as increases in earnings invested in United States property. * * *

(b) *Actual distributions to United States persons.* * * * Thus, earnings and profits attributable to amounts which are, or have been, included in the gross income of a United States shareholder of a foreign corporation under section 951 (a)(1)(A)(i) as subpart F income, under section 951(a)(1)(A)(ii) as previously excluded subpart F income withdrawn from investment in less developed countries, under section 951(a)(1)(A)(iii) as previously excluded subpart F income withdrawn from investment in foreign base company shipping operations, or under section 951(a)(1)(B) as earnings invested in United States property, shall not be again included in the gross income of such shareholder when such amounts are actually

distributed, directly or indirectly, to such shareholder. * * *

* * * * *

(c) *Excludable investment of earnings in United States property.* * * * Thus, earnings and profits attributable to amounts which are, or have been, included in the gross income of a United States shareholder of a foreign corporation under section 951(a)(1)(A)(i) as subpart F income, under section 951(a)(1)(A)(ii) as previously excluded subpart F income withdrawn from investment in less developed countries, or under section 951(a)(1)(A)(iii) as previously excluded subpart F income withdrawn from investment in foreign base company shipping operations, may be invested in United States property without being again included in such shareholder's income under section 951 (a). * * *

* * * * *

(d) *Application of exclusions to shareholder's successor in interest.* * * *

(2) The name, address, and (in the case of information required to be furnished after June 20, 1983) taxpayer identification number of the person from whom the stock interest was required;

* * * * *

Par. 15. Section 1.959–3 is amended as follows:

1. Paragraph (a) is amended by inserting "previously excluded subpart F income withdrawn from investment in foreign base company shipping operations," immediately after "countries,".

2. Paragraph (b) is amended by deleting "Earnings" the first time it appears in the fifth sentence of subparagraph (3) and inserting in its place "For example, earnings".

3. Paragraph (b) is amended further by inserting "or foreign base company shipping operations" immediately after "assets" in the fifth sentence of subparagraph (3).

Par. 16. Section 1.964–1 is amended as follows:

1. The second sentence of the flush material following paragraph (b)(2)(ii) is amended by inserting a comma after "section 957)" and by inserting a comma after "of 1975", and by inserting before the period ", or pays a dividend that is included in the foreign base company shipping income of a controlled foreign corporation under § 1.954–6(f)".

2. The first sentence of example (2) of paragraph (b)(3) is amended by deleting "Corporation N" and inserting in lieu thereof "In 1973, Corporation N".

3. The first sentence of paragraph (c)(2) is amended by inserting a comma after "section 957)", by inserting a comma after "of 1975)", and by deleting "section 952(d)," and inserting in lieu thereof "section 952(d), or pays a dividend that is included in the foreign base company shipping income of a controlled foreign corporation under § 1.954–6(f)",.

4. Paragraph (c)(3)(ii) is revised.

5. Paragraph (c)(5) is amended by adding at the end thereof a new sentence.

6. Paragraph (c)(6) is amended as follows:

a. Subdivision (ii) is amended by deleting "section 955(c))" and inserting in lieu thereof "section 955(c), as in effect before the enactment of the Tax Reduction Act of 1975)".

b. Subdivision (iii) is amended by deleting the word "or" from the end thereof.

c. Subdivision (iv) is amended by deleting the period from the end thereof and inserting in lieu thereof "; or".

d. A new subdivision (v) is added.

e. The second sentence of the flush material following new subdivision (v) is amended by inserting immediately before the period "or pays a dividend that is included in the foreign base company shipping income of a controlled foreign corporation under § 1.954–6(f)"

The added provisions read as follows:

§ 1.964–1 Determination of the earnings and profits of a foreign corporation.

* * * * *

(c) *Tax adjustments.* * * *

(3) *Action on behalf of a corporation* * * *

(ii) *Written statement.* The written statement required by subdivision (i) of this subparagraph shall be jointly executed by the controlling United States shareholders, shall be filed with the Director of the Internal Revenue Service Center, 11601 Roosevelt Blvd., Philadelphia, Pennsylvania 19155, within 180 days after the close of the taxable year of the foreign corporation with respect to which the election is made or the adoption or change of method effected, or before May 1, 1965, whichever is later, and shall set forth the name and country or organization of the foreign corporation, the names, addresses, taxpayer identification numbers (in the case of statements required to be filed after June 20, 1983), and stock interests of the controlling United States shareholders, the nature of the action taken, the names, addresses, and (in the case of statements required to be filed after June 20, 1983) taxpayer identification numbers of all other United States shareholders notified of the election or adoption or change of method, and such other information as the Commissioner may by forms require.

* * * * *

(5) *Controlling United States shareholders.* * * *

In the event that a foreign corporation is not a controlled foreign corporation but pays a dividend to a controlled foreign corporation that is attributable to foreign base company shipping income under § 1.954–6(f), the controlling United States shareholders (as defined in this subparagraph) of the controlled foreign corporation shall be considered the controlling United States shareholders of the foreign corporation.

* * * * *

(6) *Action not required until significant.* * * *

(v) It is sought to be established that the corporation has foreign base company shipping income (within the meaning of section 954(f)).

* * * * *

Par. 17. Section 1.964–2 (a) and (b)(1) are amended by inserting "(as in effect both before and after the enactment of the Tax Reduction Act of 1975)" immediately after "section 955" and before the comma.

Par. 18. Section 1.964–2c)(1)(i)(*b*)) and (c)(1)(ii) are revised to read as follows:

§ 1.964–2 Treatment of blocked earnings and profits.

* * * * *

(c) *Removal of restriction or limitation—(1) In general.* * * *

(i) *Treatment of deferred income.* * * *

(*b*) The applicable limitations under paragraph (c) of § 1.952–1, paragraph (b)(2) of § 1.955–1, paragraph (b)(2) of § 1.955A–1, or paragraph (b) of § 1.956–1, determined as of the last day of the immediately preceding taxable year, taking into account the provisions of subdivision (ii) of this subparagraph.

(ii) *Treatment of earnings and profits.* For purposes of sections 952, 955 (as in effect both before and after the enactment of the Tax Reduction Act of 1975), and 956, the earnings and profits which are no longer subject to a currency or other restriction or limitation shall be treated as included in the corporation's earnings and profits for the year in which such earnings and profits were derived.

* * * * *

Par. 19. Section 1.964–3 is amended as follows:

1. Paragraph (b) is amended as follows:

a. Subparagraphs (3) and (4) are redesignated subparagraphs (4) and (5) respectively.

b. A new subparagraph (3) is inserted immediately after subparagraph (2).

2. Paragraph (c)(1)(i) is revised.

The added and revised provisions read as follows:

§ 1.964-3 Records to be provided by United States shareholders.

* * * * *

(b) *Records to be provided.* * * *

(3) The previously excluded subpart F income of such corporation withdrawn from investment in foreign base company shipping operations,

* * * * *

(c) *Special rules.* * * *

(1) * * *

(i) The locus and nature of such corporation's activities were such as to make it unlikely that the foreign base company income of such corporation (determined in accordance with paragraph (c)(3) of § 1.952-3) exceeded 5 percent of its gross income (determined in accordance with paragraph (b)(1) of § 1.952-3) for the taxable year. (For taxable years to which § 1.952-3 does not apply, such amounts shall be determined under 26 CFR §§ 1.954-1(d)(3) (i) and (ii) (Rev. as of April 1, 1975)), and

* * * * *

Par. 20. Section 1.964-4 is amended as follows:

1. Paragraph (d) is amended as follows:

a. Subparagraphs (4) and (5) are revised.

b. Subparagraphs (6) and (7) are redesignated subparagraphs (7) and (10), respectively.

c. New subparagraphs (6), (8), and (9) are added.

d. Subparagraph (10) as redesignated is amended by changing "(1) through (6)" to "(1) through (9)".

2. Paragraph (g) is redesignated paragraph (g-1) and amended as follows:

a. The heading is revised by inserting *"in less developed countries"* immediately after *"investment"*.

b. Subparagraph (1) is amended by inserting "(as in effect for taxable years beginning before January 1, 1976; see 26 CFR § 1.954-1(b)(1) (Rev. as of April 1, 1975))" immediately after "§ 1.954-1".

c. Subparagraph (2) is amended by inserting "(as in effect before the enactment of the Tax Reduction Act of 1975)" immediately after "section 955(a)".

d. Subparagraph (3) is amended by inserting "(as in effect before the enactment of the Tax Reduction Act of 1975)" immediately after "section 955(a)".

3. A new paragraph (g-2) is added immediately after redesignated paragraph (g-1).

The revised and added provisions read as follows:

§ 1.964-4 Verification of certain classes of income.

* * * * *

(d) *Foreign base company income and exclusions therefrom* * * *

(4) *Qualified investments in less developed countries.* For rules in effect for taxable years of foreign corporations beginning before January 1, 1976, see 26 CFR § 1.964-4(d)(4) (Rev. as of April 1, 1975).

(5) *Income derived from aircraft or ships.* For rules in effect for taxable years of foreign corporations beginning before January 1, 1976, see CFR § 1.964-4(d)(5) (Rev. as of April 1, 1975).

(6) *Foreign base company shipping income.* The foreign base company shipping income to which section 954(f) and § 1.954-6 apply, for which purpose there must be established—

(i) Gross income derived from, or in connection with, the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce, as determined under § 1.954-6(c),

(ii) Gross income derived from, or in connection with, the performance of services directly related to the use of any aircraft or vessel in foreign commerce, as determined under § 1.954-6(d),

(iii) Gross income incidental to income described in subdivisions (i) and (ii) of this subparagraph, as determined under § 1.954-6(e),

(iv) Gross income derived from the sale, exchange, or other disposition of any aircraft or vessel used (by the seller or by a person related to the seller) in foreign commerce,

(v) Dividends, interest, and gains described in §§ 1.954-6(f) and 1.954(b)(1)(viii),

(vi) Income described in § 1.954-6(g) (relating to partnerships, trusts, etc.), and

(vii) Exchange gain, to the extent allocable to foreign base company shipping income, as determined under § 1.952-2(c)(2)(v)(*b*).

If the controlled foreign corporation has income derived from or in connection with, the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce, or derived from, or in connection with, the performance of services directly related to the use of any aircraft or vessel in foreign commerce, it shall be necessary to establish, from the books and records of the controlled foreign corporation, that such aircraft or vessel was used in foreign commerce within the meaning of subparagraphs (3) and (4) of § 1.954-6(b).

* * * * *

(8) *Qualified investments in foreign base company shipping operations.* The foreign base company shipping income that is excluded from foreign base company income under section 954(b)(2) and § 1.954-1(b)(1).

(9) *Special rule for shipping income.* The distributions received through a chain of ownership described in section 958(a) which are excluded from foreign base company income under section 954(b)(6)(B) and § 1.954-1(b)(2).

* * * * *

(g-2) *Withdrawal of previously excluded subpart F income from investment in foreign base company shipping operations.*

Books or records sufficient to verify the previously excluded subpart F income of the controlled foreign corporation withdrawn from investment in foreign base company shipping operations for the taxable year must establish—

(1) The sum of the amounts of income excluded from foreign base company income under section 954(b)(2) and paragraph (b)(1) of § 1.954-1 for all prior taxable years,

(2) The sum of the amounts of previously excluded subpart F income withdrawn from investment in foreign base company shipping operations for all prior taxable years, as determined under section 955(a) and paragraph (b) of § 1.955A-1,

(3) The amount withdrawn from investment in foreign base company shipping operations for the taxable year as determined under section 955(a) and paragraph (b) of § 1.955A-1, and

(4) If the carryover (as described in § 1.955A-1(b)(3)) of amounts relating to investments in less developed country shipping companies (as described in § 1.995-5(b)) is applicable, (i) the amount of the corporation's qualified investments (determined under § 1.955-2 other than paragraph (b)(5) thereof) in less developed country shipping companies at the close of the last taxable year of the corporation beginning before January 1, 1976, and (ii) the amount of the limitation with respect to previously excluded subpart F income (determined under § 1.955-1(b)(1)(i)(*b*)) for the first taxable year of the corporation beginning after December 31, 1975.

Par. 21. Section 1.970-1(c)(1) is amended by inserting "(as in effect before the enactment of the Tax Reduction Act of 1975)" immediately

after "section 955", found in the flush paragraph following subparagraph (iii).

Par. 22. Section 1.972–1(b)(3)(i) is amended by inserting "(as in effect before the enactment of the Tax Reduction Act of 1975)" immediately after "section 955".

[FR Doc. 83-12837 Filed 5-17-83; 2:04 pm]
BILLING CODE 4830-01-M

26 CFR Parts 1 and 9

[T.D. 7894]

Foreign Base Company Shipping Income

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations relating to shipping income of controlled foreign corporations and the taxation of their shareholders. Certain provisions were added to the applicable tax law by the Tax Reduction Act of 1975 and the Tax Reform Act of 1976. The regulations provide the public with the guidance needed to comply with the provisions. The regulations affect certain foreign corporations which are controlled by U.S. persons and the U.S. shareholders of those corporations.

DATE: The regulations are effective for taxable years of foreign corporations beginning after December 31, 1975, and for taxable years of U.S. shareholders within which, or with which, the taxable years of such foreign corporations end.

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

SUPPLEMENTARY INFORMATION:

Background

On August 9, 1976, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 952, 954, and 955 of the Internal Revenue Code of 1954 (41 FR 33285). On August 25, 1976, the **Federal Register** published corrections to the proposed regulations under sections 952 and 955 (41 FR 35855). On March 3, 1977, the **Federal Register** proposed additional amendments to the Income Tax Regulations under section 954 (42 FR 12199). On August 22, 1977, the **Federal Register** published amendments to the Temporary Income Tax Regulations under the Tax Reduction Act of 1975 (26 CFR Part 9) under sections 954 and 955 (42 FR 42198). The August 22, 1977, amendments adopted as temporary regulations §§ 1.954–7(b) and 1.955A–4, which were proposed on August 9, 1976. The proposed (or adopted) amendments would conform the regulations to certain changes in the tax law made by sections 602 (c)–(e) of the Tax Reduction Act of 1975 (89 Stat. 60) and section 1024 of the Tax Reform Act of 1976 (90 Stat. 1620). The amendments are to be issued under the authority contained in sections 7805, 955(b)(2), and 955(b)(3) of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805; 89 Stat. 63, 26 U.S.C. 955(b)(2); 89 Stat. 64, 26 U.S.C. 955(b)(3)). After consideration of all comments submitted regarding the proposed amendments, the amendments are adopted as revised by this Treasury Decision.

Statutory Bases

The United States taxes foreign corporations only on certain United States source income and income from any source which is connected with the conduct of a trade or business in the United States. As a result, the United States generally does not impose tax on foreign source income of a foreign corporation even though it is owned or controlled by U.S. persons. When the foreign corporation actually remits its foreign source income to its U.S. shareholders as a dividend, the United States imposes a tax.

The tax is imposed on the U.S. shareholder, not the foreign corporation. The fact that no U.S. tax is imposed until the income is distributed is what generally is referred to as tax "deferral."

The Internal Revenue Code provides for an exception to the general rule of deferral under the so-called "subpart F" provisions of the Code (sections 951 through 964). Under these provisions, income received by foreign corporations form certain tax haven activities is taxed at the shareholder level whether or not the income is actually received by the shareholder in the form of a dividend. These special rules apply only to U.S. persons owning 10 percent or more of the voting power of a foreign corporation and only if more than 50 percent of the voting power of the corporation in owned by U.S. persons who each own 10 percent or larger interests.

Among the types of subpart F income is "foreign base company income." Section 602(d) of the Tax Reduction Act of 1975 added a category of income to foreign base company income. The new category is called "foreign base company shipping income." Foreign base company shipping income, as defined in section 954(f), generally includes income derived from, or in connection with, the use of an aircraft or vessel in foreign commerce, or from services directly related to such use. Foreign base company shipping income also includes dividends and interest received from certain foreign corporations, and gains from the sale of stock or obligations of certain foreign corporations, if the dividends, interest, or gains are attributable to foreign base company shipping income. Section 954(b)(7), as added by section 1024(a) of the Tax Reform Act of 1976, provides that foreign base company shipping income does not include income from; or in connection with, the use of an aircraft or vessel between two points within the foreign country in which a foreign corporation is created or organized and in which the aircraft or vessel is registered.

Sections 954 (b)(2) and (g) provide an important exception to the taxation of foreign base company shipping income. Shipping income is not included in foreign base company income to the extent the shipping income is reinvested in certain shipping assets. The exclusion operates so that to the extent that a controlled foreign corporation increases its "qualified investments in foreign base company shipping operations" during a taxable year, the shipping income for that year is excluded from foreign base company income. If a controlled foreign corporation decreases its qualified investments in foreign base company shipping operations during a year, the amount of the decrease generally will be taxed to the shareholders under section 951(a)(1)(A)(iii).

Section 955(b)(1) defines "qualified investments in foreign base company shipping operations" as investments in any aircraft or vessel used in foreign commerce, and other assets used in connection with the performance of services directly related to the use of the aircraft or vessel. Qualified investments include investments in stock or obligations of other controlled foreign corporations which hold qualified shipping assets.

Section 955(b)(2) permits the Treasury Department to issue regulations establishing rules under which a group of related corporations can combine their foreign base company shipping income and their qualified investments for purposes of determining the amount of income subject to current taxation under subpart F. Section 955(b)(3) provides a special rule whereby the Treasury Department may allow a U.S.

shareholder of a controlled foreign corporation to elect to compute the corporation's increase or decrease in qualified investments as of a different or a longer period of time than the one year which is generally required.

Summary of Regulations, Changes, and Public Comments

The following summary of the final regulations includes a description of the more important changes from the regulations as proposed. A number of the changes were made in response to comments received from the public. The more important of those comments will be mentioned, including those which did not result in a change.

Section 1.952–3 provides step-by-step instructions to guide taxpayers through the complexities of the foreign base company income calculations. Section 954(b)(6) provides a general rule that foreign base company shipping income, when distributed through a chain of related companies, shall not be included in foreign base company income of more than one of the related companies. *Example (2)* of § 1.952–3(d) illustrates that such dividends are, nevertheless, included in foreign base company shipping income if required to do so by section 954(b)(3)(B), which provides that, if the foreign base company income exceeds 70 percent of gross income, the entire gross income shall (except as provided in sections 954(b)(2), (4), and (5)) be treated as foreign base company income. The example also illustrates that such dividends may be reinvested in foreign base company shipping operations in order to avoid current taxation.

Several public commenters suggested that these Code provisions should be interpreted as not requiring reinvestment in order to avoid current taxation. No change was made because the Service believes that if Congress had intended such a rule, paragraph (b)(6) of section 954 would have been included in the exceptions to section 954(b)(3)(B), in addition to paragraphs (b)(2), (4), and (5).

Section 1.954–1(b)(1) provides that reinvested shipping income shall not be included in foreign base company shipping income. Section 1.954–1(b)(2) provides a "chain rule" such that generally shipping income which previously has been included in foreign base company income of a related controlled foreign corporation shall not again be included in foreign base company income when distributed through a chain of ownership. In response to a public comment, § 1.954–1(b)(2) provides that the chain rule applies to all distributions, whether by dividend, redemption of stock, or complete or partial liquidation. The proposed regulations, would have applied the chain rule only to dividends. However, the regulation provides that the chain rule for shipping income does not apply to the characterization of income for purposes of the foreign personal holding company rules of sections 551 through 558.

Sections 1.954–1(b) (3) and (4) concern the section 954(b)(4) exclusion from foreign base company income. If it is established to the satisfaction of the Service that neither (1) the creation nor organization of a controlled foreign corporation, nor (2) the effecting of a transaction giving rise to what would otherwise be foreign base company income, had as one of its significant purposes a substantial reduction of income taxes, then the income is excluded. Section 1.954–1(b)(4)(ii) generally applies the same mechanical test to foreign base company shipping income as is applied to foreign personal holding company income to determine whether such income qualifies for the exclusion. Several public commenters suggested that the foreign base company shipping income should more appropriately be included in the mechanical test applied to foreign base company sales and services income, rather than foreign personal holding company income. Another public commenter suggested that even if the personal holding company income test were to apply, that it should be modified in several respects. The Internal Revenue Service believes that the foreign personal holding company income test is the more appropriate test to apply to shipping income. One important modification is made to the test as it applies to foreign base company shipping income, however. A new § 1.954–1(b)(4)(ii)(*b*) is added to the regulations as proposed. The new section addresses the situation where over a period of three years a controlled foreign corporation's increase in qualified investments in foreign base company shipping operations equals or exceeds its foreign base company shipping income for those years even though for certain of those years the amount of the increase is less than the amount of shipping income. In such a situation, under the general rules, there would have been current taxation of the excess of the shipping income over the increase in qualified investments. Under the new rule, generally, if over three years the increase in qualified investments equals or exceeds the amount of shipping income, the Service will determine that there has not been a significant purpose of substantial income tax reduction, as the Congressional policy encouraging reinvestment would have been met.

Section 1.954–1(f)(3) provides that foreign base company shipping income shall not also be considered as another type of foreign base company income. Two public commenters suggested that the rule also should provide that shipping income will not be included in foreign personal holding company income described in section 553. The suggestion has not been followed because the Service has found no indication of such a Congressional intent. A cross-reference to the section 553 foreign personal holding company income rules has been added to § 1.954–1(f)(3) to alert taxpayers to potential application of those rules.

Section 1.954–6 sets forth rules for determining foreign base company shipping income. Section 1.954–6(b)(1) generally defines foreign base company shipping income. Two public commenters suggested that the rule in § 1.954–6(a)(2)(ii), that foreign base company shipping income does not include amounts earned by a foreign corporation before 1976, should be changed so that pre-1976 income, when distributed by a foreign corporation, will not be currently taxed if it is reinvested in shipping assets. A new § 1.954–6(b)(1)(viii) has been added in the final regulations to provide that if the pre-1976 income is dividends, interest, or gains attributable to income derived from aircraft and ships by a less developed country shipping company (described in § 1.955–5(b)) before 1976, then that income will be treated as foreign base company shipping income.

Section 1.954–6(b)(3) defines "foreign commerce." The provisions of that section have been amended in the final regulations to exclude from foreign base company shipping income that income derived from commerce between points in the same foreign country if both (1) the foreign corporation is created or organized and (2) the aircraft or vessel is registered in that foreign country. The change of the definition implements the amendments by section 1024 of the Tax Reform Act of 1976 to section 954(b)(7).

Section 1.954–6(b)(3)(ii) defines the term "vessel." The term is used in a somewhat broader sense than when used (1) for certain investment tax credit purposes and (2) with respect to movable property used for the exploration or development of natural resources on the continental shelf for purposes of the exclusion from treatment as investment in U.S. property under section 956(b)(2)(C) (§ 1.956–2(b)(1)(ix)). Certain types of movable

property (such as barges), which could qualify as vessels for purposes of determining shipping income, may not be treated in some circumstances as vessels under certain investment tax credit provisions and for the cited exclusion from investment in U.S. property provision. Section 1.954–6(b)(3)(ii) is revised to provide that the definition of "vessel" does not apply for purposes of the cited exclusion from investment in U.S. property provision.

Section 1.954–6(c) defines and provides illustrations of "income derived from, or in connection with, the use . . . of any aircraft or vessel in foreign commerce." A public commenter suggested that *Example (2)* of paragraph (c)(2) be amended to make explicit that income derived from the transportation and sale of a commodity in foreign commerce does not constitute foreign base company shipping income to the extent that any portion of the sales price is allocable to transportation costs. No change has been made in the example.

Section 1.954–6(d) defines "income derived from, or in connection with, the performance of services directly related to the use of an aircraft or vessel in foreign commerce." The provision sets forth the type of services which, if performed for a related person, will be treated as "directly related" services: *e.g.*, terminal services, stevedoring services, or maintenance services. Section 1.954–6(d)(4) provides a "70 percent test" by which all of a foreign corporation's income for a taxable year from a facility used in connection with the performance of "directly related" services will be included in foreign base company shipping income if more than 70 percent of the gross income from the facility is shipping income. For purposes of this test, § 1.954–6(d)(5) provides that gross income includes an arm's length charge for services performed by a foreign corporation for itself. One public commenter suggested that this 70 percent rule is inappropriate. While the final regulations generally retain the rules, the 70 percent rule is made optional.

Section 1.954–6(e)(1) provides that foreign base company shipping income includes all incidental income derived by a corporation in the course of the active conduct of foreign base company shipping operations. In response to a public comment, proposed § 1.954–6(e)(2) has been changed in the final regulations to provide that interest derived by a seller from a purchase money mortgage loan in respect of the sale of an aircraft or vessel is incidental shipping income.

Section 1.954–6(f) provides rules whereby foreign base company shipping income of a controlled foreign corporation includes certain dividends, interest, and gains allocable to shipping income of another foreign corporation. One public commenter suggested that if such income is ultimately attributable to foreign base company shipping income, it should be treated as shipping income, even if it is received by a corporation which is not a controlled foreign corporation. The suggestion was not followed as a rule of practical necessity since neither U.S. shareholders nor the Internal Revenue Service will ordinarily have access to the books and records of a corporation which is not a controlled foreign corporation in order to determine whether income is attributable to foreign base company shipping income. Section 1.954–6(f)(1), as proposed, would have treated dividends, interest, and gains as shipping income only if received from a corporation of which it owns at least 10 percent of the voting stock. In response to a public comment, the final regulations have expanded the provision so that dividends, interest, and gains received from a related controlled foreign corporation or a less-developed country shipping company will be included in foreign base company shipping income because investments in such corporations may qualify as shipping assets.

Section 1.954–7 defines "increase in qualified investments in foreign base company shipping operations." The definition is important because, to the extent that a controlled foreign corporation's foreign base company shipping income for a taxable year exceeds such increase, there generally will be current taxation of the excess in the hands of the U.S. shareholders. The section provides that the increase is the amount by which the corporation's qualified investments at the close of a taxable year exceed its investments at the close of the preceding taxable year. Section 1.954–7(b)(1) permits a U.S. shareholder to elect to determine the increase one year later; *i.e.*, instead of comparing the amount of qualified investments as of the close of the taxable year and the preceding taxable year, the amount of qualified investments at the close of the subsequent taxable year is compared to such amount at the close of the present taxable year. Section 1.954–7(b)(2) permits a U.S. shareholder to elect to have, in the first taxable year that a controlled foreign corporation has shipping income, the determination made over a two-year period. Two public commenters suggested that the rule should permit the determinations to be made over a longer period of time. No change was made because of the additional complexity and the considerable delay in determining tax liability for a given taxable year that such a change would result in, the questionable benefits to a taxpayer of such a change, and because of the change previously mentioned to § 1.954–1(b)(4)(ii) concerning lack of significant purpose of substantial income tax reduction.

Section 955 provides rules for determining the amount of a controlled foreign corporation's previously excluded subpart F income which is withdrawn from investment in foreign base company shipping operations. Generally, U.S. shareholders will currently be taxed on the amount of withdrawal. Section 1.955A–1(b) provides the general rule that the amount of withdrawal is the amount by which the amount of qualified investments in foreign base company shipping operations at the close of the preceding taxable year exceeds the amount of qualified investments at the close of the taxable year. The section also sets forth various limitations on the amount of withdrawal provided for by the statute. Among those limitations is the rule providing that the amount by which recognized losses on sales or exchanges of qualified investments exceed recognized gains on such sales or exchanges during the year be subtracted from the amount of withdrawal. Several public commenters suggested that other losses, such as operating losses or losses from worthless investments, should also be applied to reduce the amount of withdrawal. The suggested change was not made because the Service believes that the statutory language (section 955(a)(2)) does not permit such an interpretation. Other public commenters suggested that the regulations should permit a carryback and a carryforward of excess qualified investments from a taxable year, so that withdrawals in other years could be offset by the excess. The suggested change was not made because the Service believes that the pertinent statutory language is too specific to permit the change. However, as mentioned earlier, a rule with an effect similar to that suggested is adopted in § 1.954–1(b)(4)(ii)(*b*) in order to determine whether a significant purpose of substantial income tax reduction was present.

Section 1.955A–2(a) defines broadly "qualified investments in foreign base company shipping operations." Generally, a qualified investment includes an investment in an aircraft or vessel, related shipping assets, stock or

obligations of a related controlled foreign corporation if the assets of the corporation are used in foreign base company shipping operations, a partnership if the partnership is engaged in foreign base company shipping operations, and stock or obligations of a less developed country shipping company.

Section 1.955A–2(b) provides that a "related shipping asset" is any asset used for or in connection with the production of foreign base company shipping income. The section gives examples of related shipping assets. One commenter asserted that Congress intended that oil drilling ships constitute qualified investments in foreign base company shipping operations. H.R. Rep. No. 93–1502, 93d Cong., 2d Sess. 138 (1974). The final regulations (§§ 1.955A–2 (b)(2) and 1.954–6(b)(3)(i)) provide that an oil drilling ship does not constitute a qualified investment. As oil drilling ships are not engaged in foreign commerce, as that term is defined in the statute and in the regulations, an oil drilling ship can not constitute a qualified investment, notwithstanding the statement to the contrary in one committee report to an unenacted bill. H. Rep. No. 93–1502, 93d Cong., 2d Sess. 138 (1974).

Two commenters suggested that the final regulations should include a "safe harbor" for amounts of working capital which should be treated as related shipping assets. Because the amount of required working capital can significantly vary from corporation to corporation, no change was made in the final regulations. The Service believes that the rule in § 1.955A–2(b)(2)(i) that "reasonably necessary" working capital constitutes a related shipping asset is satisfactory.

The regulations as proposed included as an example of a related shipping asset "amounts . . . deposited in bank accounts or invested in readily marketable securities pursuant to a specific, definite, and feasible plan to purchase any tangible asset for use in foreign base company shipping operations." Section 1.955A–2(b)(3) sets forth limitations on amounts that could be invested pursuant to such a plan. Among those limitations was that the amount accumulated could not exceed 110 percent of a reasonable down payment on the first vessel planned to be purchased. Numerous commenters suggested that this limitation was unduly restrictive and conflicted with the practices of the shipping industry. Shipowners often have plans to purchase more than one vessel over a relatively short period of time. Thus, it often is necessary to accumulate far more than that which would have been permitted by the proposed regulation. In the final regulations, the limitation has been expanded to cover all vessels planned to be purchased within a reasonable period, the amount of a "reasonable" down payment has been increased from 25 to 28 percent, and the provision has been converted into a "safe harbor" provision. In addition, the final regulations also provide that in the case of an accumulation of assets which does not come within the safe harbor limitation, the determination as to whether such assets have accumulated beyond the reasonably anticipated needs of the business, will be made based on factors including but not limited to the availability of financing and the availability of a suitable vessel.

Section 1.955A–2(c) sets forth rules whereby an investment in stock or obligations of a related controlled foreign corporation are considered as qualified investments in foreign base company shipping operations. The regulations, as proposed, treated such an investment as a qualified investment only if each asset of the related controlled foreign corporation was an aircraft or vessel used in foreign commerce or a related shipping asset. Numerous commenters suggested that the "each asset" requirement was unduly restrictive and would work unfairly to disqualify investments where the related corporation's assets consisted substantially of shipping assets. Proposed § 1.955A–2(c)(1) has been changed in the final regulations to delete the "each asset" requirement. Under the new rule, the amount of the investment which will be treated as a qualified investment will depend upon the extent to which the assets of the related corporation are used in foreign base company shipping operations. Thus, a pro rata portion of an investment can qualify. A special rule is added, however, such that an investment in an obligation of a related corporation will not be a qualified investment if the obligation represents a liability which constitutes a specific charge against an asset of the second corporation which is not a shipping asset. A new *"Example (3)"* is added to § 1.955A–2(c)(3) to illustrate the new rule.

Section 1.955A–2(g) provides that the amount of an investment is its adjusted basis reduced by liabilities to which the property is subject. Section 1.955A–2(g)(2) ignores certain artificially created liabilities through related persons in making this determination. One public commenter suggested that the artificial liability rule should be deleted. While the Service believes that the rule in the existing regulations is generally appropriate, the final regulations do provide that related party liabilities created before November 20, 1974 (the date the House of Representatives bill proposing the shipping rules was first introduced), will not be ignored.

Section 1.955A–3 establishes rules under which a U.S. shareholder may elect to combine the foreign base company shipping income and the change in qualified investments in foreign base company shipping operations of a related group of corporations. Section 1.955A–3(b)(1)(i) requires that in order to make a related group election, all the related corporations must use the same taxable year. A public commenter has suggested that the regulations should provide that, if a controlled foreign corporation wishes to change its taxable year in order to qualify for the election, such change would be permitted. The suggestion was not followed because the Service believes that the ordinary rules for changing a taxable year of a corporation should apply. In appropriate cases, the Service will approve the change of a taxable year in order to qualify for the election. One commenter has suggested that the final regulations should provide that if any member of a group is on a 52–53 week taxable year, and if the taxable year for all members of the group ends within the same seven-day period, then the same taxable year requirement should be satisfied. The final regulations adopt that suggestion.

Section 1.955A–3(b)(3) provides that if two or more corporations are treated as a related group for a taxable year, the U.S. shareholder may not also elect to treat two or more other corporations as a related group during that taxable year. A commenter has suggested that the rule should be deleted. The final regulations do not follow the suggestion because to do so would unduly complicate accounting by taxpayers and increase the audit burden of the Service.

Section 1.955A–3(c)(3) of the proposed regulations provided that qualified investments of each member of a related group shall not include stock or obligations of any other member of the group. A public commenter suggested that the combination of that rule and the rule in § 1.955A–2(g)(2) (that the amount of a qualified investment is determined by subtracting liabilities from adjusted basis) results in a double exclusion of the same liability from the amount of a qualified investment. As a result of the suggestion, the final regulations have

deleted the rule with respect to obligations of a related party.

A commenter has suggested that there should be a carryover of group excess deductions and group excess investments. The Service did not make the change because it believes that the pertinent statutory language is too specific to permit the change. However, as mentioned earlier, a rule with an effect similar to that suggested is adopted in § 1.954–1(b)(4)(ii)(*b*) in order to determine whether a significant purpose of substantial income tax reduction was present. The final regulations, in § 1.955A–3(c)(4)(vii), have been expanded significantly so as to provide a more detailed example of the computations required under the group excess investment provisions than that set forth in the proposed regulations.

A change has been made concerning the § 1.955A–1(b)(2)(ii)(B) limitation, in the related group setting, on the amount of a corporation's previously excluded subpart F income withdrawn from investment in foreign base company shipping operations. Under new § 1.955A–1(b)(2)(iii)(C), a related group member's limitation is increased by (1) the amount that its reinvestment in qualified shipping assets offsets a related group member's foreign base company shipping income (but only for a taxable year beginning after December 31, 1983) and (2) the amount that a deduction of a related group member reduces its foreign base company shipping income for the year (but only for a taxable year beginning after December 31, 1983).

Section 1.955A–4 prescribes regulations under section 955(b)(3) allowing the dates for determining the amount of increases in qualified investments to be postponed for an additional year or more. The regulations generally permit a one-year postponement of the election. Except for the first year that a controlled foreign corporation receives foreign base company shipping income, the regulations permit the postponement to a longer period of time only with consent of the Commissioner.

It is expected that later consideration may be given to the extent, if any, to which amounts of qualified investments in foreign base company shipping operations and other foreign base company shipping income tax characteristics should be carried over in corporate reorganizations.

The regulations also include technical changes to implement certain statutory amendments made by sections 602 (c) and (e) of the Tax Reduction Act of 1975. The Act generally repealed the investment in less developed country provisions of prior law and the Act reduced the section 954(b)(3)(A) *de minimis* rule (excluding amounts from foreign base company income) from 30 percent to 10 percent of gross income.

Regulatory Flexibility Act and Executive Order 12291

This regulation was published as a proposed regulation before January 1, 1981, the effective date of the Regulatory Flexibility Act (5 U.S.C. Chapter 6). In addition, the Service has concluded that the regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6). The Commissioner of Internal Revenue has also determined that this regulation is not a major regulation as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

Drafting Information

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

List of Subjects in 26 CFR 1.861–1 Through 1.997–1

Income taxes, Aliens, Exports, Domestic International Sales Corporation (DISC), Foreign investments in U.S., Foreign tax credit, Source of income, United States investment abroad.

Adoption of Amendments to the Regulations

The following amendments to 26 CFR Parts 1 and 9 are hereby adopted, as set forth below.

PART 1—[AMENDED]

Paragraph 1. Section 1.952–1 is amended by adding the following sentences at the end of paragraph (c)(2)(ii) thereof.

§ 1.952–1 Subpart F income defined.

* * * * *

(c) *Limitation on a controlled corporation's subpart F income.* * * *

(2) *Special rules.* * * *

(ii) *Deficits in earnings and profits taken into account only once.* * * * To the extent a controlled foreign corporation's (the "first corporation") excess foreign base company shipping deductions for any taxable year (determined under § 1.955A–3(c)(2)(i)) reduce the foreign base company shipping income of another member of a related group (as defined in § 1.955A–2(b)), such deductions shall not be taken into account in determining the earnings and profits or deficits in earnings and profits of such first corporation for such taxable year for purposes of this paragraph (c) and paragraph (d) of this section. The rule of the preceding sentence shall not apply to the extent the excess foreign base company shipping deductions of the first corporation reduce the foreign base company shipping income of another member of a related group below zero.

Par. 2. § 1.952–2 is amended by revising paragraph (c)(2)(v) to read as follows:

§ 1.952–2 Determination of gross income and taxable income of a foreign corporation.

* * * * *

(c) *Special rules for purposes of this section.* * * *

(2) *Application of principles of § 1.964–1.* * * *

(v) *Exchange gain or loss.* (*a*) Exchange gain or loss, determined in accordance with the principles of § 1.964–1(e), shall be taken into account for purposes of determining gross income and taxable income.

(b) Exchange gain or loss shall be treated as foreign base company shipping income (or as a deduction allocable thereto) to the extent that it is attributable to foreign base company shipping operations. The extent to which exchange gain or loss is attributable to foreign base company shipping operations may be determined under any reasonable method which is consistently applied from year to year. For example, the extent to which the exchange gain or loss is attributable to foreign base company shipping operations may be determined on the basis of the ratio which the foreign based company shipping income of the corporation for the taxable year bears to its total gross income for the taxable year, such ratio to be determined without regard to this subdivision (v).

(c) The remainder of the exchange gain or loss shall be allocated between subpart F income and non-subpart F income under any reasonable method which is consistently applied from year to year. For example, such remainder may be allocated to subpart F income in the same ratio that the gross subpart F income (exclusive of foreign base company shipping income) of the corporation for the taxable year bears to its total gross income (exclusive of foreign base company shipping income) for the taxable year, such ratio to be

determined without regard to this subdivision (v).

* * * * *

Par. 3. Immediately after § 1.952–2 new § 1.952–3 is added to read as follows:

§ 1.952–3 Order of foreign base company and subpart F income computations.

(a) *Scope.*—(1) *In general.* This section describes and illustrates the computations which a United States shareholder of a controlled foreign corporation is required to make in connection with the application of section 954 and the subsequent application of section 952. However, this section does not apply to any controlled foreign corporation to which section 953 (relating to income from insurance of United States risks) applies. For rules relating to the application of section 953 and the relationship between sections 953 and 954, see the regulations under section 953. This section also does not apply to any controlled foreign corporation to which section 952(a)(3) (relating to international boycotts) or section 952(a)(4) (relating to illegal payments to foreign officials) applies.

(2) *Effective date.* This section applies to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (as defined in section 951(b)) within which or with which such taxable years of such foreign corporations end.

(b) *General rule.* Except as provided in paragraph (c) of this section, a United States shareholder must determine the subpart F income of a controlled foreign corporation to which this section applies (and to which neither section 952(a)(3), 952(a)(4), nor 953 applies) in the following manner:

(1) *Step 1.* Determine gross income under § 1.952–2, and (if applicable) § 1.959–2 (relating to the exclusion of certain dividends from gross income).

(2) *Step 2.* Determine net foreign base company shipping income as follows:

(i) *First.* Determine foreign base company shipping income under § 1.954–6;

(ii) *Second.* Exclude from foreign base company shipping income the items thereof which are excluded from subpart F income under § 1.952–1(b)(2) (relating to the exclusion of United States income from subpart F income), or which are excluded from foreign base company income under § 1.954–1(b) (2) and (3) (relating, respectively, to chain rule and to corporation not availed of to reduce tax);

(iii) *Third.* Reduce the balance by the deductions allocable thereto under § 1.954–1(c); and

(iv) *Fourth.* Reduce the remaining balance by the increase in qualified investments in foreign base company shipping operations as determined under § 1.954–7 (see § 1.954–1(b)(1)).

(3) *Step 3.* Determine net foreign personal holding company income, net foreign base company sales income, and net foreign base company services income as follows:

(i) *First.* Determine foreign personal holding company income under § 1.954–2, foreign base company sales income under § 1.954–3, and foreign base company services income under § 1.954–4;

(ii) *Second.* Exclude from each such type of income the items thereof which are excluded from subpart F income under § 1.952–1(b)(2) or which are excluded from foreign base company income under § 1.954–1(b) (2) and (3); and

(iii) *Third.* Reduce the balance of each such type of income by the deductions allocable thereto under § 1.954–1(c).

(4) *Step 4.* The foreign base company income is the sum of the net amounts determined in subparagraphs (2) and (3) of this paragraph.

(5) *Step 5.* The subpart F income is the lesser of—

(i) The sum of (A) the foreign base company income as determined under subparagraph (4) of this paragraph and (B) the exchange gain (or loss) allocable (under § 1.952–2(c)(2)(v)(*c*)) to subpart F income; or

(ii) The earnings and profits limitation stated in section 952(c) (see § 1.952–1(c)).

(6) *Step 6.* The subpart F income of an export trade corporation (as defined in section 971(a)) must be reduced as provided in § 1.970–1(b).

(c) *Section 954(b)(3) ratio less than 10 percent or more than 70 percent*—(1) *Less than 10 percent.* Under § 1.954–1(d)(1), if the foreign base company income (determined as provided in subparagraph (3) of this paragraph) of a controlled foreign corporation to which this section applies (and to which neither section 952(a)(3), 952(a)(4), nor 953 applies) is less than 10 percent of the gross income (determined as provided in paragraph (b)(1) of this section), the subpart F income of that controlled foreign corporation is zero.

(2) *More than 70 percent.* Under § 1.954–1(d)(2), if the foreign base company income (determined as provided in subparagraph (3) of this paragraph) of a controlled foreign corporation to which this section applies (and to which neither section 952(a)(3), 952(a)(4), nor 953 applies) is more than 70 percent of the gross income (determined as provided in paragraph (b)(1) of this section), a United States shareholder must determine the subpart F income of that controlled foreign corporation in the following manner:

(i) *Step 1.* The foreign base company income is the gross income (determined as provided in paragraph (b)(1) of this section), reduced as follows:

(A) First, exclude the items thereof which are excluded from subpart F income under § 1.952–1(b)(2) or which are excluded from foreign base company income under § 1.954–1(b)(3);

(B) Second, reduce the balance by the deductions allocable thereto under § 1.954–1(c);

(C) Third, reduce the remaining balance by the amount of the reinvested shipping income determined as provided in subparagraph (4) of this paragraph.

(ii) *Step 2.* The subpart F income is the lesser of—

(A) The foreign base company income as determined under subdivision (i) of this subparagraph; or

(B) The limitation stated in section 952(c) (see § 1.952–1(c)).

(iii) *Step 3.* The subpart F income of an export trade corporation (as defined in section 971(a)) must be reduced as provided in § 1.970–1(b).

(3) *Foreign base company income.* Solely for purposes of subparagraphs (1) and (2) of this paragraph, the foreign base company income of a controlled foreign corporation shall be the sum of the balances determined after applying paragraph (b) (2)(ii) and (3)(ii) of this section.

(4) *Reinvested shipping income.* Solely for purposes of subparagraph (2)(i)(C) of this paragraph, the amount of reinvested shipping income of a controlled foreign corporation shall be determined as follows:

(i) *Step 1.* Determine foreign base company shipping income under § 1.954–6;

(ii) *Step 2.* Exclude from foreign base company shipping income the items thereof which are excluded from subpart F income under § 1.952–1(b)(2) or which are excluded from foreign base company income under § 1.954–1(b)(3);

(iii) *Step 3.* Reduce the balance by the deductions allocable thereto under § 1.954–1(c);

(iv) *Step 4.* The amount of reinvested shipping income is the lesser of—

(A) The remaining balance, or

(B) The increase in qualified investments in foreign base company shipping operations as determined under § 1.954–7.

(d) *Illustrations.* The application of this section may be illustrated by the following examples, in each of which it is assumed that A is a United States

shareholder who owns stock in a controlled foreign corporation on December 31, 1976, the corporation uses the calendar year as the taxable year, and for 1976, the corporation has no income derived from the insurance of United States risks (within the meaning of section 953(a)), neither section 952(a)(3) (relating to international boycotts) nor section 952(a)(4) (relating to illegal payments to foreign officials) applies to the corporation, and the corporation is not an export trade corporation (within the meaning of section 971(a)):

Example (1). (a) For 1976, P Corporation has no foreign base company sales income and no foreign base company shipping income.

(b) A must apply the test prescribed by section 954(b)(3) to P's taxable year 1976 as follows, based on the facts shown in the following table:

(1) Gross income		$1,000
(2) (i) Foreign personal holding company income	$200	
(ii) Less: Items of foreign personal holding company income excluded under §§ 1.952-1(b)(2), 1.954-1(b)(2), and 1.954-1(b)(3)	10	
(iii) Balance		190
(3) (i) Foreign base company services income	450	
(ii) Less: Items of foreign base company services income excluded under §§ 1.952-1(b)(2) and 1.954-1(b)(3)	100	
(iii) Balance		350
(4) Tentative foreign base company income (line (2)(iii) plus line (3)(iii))		540
(5) Section 954(b)(3) ratio (line 4 ÷ line (1)) (percent)		54

(c) Since the section 954(b)(3) ratio is not less than 10 percent nor more than 70 percent, A must determine P's subpart F income for 1976 as follows, based on the facts shown in the following table:

(1) Gross income		$1,000
(2) (i) Foreign personal holding company income	200	
(ii) Less: Items of foreign person holding company income excluded under §§ 1.952-1(b)(2), 1.954-1(b)(2), and 1.954-1(b)(3)	10	
(iii) Balance	190	
(iv) Less: deductions allocable to balance	170	
(v) Net foreign personal holding company income		20
(3) (i) Foreign base company services income	450	
(ii) Less: Items of foreign base company services income excluded under §§ 1.954-1(b)(2) and 1.954-1(b)(3)	100	
(iii) Balance	350	
(iv) Less: Deductible allocable to balance	250	
(v) Net foreign base company services income		100
(4) Subpart F income: (i) Foreign base company income (line (2)(v) plus line (3)(v))		120
(ii) Exchange gain attributable to subpart F income		7
(iii) Tentative subpart F income (line (i) plus line (ii))		127
(iv) Earnings and profits limitation		225
(v) Subpart F income (lesser of lines (iii) and (iv))		127

Example (2). (a) For 1976, N Corporation has no foreign personal holding company income, no foreign base company sales income, and no foreign base company services income. However, N receives $100 of dividends from another controlled foreign corporation which is excluded from foreign base company income under 1.954-1(b)(2) as attributable to foreign base company shipping income, but which is not excluded from gross income under section 959(b). A has not made an election as to qualified investments by related persons under section 955(b)(2) and § 1.955A-3.

(b) A must apply the test prescribed by section 954(b)(3) to N's taxable year 1976 as follows, based on the facts shown in the following table:

(1) Gross income		$1,000
(2) (i) Foreign base company shipping income	1,000	
(ii) Less: Items of foreign base company shipping income excluded under §§ 1.952-1(b)(2), 1.954-1(b)(2), and 1.954-1(b)(3)	100	
(iii) Balance		900
(3) Section 954(b)(3) ratio (line (2)(iii) ÷ line (1)) (percent)		90

(c) Since the section 954(b)(3) ratio exceeds 70 percent, A must determine the amount of N's reinvested shipping income for 1976 as follows, based on the facts shown in the following table:

(1) Foreign base company shipping income		$1,000
(2) Less: Items of foreign base company shipping income excluded under §§ 1.952-1(b)(2) and 1.954-1(b)(3)		0
(3) Balance		1,000
(4) Less: Deductions allocable to balance		750
(5) Remaining balance		250
(6) Increase in qualified investments in foreign base company shipping operations		250
(7) Reinvested shipping income (lesser of lines (5) and (6))		250

(d) A must determine N's subpart F income for 1976 as follows, based on the facts shown in the following table:

(1) (i) Gross income		$1,000
(ii) Less: Items of gross income excluded under §§ 1.952-1(b)(2) and 1.954-1(b)(3)		0
(iii) Balance		1,000
(iv) Less: Deductions allocable to balance		750
(v) Remaining balance		250
(vi) Less: reinvested shipping income		250
(vii) Foreign base company income		0
(2) Earnings and profits limitation		1,200
(3) Subpart F income (lesser of lines (1)(vii) and (2))		0

Example (3). (a) For 1976, M Corporation has no foreign personal holding company income, no foreign base company sales income, and no foreign base company services income.

(b) A must apply the test prescribed by section 954(b)(3) to M's taxable year 1976 as follows, based on the facts shown in the following table:

(1) Gross income		$1,000
(2) (i) Foreign base company shipping income	650	
(ii) Less: Items of foreign base company shipping income excluded under §§ 1.952-1(b)(2), 1.954-1(b)(2), and 1.954-1(b)(3)	0	
(iii) Balance		650
(3) Section 954(b)(3) ratio (line (2)(iii) ÷ line (1)) (percent)		65

(c) Since the section 954(b)(3) ratio is not less than 10 percent nor more than 70 percent, A must determine M's subpart F income for 1976 as follows, based on the facts shown in the following table:

(1) Gross income		$1,000
(2) Net foreign base company shipping income: (i) Foreign base company shipping income	650	
(ii) Less: Items of foreign base company shipping income excluded under §§ 1.952-1(b)(2), 1.954-1(b)(2), and 1.954-1(b)(3)	0	
(iii) Balance	650	
(iv) Less: Deductions allocable to balance	550	
(v) Remaining balance	100	
(vi) Less: Increase in qualified investments in foreign base company shipping operations	80	
(vii) Net foreign base company shipping income		20
(3) Subpart F income: (i) Foreign base company income (line (2)(vii))		20
(ii) Exchange gain attributable to subpart F income		0
(iii) Tentative subpart F income (line (i) plus line (ii))		20
(iv) Earnings and profits limitation		15
(v) Subpart F income (lesser of lines (iii) and (iv))		15

Example (4). (a) For 1976, Q Corporation has no foreign base company sales income and no foreign base company services income.

(b) A must apply the test prescribed by section 954(b)(3) to Q's taxable year 1976 as follows, based on the facts shown in the following table:

(1) Gross income		$1,000
(2) (i) Foreign base company shipping income	$450	
(ii) Less: Items of foreign base company shipping income excluded under §§ 1.952-1(b)(2), 1.954-1(b)(2), and 1.954-1(b)(3)	100	
(iii) Balance		350
(3) (i) Foreign personal holding company income	200	
(ii) Less: Items of foreign personal holding company income excluded under §§ 1.952-1(b)(2), 1.954-1(b)(2), and 1.954-1(b)(3)	10	
(iii) Balance		190
(4) Tentative foreign base company income (line (2)(iii) plus line (3)(iii))		540
(5) Section 945(b)(3) ratio (line (4) ÷ line (1)) (percent)		54

(c) Since the section 954(b)(3) ratio is not less than 10 percent nor more than 70 percent, A must determine Q's subpart F income for 1976 as follows, based on the facts shown in the following table:

(1) Gross income		$1,000
(2) (i) Foreign base company shipping income	450	
(ii) Less: Items of foreign base company shipping income excluded under §§ 1.952-1(b)(2), 1.954-1(b)(2), and 1.954-1(b)(3)	100	
(iii) Balance	350	
(iv) Less: Deductions allocable to balance	250	
(v) Remaining balance	100	
(vi) Less: Increase in qualified investments in foreign base country shipping operations	135	
(vii) Net foreign base company shipping income (not less than zero)		0
(3)(i) Foreign personal holding company income	200	
(ii) Less: Items of foreign personal holding company income excluded under §§ 1.952-1(b)(2), 1.954-1(b)(2), and 1.954-1(b)(3)	10	
(iii) Balance	190	
(iv) Less: Deductions allocable to balance	70	
(v) Net foreign personal holding company income		120
(4) Subpart F income: (i) Foreign base company income (line (2) (vii) plus line (3)(v))		120
(ii) Exchange gain attributable to subpart F income		7
(iii) Tentative subpart F income (line (i) plus line (ii))		127
(iv) Earnings and profits limitation		225
(v) Subpart F income (lesser of lines (iii) and (iv))		127

Example (5). (a) For 1976, corporation R's only income is comprised of interest and dividends which are treated as foreign base company shipping income under § 1.954-6(f)(1)(i). Consequently, R has no foreign personal holding company income, foreign base company sales income of foreign base company services income for 1976 (see section 954(b)(6)(A) and § 1.954-1(f)(3)).

(b) A must apply the test prescribed by section 954(b)(3) to R's taxable year 1976 as follows, based on the facts shown in the following table:

(1) Gross income	$1,000
(2) (i) Foreign base company shipping income	1,000
(ii) Less: Items of foreign base company shipping income excluded under §§ 1.952-1(b)(2), 1.954-1(b)(2), and 1.954-1(b)(3)	400
(iii) Balance	600
(3) Section 954(b)(3) ratio (line (2)(iii) ÷ line (1)) (percent)	60

(c) Since the section 954(b)(3) ratio is not less than 10 percent nor more than 70 percent, A must determine R's subpart F income for 1976 as follows, based on the facts shown in the following table:

(1) Gross income	$1,000
(2) Net foreign base company shipping income:	
(i) Foreign base company shipping income	1,000
(ii) Less: Items of foreign base company shipping income excluded under §§ 1.952-1(b)(2), 1.954-1(b)(2), and 1.954-1(b)(3)	400
(iii) Balance	600
(iv) Less: Deductions allocable to balance	50
(v) Remaining balance	550
(vi) Less: Increase in qualified investments in foreign base company shipping operations	530
(vii) Net foreign base company shipping income	20
(3) Subpart F income: (i) Foreign base company income (line (2)(vii))	20
(ii) Exchange gain attributable to subpart F income	0
(iii) Tentative subpart F income (line (i) plus line (ii))	20
(iv) Earnings and profits limitation	25
(v) Subpart F income (lesser of lines (iii) and (iv))	20

Par. 4. Section 1.954–1 is amended as follows:

1. The heading and paragraphs (a), (b)(1), and (b)(2) are revised.

2. Paragraph (b)(3) is redesignated as paragraph (b)(4), and paragraph (b)(4) is redesignated as paragraph (b)(3).

3. Paragraph (b)(3) (as redesignated) is amended as follows:

a. The heading is revised.

b. Subdivision (i) is amended by deleting "ending After October 9, 1969", and inserting in lieu thereof "beginning after December 31, 1975".

c. Subdivision (ii) is amended by revising (*a*), in (*b*) by deleting "subparagraph (3)" and inserting in lieu thereof "subparagraph (4)", and by deleting "subparagraph (3)(viii)" in the last sentence and inserting in lieu thereof "subparagraph (4)(vii)".

d. Subdivision (iv) is amended by adding a new sentence at the end thereof.

e. Subdivision (v) is amended by deleting the phrase "(d)(6)", inserting the phrase "(d)(7)" in its place, deleting "Income Tax Division" and inserting in lieu thereof "Corporation Tax Division".

f. Subdivision (vi) is amended by deleting "subparagraph (3)(vi)" and inserting in lieu thereof "subparagraph (4)(v)", and by deleting "subparagraph (3)(vii)" and inserting in lieu thereof "subparagraph (4)(vi)".

g. Subdivision (vii) is amended by revising the heading, by deleting "example" in the first sentence and inserting in lieu thereof "examples", by redesignating the example as *"Example (1)"*, by deleting "1969" in the seventh sentence of example (1) (as redesignated) and inserting in lieu thereof "1977", and by adding new examples (2) and (3) at the end thereof.

4. Paragraph (b)(4) (as redesignated) is amended as follows:

a. The heading, subdivisions (i) and (ii), and the text of subdivision (iii) as precedes (*a*) thereof are revised.

b. Subdivisions (iii)(*a*) (*1*) and (*2*), (iii) (*b*), and (iv) are each amended by deleting "in respect to" and inserting in lieu thereof "in respect of".

c. Subdivision (v) is deleted.

d. Subdivisions (vi), (vii), and (viii) are redesignated as subdivisions (v), (vi), and (vii), respectively.

e. Subdivision (v) (as redesignated) is amended by deleting "the creation or organization of a controlled foreign corporation results in" and and inserting in lieu thereof "there has been", by deleting "29 percent" and inserting in lieu thereof "9 percent", and by deleting "71 percent" and inserting in lieu thereof "91 percent".

f. Subdivision (vi) (as redesignated) is amended by deleting "subdivisions (i) to (vi)" and inserting in lieu thereof "subdivisions (i) to (v)".

g. Example (1) of subdivision (vii) as (redesignated) is amended by deleting "1963" and inserting "1976" in lieu thereof, and by deleting "organization of B Corporation in country Y did not have the effect of substantially reducing" and inserting in lieu thereof "there has been no substantial reduction of".

h. Example (2) of subdivision (vii) (as redesignated) is amended by deleting "organization of B Corporation in country Y did have the effect of substantially reducing" and inserting in lieu thereof "there has been a substantial reduction of".

i. Example (3) of subdivision (vii) (as redesignated) is amended, and example (4) of subdivision (vii) (as redesignated) is deleted.

5. Paragraph (c) is amended by revising the first and last sentences thereof.

6. Paragraph (d) is amended as follows:

a. The heading is revised.

b. Subparagraph (1) is amended by deleting "30" in both places where it appears and inserting in lieu thereof "10".

c. Subparagraph (2) is amended by deleting "(1)," immediately after "except as provided in paragraph" and by inserting "(1), (b)(3)," immediately after "and paragraphs (b)". In addition, a new sentence is added at the end of subparagraph (2).

d. Subparagraph (3) is revised.

e. The text of subparagraph (4) as precedes the example is revised.

f. The example in subparagraph (4) is amended by deleting "30" in all three places where it appears and by inserting in lieu thereof "10".

7. Paragraph (e) is amended by deleting "1.954–5" and inserting in lieu thereof "1.954–7".

8. Paragraph (f) is amended by deleting "1.954–5" and inserting in lieu thereof "1.954–7", and by adding a new subparagraph (3) at the end thereof.

The added and amended provisions read as follows:

§ 1.954–1 Foreign base company income; taxable years beginning after December 31, 1975.

(a) *In general.* The subpart F income of a controlled foreign corporation for any taxable year includes its foreign base company income for such taxable year. See section 952(a). For taxable years beginning after December 31, 1975, the foreign base company income of a controlled foreign corporation consists of the sum of its foreign personal holding company income, as defined in § 1.954–2, its foreign base company sales income, as defined in § 1.954–3, its foreign base company services income, as defined in § 1.954–4, and its foreign base company shipping income, as defined in § 1.954–6, modified and adjusted in accordance with this section. For corresponding rules applicable to taxable years beginning before January 1, 1976, see 26 CFR § 1.954–1 (Rev. as of April 1, 1975). For additional rules relating to the computation of foreign base company income, see § 1.952–3.

(b) *Exclusions from foreign base company income.* Foreign base company income does not include the following items:

(1) *Reinvested shipping income.* Foreign base company income does not include foreign base company shipping income to the extent that the amount of such income does not exceed the controlled foreign corporation's increase for the taxable year in qualified investments in foreign base company shipping operations. See section

954(b)(2). For definition of the term "qualified investments in foreign base company shipping operations," see section 955(b) and § 1.955A–2. For rules relating to the determination of the increase for a taxable year in qualified investments in foreign base company shipping operations, see section 954(g) and § 1.954–7. For rules relating to the computation of the amount excluded from foreign base company income under this subparagraph, see § 1.952–3.

(2) *Chain rule for shipping income.* Except as provided in section 954(b)(3) (and notwithstanding any provision of § 1.954–6), distributions by dividend, redemption of stock, or complete or partial liquidation by a controlled foreign corporation through a chain of ownership described in section 958(a) to another controlled foreign corporation shall not be included in the foreign base company income of such other controlled foreign corporation to the extent that such distributions are attributable (under § 1.954–6(f) (4), (5), or (6)) to foreign base company shipping income. Thus, a distribution which is not excluded from gross income under section 959(b) and § 1.959–2 may be excluded from foreign base company income under section 954(b)(6)(B) and this subparagraph. However, this chain rule does not apply to the characterization of income for purposes of the foreign personal holding company rules of sections 551 through 558.

(3) *Income of controlled foreign corporations not availed of to substantially reduce income or similar taxes.* * * *

(ii) *Substantial reduction of income taxes.* * * *

(*a*) Item of foreign personal holding company income described in § 1.954–2 or an item of foreign base company shipping income described in § 1.954–6 shall be made by applying the principles of subparagraph (4)(ii) of this paragraph, or

* * * * *

(iv) *Application of significant purpose test.* * * * The fact that an aircraft or vessel is registered in any particular foreign country does not mean that the income-producing activity in connection with which the aircraft or vessel is used is carried on in that country.

* * * * *

(vii) *Illustrations.* * * *

Example (2). Controlled foreign corporation X is incorporated under the laws of foreign country A, and uses the calendar year as the taxable year. Corporation X has conducted business for a substantial period of years prior to 1977. Before 1977, X Corporation was subject, under the laws of country A, to an effective tax rate of 46.6 percent on the income (after allocable deductions other than income or similar taxes) derived from purchasing and selling activities conducted throughout the world. A substantial part of its income for 1976 was derived from transactions in which it purchased from an unrelated person in foreign country C raw materials produced in country C and sold them to Z Corporation, a related person organized under the laws of foreign country B for use in country B. If X Corporation had been incorporated under the laws of country B, it would have paid income and similar taxes to country B for 1976 in an amount effectively equal to 51.2 percent of the income (after allocable deductions other than income or similar taxes) derived from the sales to Z Corporation. If X Corporation had been incorporated under the laws of country C, it would have paid income and similar taxes to country C for years before 1977 in an amount effectively equal to 52 percent of the income (after allocable deductions other than income or similar taxes) derived from the sales to Z Corporation. In 1977 X Corporation also derives a substantial part of its income from transactions, in which it purchases from an unrelated person in country C raw materials produced in country C and sells them to Z Corporation for use in country B. Effective January 1, 1977, there is a general reduction in income tax rates in country A, so that X Corporation pays an income tax to country A for 1977 in an amount effectively equal to 45 percent of the income (after allocable deductions other than income or similar taxes) from the sales to Z Corporation. The income tax laws of countries B and C applicable for 1976 remain applicable to 1977 without change. During years both before and after the reduction in country A tax, X Corporation actively conducts a trade or business of purchasing personal property from unrelated persons and selling such property to unrelated persons as well as to Z Corporation. For 1977, the percentage of total income of X Corporation derived from sales of the raw materials to Z Corporation and the nature of the raw materials so sold to Z Corporation remain substantially unchanged from that for 1976. Although the rate of income and similar taxes paid by X Corporation to country A for 1977 on the income from the sales to Z Corporation is less than 90 percent of, and as much as 5 percentage points less than, the rate (51.2 percent) of the income and similar taxes which X Corporation would have paid to country B on the income from the sales to Z Corporation, under subdivision (iv) of this subparagraph the other facts and circumstances in this example will establish to the satisfaction of the district director that (a) the organization of X Corporation in country A, and (b) the effecting through X Corporation of the sales to Z Corporation during 1977, did not have as a significant purpose a substantial reduction of income or similar taxes. Foreign base company income of X Corporation for 1977 does not include income derived from such sales. However, if the percentage of the total income of X Corporation derived from sales of raw materials to Z Corporation were substantially increased, or if the nature of the raw materials so sold to Z Corporation were significantly changed, the facts and circumstances of this example would not establish to the satisfaction of the district director that the effecting through X Corporation of the additional or unusual sales to Z Corporation during 1977 did not have as a significant purpose a substantial reduction of income or similar taxes.

Example (3). (i) Controlled foreign corporation Y, which owns and operates a fleet of foreign flag tankers, is incorporated under the laws of foreign country L. L imposes an effective rate of tax of 10 percent on the income (after allocable deductions other than income or similar taxes) from shipping operations. The highest rate prescribed by section 11 for all relevant taxable years is 48 percent, the sum of the normal tax rate and the surtax rate (determined without regard to the surtax exemption). It is assumed that had Y been incorporated in the United States and owned and operated a fleet of United States flag tankers, it could have avoided payment of any taxes on its income from shipping operations because of it ability to reduce taxable income by means of deposits of amounts equal to such income into a capital construction fund. It is further assumed that had Y been incorporated in the United States and owned and operated a fleet of foreign flag tankers, it would have paid income taxes to the United States on its income from shipping operations at the highest rate prescribed by section 11.

(ii) Since the effective rate of tax on income from such shipping operations paid to country L (10 percent) does not equal or exceed 90 percent of the 48 percent rate prescribed by section 11 (43.2 percent), such income cannot be excluded from foreign base company income under paragraph (b)(3)(i) of this section by reason of the application of paragraph (b)(3)(ii) (*a*) of this section and paragraph (b)(4)(ii) of this section.

(iii) Also, the fact that Y could have avoided paying any taxes in the United States on its shipping income will not establish to the satisfaction of the district director that the incorporation of Y in foreign country L did not have as a significant purpose a substantial reduction of income or similar taxes, since such avoidance of United States tax would have been possible only upon the occurrence of additional events other than incorporation in the United States (i.e., the use of United States flag tankers and the depositing of amounts into the capital construction fund), which events did not actually occur.

(4) *No substantial reduction of income or similar taxes*—(i) *Scope.* This subparagraph prescribes rules for the application of subparagraph (3) of this paragraph.

(ii) *Foreign personal holding company income and foreign base company shipping income.*—(*a*) *General rule.* For purposes of paragraph (b)(3)(ii)(*a*) of this section, there will be considered to have been no substantial reduction of income, war profits, excess profits, or similar taxes with respect to an item of foreign personal holding company income

described in § 1.954–2 or an item of foreign base company shipping income described in § 1.954–6 if the effective rate of such taxes (after allocable deductions other than such taxes) paid by a controlled foreign corporation to a foreign country for the taxable year in respect of such item of income equals or exceeds 90 percent of the highest rate prescribed by section 11 (or section 1201 if that is the applicable section) for the taxable year of the United States shareholder within which or with which ends such taxable year of such controlled foreign corporation. For taxable years in which section 11 prescribes both a normal tax rate and a surtax rate, the highest rate is the sum of the normal tax rate and the surtax rate (determined without regard to the surtax exemption).

(*b*) *Carryover rule for foreign base company shipping income.* If the rule in the immediately preceding subdivision (*a*) does not operate to exclude all of a controlled foreign corporation's foreign base company shipping income from foreign base company income for a taxable year, the carryover rule of this subdivision (*b*) shall be applied. Under this subdivision (*b*), if for a taxable year, the amount of a controlled foreign corporation's increase in qualified investments in foreign base company shipping operations (determined under § 1.954–7), plus any carryover amount (or any portion thereof) to that year, equals or exceeds (thus, is not less than) the corporation's foreign base company shipping income for that taxable year, then there will be considered to have been no substantial reduction for that taxable year of income, war profits, excess profits, or similar taxes with respect to foreign base company shipping income. A carryover amount is an amount which equals, for the taxable year in which it arises, the excess of a controlled foreign corporation's increase in qualified investments in foreign base company shipping operations over the corporation's foreign base company shipping income. A carryover amount (or any portion thereof) may be carried back or forward only one taxable year and may be carried over and utilized only once. A carryover amount (or any portion thereof) must always be carried back until exhausted before it is carried forward unless—(*1*) the rule in the immediately preceding subdivision (*a*) operates to exclude all of a controlled foreign corporation's foreign base company shipping income from foreign base company income for the preceding taxable year, or (*2*) the corporation's increase in qualified investments in foreign base company shipping operations for the preceding taxable year, plus any other carryover amount being carried forward to such preceding taxable year, equals or exceeds the corporation's foreign base company shipping income for the preceding taxable year. This subdivision (*b*) shall not be applied to a corporation with respect to which a related group election under § 1.955A–3 is in effect for the taxable year in which the carryover arose or to which the amount might otherwise be carried. The benefit of a carryover amount which is carried back may be obtained for a taxable year only by filing an amended income tax return (if the income tax return for the taxable year already has been filed). For purposes of § 1.955A–1(b)(2)(i)(C), relating to withdrawal of investment in foreign base company shipping operations, an amount shall be treated as previously excluded from foreign base company income if not treated as foreign base company shipping income by reason of the application of this carryover rule. The rules of this subdivision (*b*) are illustrated by the following examples. In each example controlled foreign corporation K's taxable year is the calendar year, no related group election under § 1.955A–3 is in effect with respect to K for any year, and K has no other income in any year.

Example (1). Controlled foreign corporation K has foreign base company shipping income and an increase in qualified investments in foreign base company shipping operations as set forth in the following table.

	1981	1982	1983
(1) Foreign base company shipping income	$100	$100	$100
(2) Increase in qualified investments in foreign base company shipping operations	80	150	90
(3) Excess (or shortfall) of line (2) over line (1)	(20)	50	(10)

K has a 1982 carryover amount of $50. Twenty dollars of the carryover amount is carried back to 1981 and $10 is carried forward to 1983. The remaining $20 cannot be carried back or forward to any other year. For 1981 and 1983, by virtue of the rule of this subdivision (*b*), there will be considered to have been no substantial reduction of income taxes (and all of the foreign base company shipping income for 1981 and 1983 is excluded from foreign base company income). The benefit of the operation of the rule for 1981 may be claimed by the U.S. shareholder of K by the filing of an amended income tax return.

Example (2). Controlled foreign corporation K has foreign base company shipping income and an increase in qualified investments in foreign base company shipping operations as set forth in the following table.

	1981	1982	1983
(1) Foreign base company shipping income	$100	$100	$100
(2) Increase in qualified investments in foreign base company shipping operations	40	150	90
(3) Excess (or shortfall) of line (2) over line (1)	(60)	50	(10)

K has a 1982 carryover amount of $50. All $50 must be carried back to 1981, where it is exhausted, and may not be carried forward to 1983. Because K's increase in qualified investments in foreign base company shipping operations for 1981 ($40), plus the carryover amount from 1982 ($50), does not equal or exceed K's foreign base company shipping income for 1981 ($100), the rule of this subdivision (*b*) does not operate to exclude from foreign base company income any of K's income for 1981. The same is true for 1983, as K has exhausted the entire $50 carryover amount in 1981. If K had had a 1982 carryover amount of $60 (rather than $50), then the rule of this subdivision (*b*) would operate to exclude all of the 1981 foreign base company shipping income. If the 1982 carryover amount had been $70, then all of the 1981 and 1983 income would have been excluded.

Example (3). Controlled foreign corporation K has foreign base company shipping income and an increase in qualified investments in foreign base company shipping operations as set forth in the following table.

	1980	1981	1982	1983	1984
(1) Foreign base company shipping income	$100	$100	$100	$100	$100
(2) Increase in qualified investments in foreign base company shipping operations	100	120	70	120	90
(3) Excess (or shortfall) of line (2) over line (1)	0	20	(30)	20	(10)

K has a 1981 carryover amount of $20. The $20 must be carried forward to 1982. It is not carried back to 1980 because K's 1980 increase in qualified investments in foreign base company shipping operations equaled its 1980 foreign base company shipping income. K's 1983 carryover amount is $20. Ten dollars of it is carried back to 1982 where, in combination with the $20 carried forward from 1981, it operates, by virtue of the rule of this subdivision (*b*), to exclude all of K's 1982 foreign base company shipping income from foreign base company income. The benefit of the operation of the rule for 1982 may be claimed by the U.S. shareholder of K by filing an amended income tax return after 1983. The remaining $10 carryover amount from 1983 is carried forward to 1984 where, by virtue of the rule of this subdivision (*b*), all of K's foreign base company shipping income for 1984 is excluded from foreign base company income.

Example (4). Controlled foreign corporation K has foreign base company shipping income and an increase in qualified investments in

foreign base company shipping operations as set forth in the following table.

	1981	1982	1983
(1) Foreign base company shipping income	$100	$100	$100
(2) Increase in qualified investments in foreign base company shipping operations	80	120	80
(3) Excess (or shortfall) of line (2) over line (1)	(20)	20	(20)

K has a 1982 carryover amount of $20. All of the $20 must be carried back to 1981 and exhausted. By virtue of the operation of the rule of this subdivision (*b*), K's 1981 foreign base company shipping income is excluded from foreign base company income. No 1982 carryover amount is carried forward to 1983 (as it was exhausted in 1981). If, however, the rule in the immediately preceding subdivision (*a*) had operated to exclude all $100 of K's foreign base company shipping income from foreign base company income for 1981, then the 1982 carryover amount would not have been carried back to 1981 and the entire amount would have been carried forward to 1983. In the latter case, the rule of this subdivision (*b*) would have operated to exclude all of K's 1983 foreign base company shipping income from foreign base company income. If in 1981 the rule in the immediately preceding subdivision (*a*) had operated to exclude only $90 of the $100 foreign base company shipping income, then the entire 1982 carryover amount would have to be carried back and exhausted, as set forth earlier in example (2), and no amount may be carried forward to 1983.

* * * * *

(iii) *Foreign base company sales and services income.* For purposes of this paragraph, there will be considered to have been no substantial reduction of income, war profits, excess profits, or similar taxes with respect to an item of foreign base company sales income described in § 1.954–3 or an item of foreign base company services income described in § 1.954–4 if the effective rate of such taxes paid to a country or countries for the taxable year in respect of such item of income by the controlled foreign corporation equals or exceeds 90 percent of, or is not as much as 5 percentage points less than—

* * * * *

(vii) Illustrations. * * *

Example (3). Controlled foreign corporation A, incorporated under the laws of foreign country X, is a wholly owned subsidiary of domestic corporation M. Both corporations use the calendar year as the taxable year. In 1976, A Corporation derived interest and rent not excluded under section 954(c) (3) or (4). With respect to the item of interest, A Corporation paid an income tax to country X in an amount effectively equal to 44 percent of such item (after allocable deductions other than income or similar taxes) and, with respect to the item of rent, paid an income tax to country Y in an amount effectively equal to 40 percent of such item (after allocable deductions other that income or similar taxes). No other income or similar tax was paid by A Corporation with respect to such items. In 1976, the highest rate prescribed by section 11 for the taxable year of M Corporation is 48 percent, the sum of the normal tax rate and the surtax rate (determined without regard to the surtax exemption). Therefore, with respect to the item of interest, there will be considered to have been no substantial reduction of income or similar taxes (44 percent being more than 90 percent of 48 percent), and such interest is not included in foreign base company income of A Corporation. With respect to the item of rent, however, there will be considered to have been a substantial reduction of income or similar taxes (40 percent being less than 90 percent of 48 percent), and the exclusion from foreign base company income provided by section 954(b)(4) will not apply to such item unless it is established in accordance with subparagraph (b)(3)(i) of this paragraph that both the creation or organization of A Corporation under the laws of foreign country X and the effecting through A Corporation of the transaction which gave rise to such rental income did not have as a significant purpose a substantial reduction of such taxes.

* * * * *

(c) *Gross income and deductions to be taken into account.* For purposes of section 954 and this section, foreign personal holding company income as defined in § 1.954–2, foreign base company sales income as defined in § 1.954–3, foreign base company services income as defined in §1.954–4, and foreign base company shipping income as defined in § 1.954–6 shall be taken into account in determining foreign base company income after allowance for deductions properly allocable to such categories of income. * * * However, if the foreign base company income of a controlled foreign corporation exceeds 70 percent (as determined under paragraph (d) of this section) of gross income, the entire expenses, taxes, and other deductions shall be taken into account, except expenses, taxes, and other deductions properly allocable to amounts excluded from foreign base company income under the provisions of paragraph (4) of section 954(b) and paragraph (b)(3) of this section and expenses, taxes, and other deductions properly allocable to amounts excluded from subpart F income under section 952(b) and the regulations thereunder.

(d) *Special rules where foreign base company income is less than 10 percent or more than 70 percent of gross income.* * * *

(2) *More than 70 percent of gross income.* * * * Any amount included in foreign base company by reason of section 954(b)(3)(B) and this subparagraph (2) shall be treated as foreign base company shipping income to the extent allowed by the following formula:

$$\text{FBCI amount under sec. 954(b)(3)(B) (to be allocated)} \times \frac{\text{Other FBC shipping income}}{\text{All FBCI amount not under sec. 954(b)(3)(B)}}$$

(3) *Method of computation.* See § 1.952–3 for rules relating to the method of determining the percentage which foreign base company income is of gross income under subparagraphs (1) and (2) of this paragraph.

(4) *Branches of controlled foreign corporations treated as separate corporations*—(i) *In general.* The 10-percent and 70-percent tests described in subparagraphs (1) and (2) of this paragraph apply to the foreign base company income of each controlled foreign corporation. In addition, if a branch or similar establishment of a controlled foreign corporation is treated as a separate wholly owned subsidiary corporation of such corporation under section 954(d)(2) and paragraph (b) of § 1.954–3, the 10-percent and 70-percent tests apply separately to the income allocated under such paragraph to such branch or similar establishment, to other branches and similar establishments similarly treated, and to the remainder of the controlled foreign corporation.

(ii) *Illustration.* The application of this subparagraph may be illustrated by the following example:

* * * * *

(f) *Classification of an item of income.* * * *

(3) *Shipping classification applies first.* Foreign base company shipping income (as determined under § 1.954–6) of a controlled foreign corporation shall not also be considered foreign personal holding company income, foreign base company sales income, or foreign base company services income. See section 954(b)(6)(A). However, foreign base company shiping income may be treated as foreign personal holding company income under sections 551 through 558, rather than as foreign base company shipping income. See section 951(d).

Par. 5. Section 1.954–2 is amended as follows:

1. The first sentence of paragraph (a) is amended by inserting "section 954(b)(6)(A)," immediately before "section 954(c) (3) and (4)", and by striking out "(e)" and inserting "(f)" in lieu thereof.

2. A new paragraph (f) is added at the end thereof to read as follows:

§ 1.954–2 Foreign personal holding company income.

* * * * *

(f) *Shipping income for taxable years beginning after December 31, 1975.* For taxable years beginning after December

31, 1975, foreign base company shipping income of a controlled foreign corporation (as determined under § 1.954–6) shall not also be considered foreign personal holding company income of that controlled foreign corporation.

Par. 6. Section 1.954–3 is amended by inserting "or foreign base company shipping income under § 1.954–6" immediately after "§ 1.954–2" in the fourth sentence of paragraph (a)(1) and by adding a new paragraph (c) to read as follows:

§ 1.954–3 Foreign base company sales income.

* * * * *

(c) *Shipping income for taxable years beginning after December 31, 1975.* For taxable years beginning after December 31, 1975, foreign base company shipping income (as determined under § 1.954–6) of a controlled foreign corporation shall not also be considered foreign base company sales income of that controlled foreign corporation.

Par. 7. Section 1.954–4(d) is amended by deleting "or" at the end of subparagraph (1), by deleting the period at the end of subparagraph (2) and inserting in lieu thereof "; or", and by adding a new subparagraph (3) at the end thereof to read as follows:

§ 1.954–4 Foreign base company services income.

* * * * *

(d) *Items excluded.* * * *

(3) For taxable years beginning after December 31, 1975, foreign base company shipping income (as determined under § 1.954–6).

Par. 8. Immediately after § 1.954–5 new §§ 1.954–6 and 1.954–7 are added to read as follows:

§ 1.954–6 Foreign base company shipping income.

(a) *Scope*—(1) *In general.* This section prescribes rules for determining foreign base company shipping income under the provisions of section 954(f), as amended by the Tax Reduction Act of 1975.

(2) *Effective date.* (i) The rules prescribed in this section apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (as defined in section 951 (b)) within which or with which such taxable years of such foreign corporations end.

(ii) Except as described in paragraph (b)(1)(viii) of this section, foreign base company shipping income does not include amounts earned by a foreign corporation in a taxable year of such corporation beginning before January 1, 1976. See example (1) of paragraph (g)(2) of this section for an illustration of the effect of this subparagraph on partnership income. See example (3) of paragraph (f)(4)(ii) of this section for an illustration of the effect of this subparagraph on certain dividend income. See paragraph (f)(5)(iii) of this section for the effect of this subparagraph on certain interest and gains.

(b) *Definitions*—(1) *Foreign base company shipping income.* The term "foreign base company shipping income" means—

(i) Gross income derived from, or in connection with, the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce (see paragraph (c) of this section),

(ii) Gross income derived from, or in connection with, the performance of services directly related to the use of any aircraft or vessel in foreign commerce (see paragraph (d) of this section),

(iii) Gross income incidental to income described in subdivisions (i) and (ii) of this subparagraph, as provided in paragraph (e) of this section,

(iv) Gross income derived from the sale, exchange, or other disposition of any aircraft or vessel used or held for use (by the seller or by a person related to the seller) in foreign commerce,

(v) In the case of a controlled foreign corporation, dividends, interest, and gains described in paragraph (f) of this section,

(vi) Income described in paragraph (g) of this section (relating to partnerships, trusts, etc.),

(vii) Exchange gain, to the extent allocable to foreign base company shipping income (see § 1.952–2(c)(2)(v)(*b*), and

(viii) In the case of a controlled foreign corporation and at its option, dividends, interest, and gains attributable to income derived from aircraft and vessels (as defined in 26 CFR § 1.954–1(b)(2) (Rev. as of April 1, 1975)) by a less developed country shipping company (described in § 1.955–5(b)) in taxable years beginning after December 31, 1962, and before January 1, 1976. The portion of a dividend, interest, or gain attributable to such income shall be determined by the same method as that for determining the portion of a dividend, interest, or gain attributable to foreign base company shipping income under paragraphs (f)(4), (5), and (6) of this section, but without regard to paragraphs (f)(6) (ii) and (iv)(B).

(2) *Foreign base company shipping operations.* For purposes of sections 951 through 964, the term "foreign base company shipping operations" means the trade or business from which gross income described in subparagraph (1) (i) and (ii) of this paragraph is derived.

(3) *Foreign commerce.* For purposes of sections 951 through 964—

(i) An aircraft or vessel is used in foreign commerce to the extent it is used in transportation of property or passengers—

(A) Between a port (or airport) in the United States or possession of the United States and a port (or airport) in a foreign country, or

(B) Between a port (or airport) in a foreign country and another in the same country or between a port (or airport) in a foreign country and one in another foreign country.

Thus, for example, a trawler, a factory ship, and an oil drilling ship are not considered to be used in foreign commerce. On the other hand, a cruise ship which visits one or more foreign ports is considered to be so used. Notwithstanding subdivision (i)(B) of this paragraph (b)(3), foreign base company income does not include income derived from, or in connection with, the use of an aircraft or vessel in transportation of property or passengers between a port (or airport) in a foreign country and another port (or airport) in the same country if both the foreign corporation is created or organized and the aircraft or vessel is registered in that country.

(ii) The term "vessel" includes all water craft and other artificial contrivances of whatever description and at whatever stage of construction, whether on the stocks or launched, which are used or are capable of being used or are intended to be used as a means of transportation on water. This definition does not apply for purposes of section 956(b)(2)(G) and § 1.956–2(b)(1)(ix).

(iii) The term "port" means any place (whether on or off shore) where aircraft or vessels are accustomed to load or unload goods or to take on or let off passengers.

(iv) Any vessel (such as a lighter or beacon lightship) which serves other vessels used in foreign commerce (within the meaning of subdivision (i) of this subparagraph) shall, to the extent so used, also be considered to be used in foreign commerce.

(v) For the meaning of the term "foreign country", see section 638(2).

(4) *Use in foreign commerce.* For purposes of sections 951 through 964, the use of an aircraft or vessel in foreign commerce includes the hiring or leasing (or subleasing) of an aircraft or vessel to another for use in foreign commerce.

Thus, for example, an aircraft or vessel is "used in foreign commerce" within the meaning of section 955(b)(1)(A) if such aircraft or vessel is chartered (whether pursuant to a bareboat charter, time charter, or otherwise) to another for use in foreign commerce.

(5) *Related person.* With respect to a controlled foreign corporation, the term "related person" means a related person as defined in § 1.954–1(e)(1), and the term "unrelated person" means an unrelated person as defined in § 1.954–1(e)(2).

(c) *Aircraft or vessel income*— (1) *In general.* The term "income derived from, or in connection with, the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce" as used in paragraph (b)(1)(i) of this section means—

(i) Income derived from transporting passengers or property by aircraft or vessel in foreign commerce and

(ii) Income derived from hiring or leasing an aircraft or vessel to another for use in foreign commerce.

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

Example (1). Foreign corporation C owns a foreign flag vessel which it charters under a long-term charter to foreign corporation D. The vessel is used by D as a tramp which has no fixed or regular schedule. The vessel carries bulk and packaged cargoes, as well as occasional passengers, under charter parties, contracts of affreightment, or other contracts of carriage. The carriage of cargoes and passengers is between a port in the United States and a port in a foreign country or between a port in one foreign country and another port in the same or a different foreign country. The charter hire paid to C by D constitutes income derived from the use of the vessel in foreign commerce, but is not foreign base company income to the extent the charter hire is allocable to income derived from the use of the vessel between ports in the same foreign country in which both C is incorporated and the vessel is registered. The charter hire and freight and passenger revenue (including demurrage and dead freight) derived by D also constitute income derived from the use of the vessel in foreign commerce, but is not foreign base company income to the extent the charter hire and freight and passenger revenue are allocable to the use of the vessel between ports in the same foreign country in which both D is incorporated and the vessel is registered.

Example (2). (a) Foreign corporation E owns a foreign flag tanker which it charters under a long-term bareboat charter to foreign corporation F for use in foreign commerce. F produces oil in a foreign country and ships the oil to other foreign countries and to the United States. The vessel, when not engaged in carrying F's oil, is used to carry bulk cargoes for unrelated persons in foreign commerce as opportunity offers. The charter hire received by E constitutes income derived from the use of the vessel in foreign commerce. The income derived by F from carrying bulk cargoes for unrelated persons also constitutes income derived from the use of the vessel in foreign commerce.

(b) F is forced to lay up the vessel as a result of adverse market developments. Pursuant to the terms of the charter, F continues to pay charter hire to E during the period of lay-up. The charter hire received by E during the period of lay-up constitutes income derived from the use of the vessel in foreign commerce.

Example (3). (a) A shipment of cheese is loaded into a container owned by controlled foreign corporation S at the consignor's place of business in Hamar, Norway. The cheese is transported to Milan, Italy, by the following routings:

(1) Overland by road from Hamar, Norway, to Gothenburg, Sweden, by unrelated motor carriers via Oslo, Norway,

(2) By sea from Gothenburg to Rotterdam, Netherlands, by feeder vessel under foreign flag, time chartered to S by unrelated owner,

(3) By sea from Rotterdam to Algeciras, Spain, by feeder vessel under foreign flag, time chartered to S by unrelated owner,

(4) By sea from Algeciras to Genoa, Italy, by line-haul vessel under U.S. flag, chartered by S from related company, and

(5) Overland from Genoa to Milan, Italy, by unrelated motor carrier.

(b) The consignor pays S total charges of $1,710, and S pays $676 to unrelated third parties, which amounts may be broken down as follows:

Description of charges	Amount billed to customer and collected by S	Revenue collected by S on behalf of an unrelated party	Costs paid to unrelated 3d party and absorbed by S
Ocean freight	$1,420		
Trucking charge of empty equipment to shipper's facility	50	$50	
Trucking charges Hamar to Oslo	60	60	
Trucking charges Oslo to Gothenburg			$315
Trucking charges Genoa to Milan	180	180	
Brokerage Commission in Europe			71
Total	1,710	290	386

(c) Of the $1,710 amount billed to the consignor and collected by S, $290 is collected by S on behalf of unrelated third parties. This $290 amount is not includable in S's gross income, and is therefore not includable in S's foreign base company shipping income. The remaining $1,420 amount (i.e., $1,710 − $290) is includable in S's foreign base company shipping income. The $386 amount paid by S to unrelated third parties and absorbed by S is deductible from foreign base company shipping income under § 1.954–1(c).

(d) *Services directly related.*—(1) *In general.* The term "income derived from, or in connection with, the performance of services directly related to the use of an aircraft or vessel in foreign commerce", as used in paragraph (b)(1)(ii) of this section, means—

(i) Income derived from, or in connection with, the performance of services described in subparagraph (2) or (3) of this paragraph, and

(ii) Income treated as foreign base company shipping income under subparagraph (4) of this paragraph.

(2) *Intragroup services.* The services described in this subparagraph are services performed for a person who is the owner, lessor, lessee or operator of an aircraft or vessel used in foreign commerce, by such person or by a person related to such person, and which fall into one or more of the following categories:

(i) Terminal services, such as dockage, wharfage, storage, lights, water, refrigeration, and similar services;

(ii) Stevedoring and other cargo handling services;

(iii) Container related services (including the rental of containers and related equipment) performed either in connection with the local drayage or inland haulage of cargo or in the course of transportation in foreign commerce;

(iv) Services performed by tugs, lighters, barges, scows, launches, floating cranes, and other similar equipment;

(v) Maintenance and repairs;

(vi) Training of pilots and crews;

(vii) Licensing of patents, know-how, and similar intangible property developed and used in the course of foreign base company shipping operations;

(viii) Services performed by a booking, operating, or managing agent; and

(ix) Any service performed in the course of the actual transportation of passengers or property.

(3) *Services for passenger, consignor, or consignee.* The services described in this subparagraph are services provided by the operator (or person related to the operator) of an aircraft or vessel in foreign commerce for the passenger, consignor, or consignee, such as—

(i) Services described in one or more of the categories set out in subparagraph (2)(i) through (iv) and (ix) of this paragraph,

(ii) The rental of staterooms, berths, or living accommodations and the furnishing of meals,

(iii) Barber shop and other services to passengers aboard vessels,

(iv) Excess baggage, and

(v) Demurrage, dispatch, and dead freight.

(4) *The 70-percent test.* At the option of the foreign corporation all the gross income for a taxable year derived by a foreign corporation from any facility used in connection with the performance of services described in one or more of the categories set out in subparagraph (2)(i) through (ix) of this paragraph is foreign base company shipping income if more than 70 percent of such gross income for either—

(i) Such taxable year, or

(ii) Such taxable year and the two preceding taxable years,

is foreign base company shipping income (determined without regard to this subparagraph). Thus, for example, if 80 percent of the gross income derived by a controlled foreign corporation at a stevedoring facility is treated as foreign base company shipping income under subparagraph (2) of this paragraph, then the remaining 20 percent is treated as foreign base company shipping income under this subparagraph.

(5) *Rules for applying subparagraph (4).* (i) Solely for purposes of applying subparagraphs (4) of this paragraph, foreign base company shipping income and gross income shall be deemed to include an arm's length charge (see paragraph (h)(5) of this section) for services performed by the foreign corporation for itself.

(ii) In determining whether services performed by a foreign corporation are performed at a single facility or at two or more different facilities, all of the facts and circumstances involved will be taken into account. Ordinarily, all services performed by a foreign corporation within a single port area will be considered performed at a single facility.

(iii) The application of this subparagraph and subparagraph (4) of this paragraph may be illustrated by the following example in which it is assumed that the foreign corporation has chosen to apply the 70-percent test of subparagraph (4):

Example. (a) Controlled foreign corporation X uses the calendar year as the taxable year. For 1976, X is divided into two operating divisions, A and B. Division A operates a number of vessels in foreign commerce. Division B operates a terminal facility at which it performs services described in subparagraph (2)(i) of this paragraph for vessels some of which are operated by division A, some of which are operated by persons related to X, and some of which are operated by persons unrelated to X. For 1976, X includes under subparagraph (5) as foreign base company shipping income and gross income, for purposes of subparagraph (4), an arm's length charge for services performed for itself. For 1976, the gross income derived by division B is reconstructed for purposes of subparagraph (4) of this paragraph as follows, based on the facts shown in the following table:

(1) Gross income derived from persons unrelated to *X*	$20
(2) Gross income derived from persons related to *X*	10
(3) Actual gross income (line (1) plus line (2))	30
(4) Hypothetical gross income derived from division A (determined by the application of subdivision (i) of this subparagraph)	70
(5) Total reconstructed gross income (line (3) plus line (4))	100

(b) Since 80 percent of the reconstructed gross income derived by division B would be treated as foreign base company shipping income under subparagraph (2) of this paragraph, the entire $30 amount of the gross income actually derived by division B is treated as foreign base company shipping income under subparagraph (4) of this paragraph.

(6) *Arm's length charge.* For purposes of this section, the arm's length charge for services performed by a foreign corporation for itself shall be determined by applying the principles of section 482 and the regulations thereunder as if the party for whom the services are performed and the party by whom the services are performed were not the same person, but were controlled taxpayers within the meaning of § 1.482–1(a)(4).

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

Example (1). Controlled foreign corporation A acts as a managing agent for foreign corporation B, a related person which contracts to construct and charter a foreign flag vessel for use in foreign commerce. As managing agent for B, A performs a broad range of services relating to the use of the vessel, including arranging for, and supervising of, construction and chartering of the vessel, and handling of operating services after construction is completed. The income derived by A from its management and operating services constitutes income derived in connection with the performance of services directly related to the use of the vessel in foreign commerce.

Example (2). Controlled foreign corporation C uses the calendar year as the taxable year. During 1976, C is engaged in the trade or business of acting as a steamship agent solely for unrelated persons. C's activities as steamship agent range from "husbanding" (i.e., arranging for fuel, supplies and port services, and attending to crew and customs matters) to the solicitation and booking of cargo at a number of foreign ports. None of C's other gross income for 1976 is foreign base company shipping income. Under these circumstances, C's gross income derived from its steamship agency does not constitute foreign base company shipping income.

(e) *Incidental income*—(1) *In general.* Foreign base company shipping income includes all incidental income derived by a foreign corporation in the course of its active conduct of foreign base company shipping operations.

(2) *Examples.* Examples of incidental income derived in the course of the active conduct of foreign base company shipping operations include—

(i) Gain from the sale, exchange or other disposition of assets which are related shipping assets within the meaning of § 1.955A–2(b),

(ii) Income derived from temporary investments described in § 1.955A–2(b)(2) (i) and (iii),

(iii) Interest on accounts receivable and evidences of indebtedness described in § 1.955A–2(b)(2)(ii),

(iv) Income derived from granting concessions to others aboard aircraft or vessels used in foreign commerce,

(v) Income derived from stock and currency futures described in § 1.955A–2(b)(2) (vii) and (viii),

(vi) Income derived by the lessor of an aircraft or vessel used in foreign commerce from additional rentals for the use of related equipment (such as a complement of containers), and

(vii) Interest derived by the seller from a purchase money mortgage loan in respect of the sale of an aircraft or vessel described in § 1.955A–2(a)(1)(i).

(f) *Certain dividends, interest, and gain*—(1) *In general.* (i) The foreign base company shipping income of a controlled foreign corporation (referred to in subdivision (ii)(A) of this paragraph (f)(1) as "first corporation") includes—

(A) Dividends and interest received from foreign corporations listed in subdivision (ii) of this paragraph (f)(1), and

(B) Gain recognized from the sale, exchange, or other disposition of stock or obligations of foreign corporations listed in subdivision (ii) of this paragraph (f)(1),

but only to the extent that such dividends, interest, and gains are attributable to foreign base company shipping income of the foreign corporations listed in subdivision (ii) of this paragraph (f)(1).

(ii) The foreign corporations referred to in subdivision (i) of this paragraph (f)(1) are—

(A) Foreign corporations with respect to which the first corporation (see subdivision (i) of this paragraph (f)(1)) would be deemed under section 902(b) to pay taxes,

(B) Controlled foreign corporations which are related persons (within the meaning of section 954(d)(3)), and

(C) Less developed country shipping companies described in § 1.955–5(b).

(2) *Corporation deemed to pay taxes.* (i) For purposes of this paragraph, a controlled foreign corporation would be deemed under section 902(b) to pay taxes in respect of any other foreign corporation if such controlled foreign corporation would be deemed, for purposes of applying section 902(a) to any United States shareholder of such controlled foreign corporation, to pay taxes in respect of dividends which were received from such other foreign corporation (whether or not such other foreign corporation actually pays any taxes or dividends). Solely for purposes of this subdivision, each United States shareholder (within the meaning of section 951(b)) shall be deemed to be a domestic corporation.

(ii) The application of subdivision (i) of this subparagraph may be illustrated by the following examples:

Example (1). Domestic corporation M owns 100 percent of the one class of stock of controlled foreign corporation X, which in turn owns 40 percent of the one class of stock of foreign corporation Y. Y is not a controlled foreign corporation. For purposes of subdivision (1) of this subparagraph, X is deemed to pay taxes in respect of Y.

Example (2). The facts are the same as in example (1), except that United States shareholder A, an individual, owns 80 percent of the stock of corporation X, and United States shareholders B and C, parent and child, own the other 20 percent in equal shares. For purposes of applying this paragraph to all three United States shareholders (A, B, and C), X is deemed to pay taxes in respect of Y.

(3) *Obligation defined.* For purposes of this section, the term "obligation" means any bond, note, debenture, certificate, or other evidence of indebtedness, and a debt recorded in the books of account of both the creditor and the debtor. In the absence of legal, governmental, or business reasons to the contrary, the indebtedness must bear interest or be issued at a discount.

(4) *Dividends.* (i) For purposes of this paragraph and § 1.954–1(b)(2), the portion of a dividend which is attributable to foreign base company shipping income is that amount which bears the same ratio to the total dividend received as the earnings and profits out of which such dividend is paid that are attributable to foreign base company shipping income bears to the total earnings and profits out of which such dividend is paid. For purposes of this subdivision, the source of the earnings and profits out of which a distribution is made shall be determined under section 316(a), except that the source of the earnings and profits out of which a distribution is made by a controlled foreign corporation with respect to stock owned (within the meaning of section 958(a)) by a United States shareholder of such controlled foreign corporation shall be determined under § 1.959–3.

(ii) The application of this subparagraph may be illustrated by the following examples:

Example (1). Domestic corporation M owns 100 percent of the one class of stock of controlled foreign corporation X, which in turn owns 40 percent of the one class of stock of foreign corporation Y. Y, which is not (and has not been) either a controlled foreign corporation or a less developed country shipping company, makes a distribution of $100 to X. Under section 316(a), such distribution is made out of Y's earnings and profits for 1978. Sixty percent of Y's earnings and profits for 1978 are attributable to foreign base company shipping income. As a result, $60 of the $100 distribution constitutes foreign base company shipping income to X under subdivision (i) of this subparagraph.

Example (2). The facts are the same as in example (1), except that under section 316(a) $20 of the $100 dividend is paid out of Y's earnings and profits for 1979, and the other $80 is paid out of Y's earnings and profits for 1978. Thirty percent of Y's earnings and profits for 1979 are attributable to foreign base company shipping income. Since 60 percent of Y's earnings and profits for 1978 are also attributable to foreign base company shipping income, $54, i.e. $(.60\times\$80)+(.30\times\$20)$, of the $100 distribution constitutes foreign base company shipping income to X under subdivision (i) of this subparagraph.

Example (3). The facts are the same as in example (1) except that under section 316(a) the $100 dividend is made out of Y's earnings and profits for 1972. Since under paragraph (a)(2)(ii) of this section foreign base company shipping income does not include amounts earned by a foreign corporation (not a less developed country shipping company) in a taxable year beginning before January 1, 1978, no amount of such $100 distribution constitutes foreign base company shipping income to X under subdivision (i) of this subparagraph.

Example (4). Domestic corporation N owns 100 percent of the one class of stock of controlled foreign corporation S, which in turn owns 100 percent of the one class of stock of controlled foreign corporation T. T makes a distribution of $100 to S, of which $80 is allocable under § 1.959–3 to earnings and profits for 1977 which are described in § 1.959–3(b)(2), and $20 is allocable to earnings and profits for 1978 which are described in § 1.959–3(b)(3). The $80 amount is excluded from S's gross income under section 959(b) and therefore is not included in S's foreign base company shipping income. One hundred percent of T's earnings and profits for 1978 described in § 1.959–3(b)(3) were attributable to reinvested foreign base company shipping income. As a result, the entire $20 amount is included in S's foreign base company shipping income under this paragraph. See § 1.954–1(b)(2) for the rule that such $20 amount may be excluded from the foreign base company income of S.

(5) *Interest and gain.* (i) Except as provided in subdivisions (ii) and (iii) of this subparagraph, the portion of any interest paid by a foreign corporation, or gain recognized from the sale, exchange, or other disposition of stock or obligations of a foreign corporation, which is attributable to the foreign base company shipping income of such foreign corporation is that amount which bears the same ratio to such interest or gain as the foreign base company shipping income of such corporation for the period described in subparagraph (6) of this paragraph bears to its gross income for such period.

(ii) Interest which is paid by a controlled foreign corporation is attributable to such corporation's foreign base company shipping income to the same extent that such interest is allocable (under the principles of § 1.954–1(c)) to its foreign base company shipping income.

(iii) If interest is paid by a foreign corporation, or if stock obligations of a foreign corporation are sold, exchanged, or otherwise disposed of, during a taxable year of such foreign corporation beginning before January 1, 1976, then no portion of such interest or gain is attributable to foreign base company shipping income.

(iv) Solely for purposes of subdivision (i) of this subparagraph, if a controlled foreign corporation (the "first corporation") owns more than 10 percent of the stock of another controlled foreign corporation (the "second corporation"), then

(A) The gross income of the first corporation for any taxable year shall be—

(*1*) Increased by its pro rata share of the gross income of the second corporation for the taxable year which ends with or within such taxable year of the first corporation, and

(*2*) Decreased by the amount of any dividends received from the second corporation; and

(B) The foreign base company shipping income of the first corporation for any taxable year shall be—

(*1*) Increased by its pro rata share of the foreign base company shipping income of the second corporation for the taxable year which ends with or within such taxable year of the first corporation, and

(*2*) Decreased by the amount of any dividends received from the second

corporation which constitute foreign base company income.

(v) Solely for purposes of applying subdivision (i) of this subparagraph, the district director shall make such other adjustments to the gross income and the foreign base company shipping income of any foreign corporation as are necessary to properly determine the extent to which any interest or gain is attributable to foreign base company shipping income, including proper adjustments to reflect any transaction during the test period described in subparagraph (6) of this paragraph to which section 332, 351, 354, 355, 356, or 361 applies.

(6) *Test period.* (i) Except as provided in subdivisions (ii) and (iii) of this subparagraph the period described in this subparagraph with respect to any foreign corporation is the 3-year period ending with the close of such corporation's taxable year preceeding the year during which interest was paid or stock or obligations were sold, exchanged, or otherwise disposed of, or such part of such period as such corporation was in existence.

(ii) The period described in this paragraph shall not include any part of a taxable year beginning before January 1, 1976.

(iii) If interest is paid by a foreign corporation, or if stock or obligations of a foreign corporation are sold, exchanged, or otherwise disposed of during its first taxable year, then the period described in this paragraph shall be such first taxable year.

(iv) For purposes of subdivision (iii) of this subparagraph, the first taxable year of a foreign corporation is the later of—

(A) The first taxable year of its existence, or

(B) Its first taxable year beginning after December 31, 1975.

(g) *Income from partnerships, trusts, etc.*—(1) *In general.* The foreign base company shipping income of any foreign corporation includes—

(i) Its distributive share of the gross income of any partnership, and

(ii) Any amounts includible in its gross income under section 652(a), 662(a), 671, or 691(a),

to the extent that such items would have been includible in its foreign base company shipping income had they been realized by it directly.

(2) *Illustrations.* The application of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). Controlled foreign corporations X and Y are equal partners in partnership P. The taxable years end on December 31 for X, June 30 for Y, and March 31 for P. In the fiscal year ending March 31, 1976, P's sole business activity is the use of a vessel in foreign commerce. P derives gross income of $200 from the use of the vessel, and incurs expenses, taxes, and other deductions of $160. Assume X's distributive share of such $200 of P's gross income is $100, all of which is includible in X's gross income. If X had realized its distributive share of $100 directly, then the amount which would have been includible in X's foreign base company shipping income under this paragraph is the portion allocable to the months of January, February, and March of 1976. Such amount, $25 (i.e., ¼ X $200 X 3 months/12 months), is included in X's foreign base company shipping income for its taxable year ending December 31, 1976. Similarly, X is entitled under this paragraph to a deduction from foreign base company shipping income of $20 (i.e., ¼ X $160 X 3 months/12 months). Since foreign base company shipping income does not include amounts earned by a foreign corporation (not a less developed country shipping corporation) in a taxable year beginning before January 1, 1976, Y has no foreign base company shipping income (under this paragraph or otherwise) for its taxable year beginning on July 1, 1975.

Example (2). The facts are the same as in example (1), except that P incurs expenses, taxes, and deductions of $240 in its taxable year ending on March 31, 1976. Accordingly, $25 is includible in X's foreign base company shipping income, and the amount deductible thereform under this paragraph is $30 (i.e., ¼ × $240 × 3 months/12 months).

(3) *Other income.* Except as expressly provided in subparagraph (1) of this paragraph, foreign base company shipping income does not include any amount includible in the gross income of a controlled foreign corporation under part I of subchapter J (section 641 and following, relating to estates, trusts, and beneficiaries), and gains from the sale or other disposition of any interest in an estate or trust.

(h) *Additional rules.*—(1) *Gross income.* For purposes of this section and § 1.955A–2, the gross income of a foreign corporation (whether or not a controlled foreign corporation) shall be determined in accordance with the provisions of section 952 and § 1.952–2. Thus, for example, section 883 (relating to exclusions from gross income of foreign corporations) is inapplicable under § 1.952–2 (a)(1) and (c)(1). In addition, the gross income of a controlled foreign corporation shall be determined, with respect to a United States shareholder of such controlled foreign corporation, by excluding distributions received by such corporation which are excluded from gross income under section 959(b) with respect to such shareholder.

(2) *Earnings and profits.* For purposes of this section, the earnings and profits of a foreign corporation (whether or not a controlled foreign corporation) shall be determined in accordance with the provisions of section 964 and the regulations thereunder.

(3) *No double counting.* No item of gross income shall be counted as foreign base company shipping income under more than one provision of this section. For example, If $200 of gross income derived from the use of a lighter is treated as foreign base company shipping income under both paragraph (b)(1)(i) and paragraph (b)(1)(ii) of this section, then such $200 is counted only once as foreign base company shipping income. A taxpayer may choose under which provision to include an item of income.

(4) *Losses.* (i) Generally, if a controlled foreign corporation has losses which are properly allocable to foreign base company shipping income, the extent to which such losses are deductible from such income shall be determined by treating such foreign corporation as a domestic corporation and applying the principles of section 63. See §§ 1.954–1(c) and 1.952–2(b). Thus for example, losses from sales or exchanges of capital assets are allowable only to the extent of gains from such sales or exchanges.

(ii) If gain from the sale, exchange, or other disposition of any stock or obligation would be treated (to any extent) as foreign base company shipping income, then loss from such sale, exchange, or other disposition is properly allocable to foreign base company shipping income (to the same extent).

(iii) In determining the extent to which any loss on the disposition of a qualified investment in foreign base company shipping operations is deductible from foreign base company shipping income, it is immaterial that such loss is taken into account under § 1.955A–1(b)(1)(ii) as a reduction in the amount of the decrease in (withdrawal from) qualified investments in foreign base company shipping operations.

(5) *Hypothetical charges.* Under paragraph (d)(5)(i) of this section and § 1.955A–2(a)(4)(ii)(A), gross income may be deemed to include hypothetical arm's length charges for services performed by a controlled foreign corporation for itself. Under paragraph (d)(2) of this section, certain of these hypothetical charges may be treated as foreign based company shipping income. Such hypothetical charges are deemed to be income solely for purposes of applying the "extent of use" tests prescribed by paragraph (d)(4) of this section and § 1.955A–2(a)(4). Charges for services performed by a controlled foreign corporation for itself shall in no event be included in income for any other purposes.

§ 1.954–7 Increase in qualified investments in foreign base company shipping operations.

(a) Determination of investments at close of taxable year.—(1) *In general.* Under section 954(g), the increase in qualified investments in foreign base company shipping operations, for purposes of section 954(b)(2) and paragraph (b)(1) of § 1.954–1, of any controlled foreign corporation for any taxable year is, except as provided in paragraph (b) of this section, the amount by which—

(i) The controlled foreign corporation's qualified investments in foreign base company shipping operations at the close of the taxable year, exceed

(ii) Its qualified investments in foreign base company shipping operations at the close of the preceding taxable year.

(2) *Preceding taxable year.* For purposes of this section, a taxable year which begins before January 1, 1976, may be a preceding taxable year.

(3) *Cross-reference.* See section 955 (b) and §1.955A–2 for the definition of the term "qualified investments in foreign base company shipping operations".

(b) *Election to determine investments at close of following taxable year.*—(1) *General rule.* In lieu of determining an increase in qualified investments in foreign base company shipping operations for a taxable year in the manner provided in paragraph (a) of this section, a United States shareholder of a controlled foreign corporation may make an election under section 955(b)(3) to determine the increase for the corporation's taxable year by ascertaining the amount by which—

(i) Such corporation's qualified investments in foreign base company shipping operations at the close of the taxable year immediately following such taxable year, exceed

(ii) Its qualified investments in foreign base company shipping operations at the close of the taxable year immediately preceding such following taxable year.

(2) *Election with respect to first taxable year.* Notwithstanding subparagraph (1) of this paragraph, if an election is made without consent by a United States shareholder under § 1.955A–4 (b)(1) with respect to a controlled foreign corporation, the increase in such controlled foreign corporation's qualified investments in foreign base company shipping operations for the first taxable year to which such election applies shall be the amount by which—

(i) Such corporation's qualified investments in foreign base company shipping operations at the close of the taxable year immediately following such first taxable year, exceed

(ii) Its qualified investments in foreign base company shipping operations at the close of the taxable year immediately preceding such first taxable year.

(3) *Manner of making election.* For the manner of making an election under section 955(b)(3), and for rules pertaining to the revocation of such an election, see §1.955A–4.

(4) *Coordination with prior law.* If a United States shareholder makes an election without consent under § 1.955A–4(b)(1) with respect to a controlled foreign corporation, then such corporation's increase in qualified investments in foreign base company shipping operations for the first taxable year to which such election applies shall be determined by disregarding any change which occurs during such taxable year in the amount of such corporation's investments in stock or obligations of a less developed country shipping company described in § 1.955–5 (b) if both of the following conditions exist:

(i) Such taxable year is the first taxable year of such corporation which begins after December 31, 1975, and

(ii) Such United States shareholder has elected to determine the change in such corporation's qualified investments in less developed countries for its last taxable year beginning before January 1, 1976, under § 1.954–5(b) or § 1.955–3.

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

Example (1). (a) Controlled foreign corporation X is a wholly owned subsidiary of domestic corporation M. X uses the calendar year as the taxable year. The amounts of X's qualified investments in foreign base company shipping operations at the close of 1975 through 1979 are as follows:

Qualified investments at Dec. 31, 1975	$16,000
Qualified investments at Dec. 31, 1976	17,000
Qualified investments at Dec. 31, 1977	23,000
Qualified investments at Dec. 31, 1978	28,000
Qualified investments at Dec. 31, 1979	30,000

(b) Assume that M properly files without consent a timely election under § 1.955A–4(b)(1) to determine X's increase for 1976 in qualified investments in foreign base company shipping operations pursuant to this paragraph, and that the election remains in force through 1978. Then X's increases for 1976 through 1978 in qualified investments in foreign base company shipping operations are as follows:

Increase for 1976 ($23,000 minus $16,000)	$7,000
Increase for 1977 ($28,000 minus $23,000)	5,000
Increase for 1978 ($30,000 minus $28,000)	2,000

Example (2). Assume the same facts as in example (1), except that M never files an election under § 1.955A–4(b)(1). X's increases for 1976 through 1978 in qualified investments in foreign base company shipping operations are as follows:

Increase for 1976 ($17,000 minus $16,000)	$1,000
Increase for 1977 ($23,000 minus $17,000)	6,000
Increase for 1978 ($28,000 minus $23,000)	5,000

Example (3). The facts are the same as in example (1), except that X's qualified investments in foreign base company shipping operations include an investment in less developed country shipping companies described in § 1.955–5(b) of $500 on December 31, 1975, and $750 on December 31, 1976. Assume further that M has made an election under section 955(b)(3) (as in effect before the enactment of the Tax Reduction Act of 1975) with respect to X's taxable year 1975. Then X's increase in qualified investments in foreign base company shipping operations for 1976 is $6,750 (i.e., $7,000 – $250).

(c) *Illustration.* The application of this section may be illustrated by the following example:

Example. (a) Controlled foreign corporation X uses the calendar year as the taxable year. On December 31, 1975, X's qualified investments in foreign base company shipping operations (determined as provided in § 1.955A–2(g)) consist of the following amounts:

Cash	$6,000
Readily marketable securities	1,000
Stock of related controlled foreign corporations	4,000
Traffic and other receivables	14,000
Marine insurance claims receivables	1,000
Foreign income tax refunds receivable	1,000
Prepaid shipping expenses and shipping inventories ashore	1,000

Vessel construction funds	0
Vessels	123,000
Vessel plans and construction in progress	3,000
Containers and chassis	0
Terminal property and equipment	2,000
Shipping office (land and building)	1,000
Vessel spare parts ashore	1,000
Performance deposits	2,000
Deferred charges	2,000
Stock of less developed country shipping company described in § 1-955-5(b)	10,000
	172,000

(b) On December 31, 1976, X's qualified investments in foreign base company shipping operations (determined as provided in § 1.955A-2(g)) consists of the following amounts:

Cash	$5,000
Readily marketable securities	2,000
Stock of related controlled foreign corporations	4,000
Traffic and other receivables	16,000
Foreign income tax refunds receivable	3,000
Prepaid shipping expenses and shipping inventories ashore	2,000
Vessel construction funds	1,000
Vessels	117,000
Vessel plans and construction in progress	12,000
Containers and chassis	4,000
Terminal property and equipment	2,000
Shipping office (land and building)	1,000
Vessel spare parts ashore	1,000
Performance deposits	2,000
Deferred charges	2,000
Stock of less developed country shipping company described in § 1.955-5(b)	0
	174,000

(c) For 1976, X's increase in qualified investments in foreign base company shipping operations is $2,000, which amount is determined as follows:

Qualified investments at Dec. 31, 1976	$174,000
Qualified investments at Dec. 31, 1975	172,000
Increase for 1976	2,000

Par. 9. A new paragraph (b) is added to § 1.955-0 to read as follows:

§ 1.955-0 Effective dates.

* * * * *

(b) *Section 955 as amended by the Tax Reduction Act of 1975.* Except as otherwise provided therein, §§ 1.955A-1 through 1.955A-4 are applicable to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (as defined in section 951(b)) within which or with which such taxable years of such foreign corporations end.

Par. 10. Section 1.955-1(b) is amended as follows:

1. Subparagraph (2)(i)(*a*) is amended by inserting "(including prior taxable years beginning after December 31, 1975)" immediately after "1962".

2. Subparagraph (2)(ii)(*a*) is revised.

3. A new subparagraph (3) is added. The added and amended provisions read as follows:

§ 1.955-1 Shareholder's pro rata share of amount of previously excluded subpart F income withdrawn from investment in less developed countries.

* * * * *

(b) *Amount withdrawn by controlled foreign corporation.* * * *

(2) *Limitations applicable in determining decreases.* * * *

(ii) *Treatment of earnings and profits.* * * *

(*a*)(*1*) Amounts which, for the current taxable year, are included in the gross income of a United States shareholder of such controlled foreign corporation under section 951(a)(1)(A) (i) or (iii), or

(*2*) Amounts which, for any prior taxable year, have been included in the gross income of a United States shareholder of such controlled foreign corporation under section 951(a) and have not been distributed; or

* * * * *

(3) Taxable years beginning after December 31, 1975. (i) In the case of a taxable year of a controlled foreign corporation beginning after December 31, 1975, § 1.955-2(b)(5) must be applied in determining the amount of its qualified investments in less developed countries on both of the determination dates applicable to such taxable year.

(ii) The application of this subparagraph may be illustrated by the following examples:

Example (1). (a) Controlled foreign corporation M uses the calendar year as the taxable year. Throughout 1974 through 1976, M owns 100 percent of the only class of stock of foreign corporation N, a less developed country shipping company described in § 1.955-5(b), and M owns no other stock or obligations. The amount taken into account under § 1.955-2(d) with respect to the stock of N is $10,000 at the close of 1974, 1975, and 1976. The amount of M's previously excluded subpart F income which is withdrawn for 1975 (a year to which § 1.955-2(b)(5) does not apply) from investment in less developed countries is zero, determined as follows:

(1) Qualified investments in less developed countries at the close of 1974	$10,000
(2) Less: qualified investments in less developed countries at the close of 1975	10,000
(3) Balance	0

(Further computations similar to those set out in lines (iv) through (ix) of example (1) of paragraph (d) of this section are unnecessary because the balance in line (3) of this example is zero.)

(b) As a result of § 1.955-2(b)(5) (ii), the amount of M's previously excluded subpart F income which is withdrawn for 1976 from investment in less developed countries is zero, determined as follows:

(1) Qualified investments in less developed countries at the close of 1975	$0
(2) Less: qualified investments in less developed countries at the close of 1976	0
(3) Balance	0

Example (2). The facts are the same as in example (1), except that foreign corporation N is a less developed country corporation described in § 1.955-5(a). The amount of M's previously excluded subpart F income withdrawn for 1976 from investment in less developed countries is zero, determined as follows:

(1) Qualified investments in less developed countries at the close of 1975	$10,000
(2) Less: qualified investments in less developed countries at the close of 1976	10,000
(3) Balance	0

Par. 11. Section 1.955-2 is amended by revising paragraph (b)(4) and adding new paragraphs (b)(5), (b)(6), and (d)(4) thereto to read as follows:

§ 1.955-2 Amount of a controlled foreign corporation's qualified investments in less developed countries.

* * * * *

(b) *Special rules.* * * *

(4) *Date of acquisition.* For purposes of paragraphs (a)(2) and (b)(5)(i) of this section, stock or an obligation shall be considered acquired by a foreign corporation as of the date such corporation acquires an adjusted basis in the stock or obligation. For this purpose, in a case in which a foreign corporation acquires stock or an obligation in a transaction (other than a reorganization of the type described in section 368(a)(1) (E) or (F)) in which no gain or loss would be recognized had the transaction been between two domestic corporations, such corporation will be considered to have acquired an adjusted

basis in such stock or obligation as of the date such transaction occurs.

(5) *Taxable years beginning after December 31, 1975.* For taxable years beginning after December 31, 1975, qualified investments in less developed countries do not include—

(i) Any property acquired after the latest determination date applicable to a taxable year beginning before December 31, 1975,

(ii) Stock or obligations of a less developed country shipping company described in § 1.955–5(b), and

(iii) Stock or obligations which were not treated as qualified investments in less developed countries on the later of the two determination dates applicable to the preceding taxable year.

See § 1.955–1(b)(3) for rules relating to the application of this subparagraph. See § 1.955A–2(h) for rules relating to the treatment of investments in stock or obligations described in subdivision (ii) of this subparagraph as qualified investments in foreign base company shipping operations.

(6) *Determination dates.* For purposes of subparagraph (5) of this paragraph and § 1.955–1(b)(3), the determination dates applicable to a taxable year of a controlled foreign corporation are—

(i) Except as provided in subdivision (ii) of this subparagraph, the close of such taxable year and the close of the preceding taxable year, and

(ii) With respect to a United States shareholder who has made an election under section 955(b)(3) to determine such corporation's increase in qualified investments in less developed countries at the close of the following taxable year, the close of such taxable year and the close of the taxable year immediately following such taxable year.

* * * * *

(d) *Amount attributable to property.* * * *

(4) *Taxable years beginning after December 31, 1975.* For taxable years beginning after December 31, 1975, the amount taken into account under subparagraph (1) of this paragraph with respect to any property which constitutes a qualified investment in less developed countries shall not exceed the amount taken into account with respect to such property at the close of the preceding taxable year.

Par. 12. Section 1.955–3 is amended as follows:

1. Paragraph (b)(2) is amended by adding a new sentence after the second sentence thereof.

2. Paragraph (c)(3) is amended by adding a new sentence after the fifth sentence thereof.

3. Paragraph (c)(3)(i) is amended by inserting "name, address, and taxpayer identification number" in lieu of "name and address".

The added provisions read as follows:

§ 1.955–3 Election as to date of determining qualified investments in less developed countries.

* * * * *

(b) *Time and manner of making elections.* * * *

(2) *With consent.* * * * Consent will not be granted if the first taxable year of the controlled foreign corporation with respect to which the shareholder desires to compute an amount described in section 954(b)(1) in accordance with the election provided in this section begins after December 31, 1975.

(c) *Effect of election.* * * *

(3) *Revocation.* * * * The application may also be filed in a taxable year beginning after December 31, 1975.

* * * * *

Par. 13. The following new sections are added immediately after § 1.955–6:

§ 1.955A–1 Shareholder's pro rata share of amount of previously excluded subpart F income withdrawn from investment in foreign base company shipping operations.

(a) *In general.* Section 955 provides rules for determining the amount of a controlled foreign corporation's previously excluded subpart F income which is withdrawn for any taxable year beginning after December 31, 1975, from investment in foreign base company shipping operations. Pursuant to section 951(a)(1)(A)(iii) and the regulations thereunder, a United States shareholder of such controlled foreign corporation must include in his gross income his pro rata share of such amount as determined in accordance with paragraph (c) of this section.

(b) *Amount withdrawn by controlled foreign corporation.*—(1) *In general.* For purposes of sections 951 through 964, the amount of a controlled foreign corporation's previously excluded subpart F income which is withdrawn for any taxable year from investment in foreign base company shipping operations is an amount equal to the decrease for such year in such corporation's qualified investments in foreign base company shipping operations. Such decrease is, except as provided in § 1.955A–4—

(i) An amount equal to the excess of the amount of its qualified investments in foreign base company shipping operations at the close of the preceding taxable year over the amount of its qualified investments in foreign base company shipping operations at the close of the taxable year, minus

(ii) The amount (if any) by which recognized losses on sales or exchanges by such corporation during the taxable year of qualified investments in foreign base company shipping operations exceed its recognized gains on sales or exchanges during such year of qualified investments in foreign base company shipping operations,

but only to the extent that the net amount so determined does not exceed the limitation determined under subparagraph (2) of this paragraph. See § 1.955A–2 for determining the amount of qualified investments in foreign base company shipping operations.

(2) *Limitation applicable in determining decreases.*—(i) *In general.* The limitation referred to in subparagraph (i) of this paragraph for any taxable year of a controlled foreign corporation shall be the lesser of the following two limitations:

(A) The sum of (*1*) the controlled foreign corporation's earnings and profits (or deficit in earnings and profits) for the taxable year, computed as of the close of the taxable year without diminution by reason of any distribution made during the taxable year, (*2*) the sum of its earnings and profits (or deficits in earnings and profits) accumulated for prior taxable years beginning after December 31, 1975, and (*3*) the amount described in subparagraph (3) of this paragraph; or

(B) The sum of the amounts excluded under section 954(b)(2) (see subparagraph (4) of this paragraph) from the foreign base company income of such corporation for all prior taxable years beginning after December 31, 1975, minus the sum of the amounts (determined under this paragraph) of its previously excluded subpart F income withdrawn from investment in foreign base company shipping operations for all such prior taxable years.

(C) For purposes of the immediately preceding subparagrah (B), the amount excluded under section 954(b)(2) for a taxable year of a controlled foreign corporation (the "first corporation") includes (*1*) an amount excluded under section 954(b)(2) by another corporation which is a member of a related group (as defined in § 1.955A–3(b)(1)) attributable to the first corporation's excess investment (see § 1.955A–3(c)(4)) for a taxable year beginning after December 31, 1983, (*2*) an amount excluded by a corporation under § 1.954–1(b)(4)(ii)(*b*) by reason of the application of the carryover rule there set forth, and (*3*) an amount equal to the first corporation's pro rata share of a group excess deduction (see § 1.955A–3(c)(2)) of a related group for a taxable year

beginning after December 31, 1983 (but not in excess of that portion of such pro rata share which would reduce the first corporation's foreign base company shipping income to zero). Such amounts will not be treated as excluded under section 954(b)(2) by any other corporation.

(ii) *Certain exclusions from earnings and profits.* For purposes of determining the earnings and profits of a controlled foreign corporation under subdivision (i)(A) (*1*) and (*2*) of this subparagraph, such earnings and profits shall be considered not to include any amounts which are attributable to—

(A)(*1*) Amounts which, for the current taxable year, are included in the gross income of a United States shareholder of such controlled foreign corporation under section 951(a)(1)(A)(i), or

(*2*) Amounts which, for any prior taxable year, have been included in the gross income of a United States shareholder of such controlled foreign corporation under section 951(a) and have not been distributed; or

(B)(*1*) Amounts which, for the current taxable year, are included in the gross income of a United States shareholder of such controlled foreign corporation under section 551(b) or would be so included under such section but for the fact that such amounts were distributed to such shareholder during the taxable year, or

(*2*) Amounts which, for any prior taxable year, have been included in the gross income of a United States shareholder of such controlled foreign corporation under section 551(b) and have not been distributed.

The rules of this subdivision apply only in determining the limitation on a controlled foreign corporation's decrease in qualified investments in foreign base company shipping operations. See section 959 and the regulations thereunder for rules relating to the exclusion from gross income of previously taxed earnings and profits.

(3) *Carryover of amounts relating to investments in less developed country shipping companies.*—(i) *In general.* The amount described in this subparagraph for any taxable year of a controlled foreign corporation beginning after December 31, 1975, is the lesser of—

(A) The excess of the amount described in subdivision (ii) of this subparagraph, over the amount described in subdivision (iii) of this subparagraph, or

(B) The limitation determined under subdivision (iv) of this subparagraph.

(ii) *Previously excluded subpart F income invested in less developed country shipping companies.* The amount described in this subdivision for all taxable years of a controlled foreign corporation beginning after December 31, 1975, is the lesser of—

(A) The amount of such corporation's qualified investments (determined under § 1.955–2 other than paragraph (b)(5) thereof) in less developed country shipping companies described in § 1.955–5(b) at the close of the last taxable year of such corporation beginning before January 1, 1976, or

(B) The limitation determined under § 1.955–1(b)(2)(i)(*b*) (relating to previously excluded subpart F income) for the first taxable year of such corporation beginning after January 1, 1976.

(iii) *Amounts previously carried over.* The amount described in this subdivision for any taxable year of a controlled foreign corporation shall be the sum of the excesses determined for each prior taxable year beginning after December 31, 1976, of—

(A) The amount (determined under this paragraph) of such corporation's previously excluded subpart F income withdrawn from investment in foreign base company shipping operations, over

(B) The sum of the earnings and profits determined under subparagraph (2)(1)(A) (*1*) and (*2*) of this paragraph.

(iv) *Extent attributable to accumulated earnings and profits.* The limitation determined under this subdivision for any taxable year of a controlled foreign corporation is the sum of such controlled foreign corporation's earnings and profits (or deficits in earnings and profits) accumulated for taxable years beginning after December 31, 1962, and before January 1, 1976. For purposes of the preceding sentence, earnings and profits shall be determined by excluding the amounts described in subparagraph (2)(ii) (A) and (B) of this paragraph.

(v) *Illustration.* The application of this subparagraph may be illustrated by the following example:

Example. (a) Throughout the period here involved, A is a United States shareholder of controlled foreign corporation M. M is not a foreign personal holding company, and M uses the calendar year as the taxable year.

(b) The amount described in this subparagraph for M's taxable year 1978 with respect to A is determined as follows, based on the facts shown in the following table:

(1) Investment in less developed country shipping companies on December 31, 1975 (subdivision (ii)(A) amount)	$10,000
(2) § 1.955–1(b)(2)(i)(*b*) limitation for 1976 (previously excluded subpart F income not withdrawn from investment in less developed countries) (subdivision (ii)(B) amount)	50,000
(3) Subdivision (ii) amount (lesser of lines (1) and (2))	10,000
(4) Subdivision (iii) amount: Excess for 1977 of M's previously excluded subpart F income withdrawn from investment in foreign base country shipping operations, $3,000, over the sum of the amounts determined under subparagraphs (2)(i)(A) (*1*) and (*2*) of this paragraph, $1,000	2,000
(5) Excess of line (3) over line (4)	8,000
(6) Sum of M's earnings and profits accumulated for 1962 through 1975, determined on December 31, 1978	26,000
(7) Amount described in this subparagraph for 1978 (lesser of line (5) and line (6))	8,000

(c) For 1978, M's earnings and profits (reduced as provided in § 1.955–1(b)(2)(ii)(*a*)(*1*)) are $19,000, and the amount of M's previously excluded subpart F income withdrawn from investment in less developed countries determined under § 1.955–1(b)) is $42,000. Consequently, $23,000 of M's earnings and profits accumulated for 1962 through 1975 are attributable to such $42,000 amount, and will therefore be excluded under subparagraph (2)(ii)](A)(*2*) of this paragraph from M's earnings and profits accumulated for 1962 through 1975, determined as of December 31, 1979. No other portion of M's earnings and profits accumulated for 1962 through 1975 is distributed or included in the gross income of a United States shareholder in 1978.

(d) The amount described in this subparagraph for M's taxable year 1979 with respect to A is determined as follows, based on the additional facts shown in the following table:

(1) Subdivision (ii) amount (line (3) from paragraph (b) of this example)	$10,000
(2) Subdivision (iii) amount: (i) Excess for 1977 from line (4) of paragraph (b) of this example	2,000
(ii) Plus: excess for 1978 of M's previously excluded subpart F income withdrawn from investment in foreign base country shipping operations, $6,000, over the sum of the amounts determined under subparagraphs (2)(i)(A) (*1*) and (*2*) of this paragraph, $25,000	0
(iii) Subdivision (iii) amount	2,000
(3) Excess of line (1) over line (2)(iii)	8,000
(4) Sum of M's earnings and profits accumulated for 1962 through 1975, determined on December 31, 1979 ($26,000 minus $23,000)	3,000
(5) Amount described in this subparagraph for 1979 (lesser of line (3) and line (4))	3,000

(4) *Amount excluded.* For purposes of subparagraph (2)(i)(B) of this paragraph, the amount excluded under section 954(b)(2) from the foreign base company income of a controlled foreign corporation for any taxable year beginning after December 31, 1975, is the excess of—

(i) The amount which would have been equal to the subpart F income of such corporation for such taxable year if such corporation had had no increase in qualified investments in foreign base company shipping operations for such taxable year, over

(ii) The subpart F income of such corporation for such taxable year.

(c) *Shareholder's pro rata share of amount withdrawn by controlled foreign corporation.*—(1) *In general.* A United States shareholder's pro rata share of a controlled foreign corporation's previously excluded subpart F income withdrawn for any taxable year from investment in foreign base company shipping operations is his pro rata share of the amount withdrawn for such year by such corporation, as determined under paragraph (b) of this section. See section 995(a)(3). Such pro rata share shall be determined in accordance with the principles of § 1.195–1(e).

(2) *Special rule.* A United States shareholder's pro rata share of the net amount determined under paragraph (b)(2)(i)(B) of this section with respect to any stock of the controlled foreign corporation owned by such shareholder shall be determined without taking into account any amount attributable to a period prior to the date on which such shareholder acquired such stock. See section 1248 and the regulations thereunder for rules governing treatment of gain from sales or exchanges of stock in certain foreign corporations.

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

Example (1). A, a United States shareholder, owns 60 percent of the only class of stock of M Corporation, a controlled foreign coporation throughout the entire period here involved. Both A and M use the calendar year as a taxable year. The amount of M's previously excluded subpart F income withdrawn for 1978 from investment in foreign base company shipping operations is $40,000, and A's pro rata share of such amount is $24,000 determined as follows based on the facts shown in the following table:

(a) Qualified investments in foreign base company shipping operations at the close of 1977	$125,000
(b) Less: qualified investments in foreign base company shipping operations at the close of 1978	75,000
(c) Balance	50,000
(d) Less: excess of recognized losses ($15,000) over recognized gains ($5,000) on sales during 1978 of qualified investments in foreign base company shipping operations	10,000
(e) Tentative decrease in qualified investment in foreign base company shipping operations for 1978	40,000
(f) Earnings and profits for 1976, 1977, and 1978	45,000
(g) Plus: amount determined under paragraph (b)(3) of this section	0
(h) Earnings and profits limitation	45,000
(i) Excess of amount excluded under section 954(b)(2) from foreign base company income for 1975 ($75,000) over amount of previously excluded subpart F income withdrawn for 1977 from investment in foreign base company shipping operations ($25,000)	50,000
(j) M's amount of previously excluded subpart F income withdrawn for 1978 from investment in foreign base company shipping operations (item (e), but not to exceed the lesser of item (h) or item (i)	40,000
(k) A's pro rata share of M Corporation's amount of previously excluded subpart F in come withdrawn for 1978 from investment in foreign base company shipping operations (60 percent of $40,000)	24,000

Example (2). The facts are the same as in example (1), except that M's earnings and profits (determined under paragraph (b)(2) of this section) for 1976, 1977, and 1978 (item (f)) are $30,000 instead of $45,000. M's amount of previously excluded subpart F income withdrawn for 1978 from investment in foreign base company shipping operations is $30,000. A's pro rata share of such amount is $18,000 (60 percent of $30,000).

Example (3). The facts are the same as in example (1), except that the excess of the amount excluded under section 954(b)(2) for 1976 from M Corporation's foreign base company income over the amount of its previously excluded subpart F income withdrawn for 1977 from investment in foreign base company shipping operations (item (i)) is $20,000 instead of $50,000. M's amount of previously excluded subpart F income withdrawn for 1978 from investment in foreign base company shipping operations is $20,000. A's pro rata share of such amount is $12,000 (60 percent of $20,000).

§ 1.955A–2 Amount of a controlled foreign corporation's qualified investments in foreign base company shipping operations.

(a) *Qualified investments.*—(1) *In general.* Under section 955(b), for purposes of sections 951 through 964, a controlled foreign corporation's "qualified investments in foreign base company shipping operations" are investments in—

(i) Any aircraft or vessel, to the extent that such aircraft or vessel is used (or hired or leased for use) in foreign commerce,

(ii) Related shipping assets (within the meaning of paragraph (b) of this section),

(iii) Stock or obligations of a related controlled foreign corporation, to the extent provided in paragraph (c) of this section,

(iv) A partnership, to the extent provided in paragraph (d) of this section, and

(v) Stock or obligations of a less developed country shipping company described in § 1.955–5(b), as provided in paragraph (h) of this section.

(2) *Coordination of provisions.* No amount shall be counted as a qualified investment in foreign base company shipping operations under more than one provision of this section. Thus, for example, if a $10,000 investment in stock of a controlled foreign corporation is treated as a qualified investment in foreign base company shipping operations under both subparagraph (1)(iii) and (v) of this paragraph, then such $10,000 is counted only once as a qualified investment in foreign base company shipping operations.

(3) *Definitions.* If the meaning of any term is defined or explained in § 1.954–6, then such term shall have the same meaning when used in this section.

(4) *Extent of use.* (i) For purposes of subparagraph (1)(i) of this paragraph and paragraph (b)(i) of this section, the extent to which an asset of a controlled foreign corporation is used during a taxable year in foreign base company shipping operations shall be determined on the basis of the proportion for such year which the foreign base company shipping income derived from the use of such asset bears to the total gross income derived from the use of such asset.

(ii) For purposes of determining under subdivision (i) of this subparagraph the amounts of foreign base company shipping income and gross income of a controlled foreign corporation—

(A) Such amounts shall be deemed to include an arm's length charge (see § 1.954–6(h)(5)) for services performed by such corporation for itself,

(B) Such amounts shall be deemed to include an arm's length charge for the use of an asset (such as a vessel under construction or laid up for repairs) which is held for use in foreign base company shipping operations, but is not actually so used,

(C) Foreign base company shipping income shall be deemed to include amounts earned in taxable years beginning before January 1, 1976, and

(D) The district director shall make such other adjustments to such amounts as are necessary to properly determine the extent to which any asset is used in foreign base company shipping operations.

(b) *Related shipping assets.*—(1) *In general.* For purposes of this section, the term "related shipping asset" means any asset which is used (or held for use) for

or in connection with the production of income described in § 1.954–6(b)(1) (i) or (ii), but only to the extent that such asset is so used (or is so held for use).

(2) *Examples.* Examples of assets of a controlled foreign corporation which are used (or held for use) for or in connection with the production of income described in subparagraph (1) of this paragraph include—

(i) Money, bank deposits, and other temporary investments which are reasonably necessary to meet the working capital requirements of such corporation in its conduct of foreign base company shipping operations,

(ii) Accounts receivable and evidences of indebtedness which arise from the conduct of foreign base company shipping operations by such corporation or by a related person,

(iii) Amounts (other than amounts described in subdivision (i) of this subparagraph) deposited in bank accounts or invested in readily marketable securities pursuant to a specific, definite, and feasible plan to purchase any tangible asset for use in foreign base company shipping operations,

(iv) Amounts paid into escrow to secure the payment of (A) charter hire for an aircraft, vessel, or other asset used in foreign base company shipping operations or (B) a debt which constitutes a specific charge against such an asset,

(v) Capitalized expenditures (such as progress payments) made under a contract to purchase any asset for use in foreign base company shipping operations,

(vi) Prepaid expense and deferred charges incurred in the course of foreign base company shipping operations,

(vii) Stock acquired and retained to insure a source of supplies or services used in the conduct of foreign base company shipping operations, and

(viii) Currency futures acquired and retained as a hedge against international currency fluctuations in connection with foreign base company shipping operations.

(3) *Limitations.—(i) Vessels generally.* Notwithstanding any other provision of this paragraph, the term "related shipping assets" does not include any money or other intangible assets of a controlled foreign corporation, to the extent that such assets are permitted to accumulate in excess of the reasonably anticipated needs of the business.

(ii) *Safe harbor.* If a controlled foreign corporation accumulates money or other intangible assets pursuant to a plan to purchase one or more vessels for use in foreign commerce, and if—

(A) The amount so accumulated, plus

(B) The sum of the amounts accumulated by other controlled foreign corporations which are related persons (within the meaning of section 954(d)(3)) pursuant to similar plans, does not exceed 110 percent of a reasonable down payment on each vessel planned to be purchased within a reasonable period, then such plan will be considered to be feasible. For purposes of the preceding sentence, a reasonable down payment shall not exceed 28 percent of the total cost of acquisition. The determination dates applicable to the taxable year of a controlled foreign corporation are those set forth in paragraph (c)(2)(ii) of this section. In the case of accumulation of assets which do not come within the safe harbor limitation of this subdivision (ii), in determining whether such assets have accumulated beyond the reasonably anticipated needs of the business, factors to be taken into account include, but are not limited to, the availability of financing to purchase a vessel and the availability of a vessel suitable for the purposes to which the vessel is to be put.

(iii) *Other assets.* In determining whether a plan to purchase any asset other than a vessel for use in foreign base company shipping operations is feasible, principles similar to those stated in subdivision (ii) of this subparagraph shall be applied.

(4) *Cross-reference.* See § 1.954–7(c) for additional illustrations bearing on the application of this paragraph.

(c) *Stock and obligations.*—(1) *In general.* Investments by a controlled foreign corporation (the "first corporation") in stick or obligations of a second controlled foreign corporation which is a related person (within the meaning of section 954(d)(3) are considered to be qualified investments in foreign base company shipping operations to the extent that the assets of such second corporation are used (or held for use) in foreign base company shipping operations. See subparagraph (2) of this paragraph. However, an investment in an obligation of the second corporation will not be considered a qualified investment in foreign base company shipping operations if the obligation represents a liability which constitutes a specific charge (nonrecourse or otherwise) against an asset of the second corporation which is not either—

(i) An aircraft or vessel used (or held for use) to some extent in foreign commerce, or

(ii) An asset described in paragraph (a)(1) (ii) through (v) of this section.

(2) *Extent of use.* On any determination date applicable to a taxable year of the first corporation, the extent to which the assets of the second corporation are used in foreign base company shipping operations shall be determined on the basis of the proportion which the amount of such second corporation's qualified investments in foreign base company shipping operations bears to its net worth, such proportion to be determined at the close of the second corporation's last taxable year which ends on or before such determination date. For purposes of the preceding sentence—

(i) A controlled foreign corporation's net worth is the total adjusted basis of the corporate assets reduced by the total outstanding principal amount of the corporate liabilities, and

(ii) The determination dates applicable to a taxable year of a controlled foreign corporation are—

(A) Except as provided in (B) of this subdivision, the close of such taxable year and the close of the preceding taxable year, and

(B) With respect to a United States shareholder who has made an election under section 955(b)(3) to determine such corporation's increase in qualified investments in foreign base company shipping operations at the close of the following taxable year, the close of such taxable year and the close of the taxable year immediately following such taxable year.

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

Example (1). On December 31, 1976, controlled foreign corporation X owns 100 percent of the single class of stock of controlled foreign corporation Y. X and Y both use the calendar year as the taxable year. On December 31, 1976, Y's assets consist of a vessel used in foreign commerce, related shipping assets, and other assets unrelated to its foreign base company shipping operations. On such date Y has qualified investments in foreign base company shipping operations (determined under paragraph (g) of this section) of $60,000, and a net worth of $100,000. If X's investment in the stock of Y is $50,000, then $30,000 of such amount, i.e.,

$$\frac{\$\ 60{,}000}{\$100{,}000} \times \$50{,}000$$

is a qualified investment in foreign base company shipping operations.

Example (2). The facts are the same as in example (1), except that on December 31, 1976, Y's assets consist entirely of a vessel used in foreign commerce and related shipping assets. Y has qualified investments in foreign base company shipping operations (determined under paragraph (g) of this

section) of $16,000 and (therefore) a net worth of $16,000. If X's investment in the stock of Y is $50,000, then the entire $50,000, i.e.,

$$\frac{\$16,000}{\$16,000} \times \$50,000$$

is a qualified investment in foreign base company shipping operations.

Example (3). On December 31, 1980, controlled foreign corporation J owns two notes of controlled foreign corporation K, which is a related person (within the meaning of section 954(d)(3)). Both J and K use the calendar year as the taxable year. J's adjusted basis in each of the two notes is $100,000.The first note is secured only by the general credit of K. The second note is secured by (and, therefore, constitutes a specific charge on) a hotel owned by K in a foreign country. On December 31, 1980, K has qualified investments in foreign base company shipping operations with an adjusted basis of $500,000. The adjusted basis of all of K's corporate assets is $1,000,000. K's only liabilities are the two notes. The amount of K's qualified investments in foreign base company shipping operations (determined under paragraph (g) of this section) is $450,000. K's net worth is $800,000. The amount of J's qualified investment in foreign base company shipping operations in respect of the first note is $56,250, i.e.,

$$\frac{\$450,000}{\$800,000} \times \$100,000$$

The amount of J's qualified investment in respect of the second note is zero (see the last sentence of paragraph (c)(1) of this section).

(d) *Partnerships.*—(1) *In general.* A controlled foreign corporation's investment in a partnership at the close of any taxable year of such corporation shall be considered a qualified investment in foreign base company shipping operations to the extent of the proportion which such corporation's foreign base company shipping income for such taxable year would bear to its gross income for such taxable year if—

(i) Such corporation had realized no income other than its distributive share of the partnership gross income, and

(ii) Such corporation's income were adjusted in accordance with the rules stated in paragraph (a)(4)(ii) (B) and (D) of this section.

(2) *Transitional rule.* For purposes of subparagraph (1)(i) of this paragraph, the controlled foreign corporation's distributive share of the partnership gross income shall not include any amount attributable to income earned by the partnership before the first day of such corporation's first taxable year beginning after December 31, 1975.

(3) *Cross-reference.* See paragraph (g)(4) of this section for rules relating to the determination of the amount of a controlled foreign corporation's investment in a partnership.

(e) *Trusts.*—(1) *In general.* An investment in a trust is not a qualified investment in a foreign base company shipping operations.

(2) *Grantor trusts.* Notwithstanding subparagraph (1) of this pargraph, if a controlled foreign corporation is treated as the owner of any portion of a trust under Subpart E of Part I of Subchapter J (relating to grantors and others treated as substantial owners), then for purposes of this section such controlled foreign corporation is deemed to be the actual owner of such portion of the assets of the trust. Accordingly, its investments in such assets (as determined under paragraph (g)(5) of this section) may be treated as a qualified investment in foreign base company shipping operations.

(3) *Definitions.* For purposes of this section, the term "trust" means a trust as defined in § 301.7701–4.

(f) *Excluded property.* For purposes of paragraph (a) of this section, property acquired principally for the purpose of artificially increasing the amount of a controlled foreign corporation's qualified investments in foreign base company shipping operations will not be recognized; whether an item of property is acquired principally for such purpose will depend upon all the facts and circumstances of each case. One of the factors that will be considered in making such a determination with respect to an item of property is whether the item is disposed of within 6 months after the date of its acquisition.

(g) *Amount attributable to property.*—(1) *General rule.* For purposes of this section, the amount taken into account under section 955(b)(4) with respect to any property which constitutes a qualified investment in foreign base company shipping operations shall be its adjusted basis as of the applicable determination date, reduced by the outstanding principal amount of any liability (other than a liability described in subparagraph (2) of this paragraph) to which such property is subject on such date including a liability secured only by the general credit of the controlled foreign corporation. Liabilities shall be taken into account in the following order:

(i) The adjusted basis of each and every item of corporate property shall be reduced by any specific charge (non-recourse or otherwise) to which such item is subject. For this purpose, if a liability constitutes a specific charge against several items of property and cannot definitely be allocated to any single item of property, the specific charge shall be apportioned against each of such items of property in that ratio which the adjusted basis of such item on the applicable determination date bears to the adjusted basis of all such items on such date. The excess against property over the adjusted basis of such property shall be taken into account as a liability secured only by the general credit of the corporation.

(ii) A liability which is evidenced by an open account or which is secured only by the general credit of the controlled foreign corporation shall be apportioned against each and every item of corporate property in that ratio which the adjusted basis of such item on the applicable determination date (reduced as provided in subdivision (i) of this subparagraph) bears to the adjusted basis of all the corporate property on such date (reduced as provided in subdivision (i) of this subparagraph); provided that no liability shall be apportioned under this subdivision against any stock or obligations described in paragraph (h)(1) of this section.

(2) *Excluded charges.* For purposes of subparagraph (1) of this paragraph, a liability created principally for the purpose of artificially increasing or decreasing the amount of a controlled foreign corporation's qualified investments in foreign base company shipping operations will not be recognized. Whether a liability is created principally for such purpose will depend upon all the facts and circumstances of each case. One of the factors that will be considered in making such a determination with respect to a loan is whether the loan was both created after November 20, 1974, and is from a related person, as defined in section 954(d)(3) and paragraph (e) of § 1.954–1. Another such factor is whether the liability was created after March 29, 1975, in a taxable year beginning before January 1, 1976. For purposes of this paragraph (g)(2), payments on liabilities which are represented by an open account are credited against the account transactions arising earliest in time.

(3) *Statement required.* If for purposes of this section the adjusted basis of property which constitutes a qualified investment in foreign base company shipping operations by a controlled foreign corporation is reduced on the ground that such property is subject to a liability, each United States shareholder shall attach to his return a statement

setting forth the adjusted basis of the property before the reduction and the amount and nature of the reduction.

(4) *Partnership interest.* If a controlled foreign corporation is a partner in a partnership, its investment in the partnership taken into account under section 955(b)(4) shall be its adjusted basis in the partnership determined under section 722 or 742, adjusted as provided in section 705, and reduced as provided in subparagraph (1) of this paragraph. (However, if the partnership is not engaged solely in the conduct of foreign base company shipping operations, such amount shall be taken into account only to the extent provided in paragraph (d)(1) of this section).

(5) *Grantor trust.* If a controlled foreign corporation is deemed to own a portion of the assets of a trust under paragraph (e)(2) of this section then the amount taken into account under section 955 (b)(4) with respect to such assets shall be determined as provided in subparagraph (1) of this paragraph by the application of the following rules:

(i) Such controlled foreign corporation's adjusted basis in such assets shall be deemed to be a proportionate share of the trust's adjusted basis in such assets, and

(ii) A proportionate share of the liabilities of the trust shall be deemed to be liabilities of such controlled foreign corporation and to constitute specific charges against such assets.

(6) *Translation into United States dollars.* The amounts determined in accordance with this paragraph shall be translated into United States dollars in accordance with the principles of § 1.964–1(e)(4).

(h) *Investments in shipping companies under prior law.*—(1) *In general.* If an amount invested in stock or obligations of a less developed country shipping company described in § 1.955–5(b) is treated as a qualified investment in less developed countries under § 1.955–2 (applied without regard to paragraph (b)(5)(ii) thereof) on the applicable determination date for purposes of section 954(g) or section 955(a)(2) with respect to a taxable year beginning after December 31, 1975, then such amount shall be treated as a qualified investment in foreign base company shipping operations on such determination date. See section 955(b)(5).

(2) *Effect on prior law.* See § 1.955–2(b)(5)(ii) for the rule that investments which are treated as qualified investments in foreign base company shipping operations under subparagraph (1) of this paragraph shall not be treated as qualified investments in less developed countries for purposes of section 951(a)(1)(A)(ii).

(3) *Illustration.* The application of this paragraph may be illustrated by the following example:

Example. (a) Throughout the period here involved, controlled foreign corporation X owns 100 percent of the single class of stock of controlled foreign corporation Y. X and Y each use the calendar years as the taxable year. At the close of 1975, X's $50,000 investment in the stock of Y is treated as a qualified investment in less developed countries under § 1.955–2 (applied without regard to § 1.955–2(b)(5)(ii), and Y is a less developed country shipping company described in § 1.955–5(b).

(b) On December 31, 1976, Y is still a less developed country shipping company and X's $50,000 investment in the stock of Y is still treated as a qualified investment in less developed countries under § 1.955–2 (applied without regard to § 1.955–2(b)(5)(ii). Under subparagraph (1) of this paragraph X's entire $50,000 investment in thestock of Y is treated as a qualified investment in foreign base company shipping operations.

(c) For 1977, Y's gross income is $10,000 and Y's foreign base company shipping income is $7,500. Since Y fails to meet the 80-percent income test of § 1.955–5(b)(1), Y is no longer a less developed country shipping company described in § 1–955–5(b), and X's investment in the stock of Y is no longer treated as a qualified investment in less developed countries under § 1.955–2 (applied without regard to § 1.955–2(b)(5)(ii). However, assume that on December 31, 1977, Y's net worth (as defined in paragraph (c)(2)(1) of this section) is $100,000, that Y's qualified investments in foreign base company shipping operations (determined under this section) on December 31, 1977, are $75,000, and that X's investment in the stock of Y (as determined under paragraph (g) of this section) continues to be $50,000. Then $67,500, i.e.,

$$\frac{\$75{,}000}{\$100{,}000} \times \$50{,}000$$

of X's $50,000 investment in the stock of Y is treated as a qualified investment in foreign company shipping operations under paragraph (c) of this section.

(d) For 1978, all of Y's gross income is foreign base company shipping income. Although Y is again a less developed country shipping company described in § 1.955–5(b), X's investment in the stock of Y is no longer treated as a qualified investment in less developed countries under § 1.955–2(b)(5)(iii). Thus, X's investment in the stock of Y is not treated as a qualified investment in foreign base company shipping operations under subparagraph (1) of this paragraph. However, X's investment in the stock of Y may be so treated under another provision of this section, as was the case in item (c) of this example.

§ 1.955A–3 Election as to qualified investments by related persons.

(a) *In general.* If a United States shareholder elects the benefits of section 955(b)(2) with respect to a related group (as defined in paragraph (b)(1) of this section) of controlled foreign corporations, then an investment in foreign base company shipping operations made by one member of such group will be treated as having been made by another member to the extent provided in paragraph (c)(4) of this section, and each member will be subject to the other provisions of paragraph (c) of this section. For the manner of making an election under section 955(b)(2), and for rules relating to the revocation of such an election, see paragraph (d) of this section. For rules relating to the coordination of sections 955(b)(2) and 955(b)(3), see paragraph (e) of this section.

(b) *Related group.*—(1) *Related group defined.* The term "related group" means two or more controlled foreign corporations, but only if all of the following requirements are met:

(i) All such corporations use the same taxable year.

(ii) The same United States shareholder controls each such corporation within the meaning of section 954(d)(3) at the end of such taxable year, and

(iii) Such United States shareholder elects to treat such corporations as a related group for such taxable year.

(iv) If any of the corporations is on a 52–53 week taxable year and if all of the taxable years of the corporations end within the same 7-day period, the rule of paragraph (b)(1)(i) of this section shall be deemed satisified.

(v) An election under paragraph (b)(1)(iii) of this section will not be valid in the case of an election by a U.S. shareholder (the "first U.S. shareholder") if—

(A) The first U.S. shareholder controls a second U.S. shareholder,

(B) The second U.S. shareholder controls one or more controlled foreign corporations, and

(C) Any of the controlled foreign corporations are the subject of the election by the first U.S. shareholder,

unless the second U.S. shareholder consents to the election by the first U.S. shareholder.

(2) *Group taxable years defined.* The "group taxable year" is the common taxable year of a related group.

(3) *Limitation.* If a United States shareholder elects to treat two or more corporations as a related group for a group taxable year (the "first group taxable year"), then such United States

shareholder (and any other United States shareholder which is controlled by such shareholder) may not also elect to treat two or more other corporations as a related group for a group taxable year any day of which falls within the first group taxable year.

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

Example (1). Domestic corporation M owns 100 percent of the only class of stock of controlled foreign corporations A, B, C, D, and E. A, B, and C use the calendar year as the taxable year. D and E use the fiscal year ending on June 30 as the taxable year. M may elect to treat A, B and C as a related group. However, M may not elect to treat C, D, and E as a related group.

Example (2). The facts are the same as in example (1). In addition, M elects to treat A, B, and C as a related group for the group taxable year which ends on December 31, 1976. M may not also elect to treat D and E as a related group for the group taxable year ending on June 30, 1977.

Example (3). United States shareholder A owns 60 percent of the only class of stock of controlled foreign corporation X and 40 percent of the only class of stock of controlled foreign corporation Y. United States shareholder B owns the other 40 percent of the stock of X and the other 60 percent of the stock of Y. Neither A nor B (nor both together) may elect to treat X and Y as a related group.

(c) *Effect of election.* If a United States shareholder elects to treat two or more controlled foreign corporations as a related group for any group taxable year then, for purposes of determining the foreign base company income (see § 1.954–1) and the increase or decrease in qualified investments in foreign base company shipping operations (see §§ 1.954–7, 1.955A–1, and 1.955A–4) of each member of such group for such year, the following rules shall apply:

(1) *Intragroup dividends.* The gross income of each member of the related group shall be deemed not to include dividends received from any other member of such group, to the extent that such dividends are attributable (within the meaning of § 1.954–6(f)(4)) to foreign base company shipping income. In determining net foreign base compay shipping income, deductions allocable to intragroup dividends attributable to foreign base company shipping income shall not be allowed.

(2) *Group excess deduction.* (i) The decuctions allocable under § 1.954–1(c) to the foreign base company shipping income of each member of the related group shall be deemed to include such member's pro rata share of the group excess deduction.

(ii) The group excess deduction for the group taxable year is the sum of the excesses for each member of the related group (having an excess) of—

(A) The member's deductions (determined without regard to this subpargraph) allocable to foreign base company shipping income for such year, over

(B) The member's foreign base company shipping income for such year.

(iii) A member's pro rata share of the group excess deduction is the amount which bears the same ratio to such group excess deduction as—

(A) The excess of such member's foreign base company shipping income over the deductions (so determined) allocable thereto, bears to

(B) The sum of such excesses for each member of the related group having an excess.

(iv) For purposes of this subparagraph, "foreign base company shipping income" means foreign base company shipping income (as defined in § 1.954–6), reduced by excluding therefrom all amounts which are—

(A) Excluded from subpart F income under section 952(b) (relating to exclusion of United States income) or

(B) Excluded from foreign base company income under section 954(b)(4) (relating to exception for foreign corporation not availed of to reduce taxes).

(v) The application of this subparagraph may be illustrated by the following example:

Example. Controlled foreign corporations X, Y, and Z are a related group for calendar year 1976. The excess group deduction for 1976 is $9, X's pro rata share of the group excess deduction is $6, and Y's pro rata share is $3, determined as follows on the basis of the facts shown in the following table:

	X	Y	Z	Group
(1) Gross shipping income	$100	$90	$90	
(2) Shipping deductions	60	70	80	
(3) Net shipping income	40	20	(9)	
(4) Group excess deduction				80
(5) X's pro rata share of group excess deduction ($9×$40/$60)	6			
(6) Y's pro rata share of group excess deduction ($9×$20/$60)		3		

(3) *Intragroup investments.* On both of the determination dates applicable to the group taxable year for purposes of section 954(g) or section 955(a)(2), the qualified investments in foreign base company shipping operations of each member of the related group shall be deemed not to include stock of any other member of the related group. In addition, neither the gains nor the losses on dispositions of such stock during the group taxable year shall be taken into account under § 1.955A–1(b)(1)(ii) in determining the decrease in qualified investments in foreign base company shipping operations of any member of such related group.

(4) *Group excess investment.* (i) On the later (and only the later) of the two determination dates applicable to the group taxable year for purposes of section 954(g) or section 955(a)(2), the qualified investments in foreign base company shipping operations of each member of the related group shall be deemed to include such member's pro rata share of the group excess investment.

(ii) The group excess investment for the group taxable year is the sum of the excess for each member of the related group (having an excess) of—

(A) The member's increase in qualified investments in foreign base company shipping operations (determined under § 1.954–7 after the application of subparagraph (3) of this paragraph) for such year, over

(B) The member's foreign base company shipping income for such year.

(iii) A member's pro rata share of the group excess investment is the amount which bears the same ratio to such group excess investment as—

(A) Such member's shortfall, in qualified investments bears to

(B) the sum of the shortfalls in qualified investments of each member of such related group having a shortfall.

(iv) If a member has an increase in qualified investments in foreign base company shipping operations (determined as provided in § 1.954–7 after the application of subparagraph (3) of this paragraph) for the group taxable year, then such member's "shortfall in qualified investments" is the excess of—

(A) Such member's foreign base company shipping income for such year, over

(B) Such increase.

(v) If a member has a decrease in qualified investments in foreign base company shipping operations (determined under § 1.955A–1(b)(1) or § 1.955A–4(a), whichever is applicable, after the application of subparagraph (3) of this paragraph) for the group taxable year, then such member's "shortfall in qualified investments" is the sum of—

(A) Such member's foreign base company shipping income for such year and

(B) Such decrease.

(vi) For purposes of this subparagraph, "foreign base company shipping income" means foreign base company shipping income (as defined in subparagraph (2)(iv) of this paragraph), reduced by the deductions allocable thereto under § 1.954–1(c) (including the

additional deductions described in subparagraph (2) of this paragraph).

(vii) The application of paragraphs (c)(1), (3), and (4) of this section may be illustrated by the following example:

Example. (a) Controlled foreign corporations R, S, and T are a related group for calendar year 1977. R and S do not own the stock of any member of the related group.

(b) On December 31, 1977, T has qualified investments in foreign base company shipping operations (determined without regard to paragraphs (c) (3) and (4)) of $105, of which $15 consists of stock of S. After application of paragraph (c)(3) (but before application of paragraph (c)(4)), on December 31, 1977, T has qualified investments in foreign base company shipping operations of $90, determined as follows:

(1) Qualified investments (determined without regard to paragraph (c)(3)) on December 31, 1977	$105
(2) Less: Qualified investments in stock of another member of a related group (as required by paragraph (c)(3))	15
(3) Balance	90

(c) During 1977, T's foreign base company shipping income is $180, determined without regard to paragraph (c)(1). Included in the $180 is $5 in dividends in respect of T's stock in S. During 1977, T has shipping deductions of $91. Of T's shipping deductions, $1 is allocable to the dividends from S. After application of paragraph (c)(1), T's net shipping income during 1977 is $85, determined as follows:

(1) Foreign base company shipping income		$180
(2) Less: intragroup dividends (as required by paragraph (c)(1))		5
(3) Balance		175
(4) Shipping deductions	$91	
(5) Less: deductions allocable to intragroup dividends (as required by paragraph (c)(1))	1	
(6) Balance	90	
(7) Net shipping income (line (3) minus line (6))		85

(d) During 1977 (without regard to paragraph (c) (4)), R's increase in qualified investments in foreign base company shipping operations is $120; S's decrease is $55; and T's increase is $35, determined on the basis of the facts shown in the following table. In all cases, the listed amounts of qualified investments on December 31, 1976, reflect any adjustments required by paragraph (c)(3) for 1976, but not any adjustment required by paragraph (c)(4) for 1976 (see §§ 1.955A–3 (c)(3) and (4)(i)).

	R	S	T
(1) Qualified investments on December 31, 1977 (in the case of T, taken from line (3) of part (b) of this example)	$220	$150	$90
(2) Qualified investments on December 31, 1976	100	205	55
(3) Increase (decrease) (line (1) minus line (2))	120	(55)	35

(e) In 1977, R's net shipping income is $100; S's is $95; and T's is $85, determined as follows:

	R	S	T
(1) Gross foreign base company shipping income (in the case of T, taken from line (3) of part (c) of this example)	$200	$180	$175
(2) Shipping deductions (in the case of T, taken from line (6) of part (c) of this example)	100	85	90
(3) Net shipping income (line (1) minus line (2))	100	95	85

(f) By application of paragraph (c)(4) for 1977, S's pro rata share of the group excess investment is $15, and T's pro rata share is $5, determined as follows:

	R	S	T	Group
(1) Net shipping income (taken from line (3) of part (e) of this example)	$100	$95	$85	
(2) Increase (decrease) in qualified investments (taken from line (3) of part (d) of this example)	120	(55)	35	
(3) Excess investment	20			$20
(4) Shortfall		150	50	200
(5) S's pro rata share of group excess investment ($20×$150/$200)		15		
(6) T's pro rata share of group excess investment ($20×$50/$200)			5	

(g) After application of paragraph (c)(4), for purposes of determining their increase or decrease in qualified investments in foreign base company shipping operations for 1977, on December 31, 1977, the amount of R's qualified investments is $200; the amount of S's is $165; and the amount of T's is $95, determined as follows:

	R	S	T
(1) Qualified investments on December 31, 1977 (taken from line (1) of part (d) of this example)	$220	$150	$90
(2) Plus: pro rata share of group excess investment (as required by paragraph (c)(4)) (taken from lines (5) and (6) of part (f) of this example)		15	5
(3) Minus: Excess investment treated as investments of related group members (taken from line (3) of part (f) of this example)	20		
(4) Total qualified investments	200	165	95

(h) After application of paragraph (c) (1), (3), and (4), during 1977, R's increase in qualified investments in foreign base company shipping operations is $100; S's decrease is $40; and T's increase is $40, determined as set forth in the table below. In all cases, the listed amounts of qualified investments on December 31, 1976, reflect any similar adjustments required by paragraph (c)(3) for 1976, but not any adjustment required by paragraph (c)(4) for 1976 (see §§ 1.955A–3(c)(3) and (4)(i)).

	R	S	T
(1) Qualified investments on December 31, 1977 (taken from line (4) of part (g) of this example)	$200	$165	$95
(2) Qualified investments on December 31, 1976 (see line (2) of part (d) of this example)	100	205	55
(3) Increase (decrease) (line (1) minus line (2))	100	(40)	40

(5) *Collateral effect.* (i) An election under this section by a United States shareholder to treat two or more controlled foreign corporations as a related group for a group taxable year shall have no effect on—

(A) Any other United States shareholder (including a minority shareholder of a member of such related group),

(B) Any other controlled foreign corporation,

(C) The foreign personal holding company, foreign base company sales income, and foreign base company services income, and the deductions allocable under § 1.954–1(c) thereto, of any member of such related group, and

(D) Any other taxable year. See § 1.952–1(c)(2)(ii) for the effect of an election under this section on the computation of earnings and profits and deficits in earnings and profits under section 952 (c) and (d).

(ii) The application of this subparagraph may be illustrated by the following examples:

Example (1). United States shareholder A owns 80 percent of the only class of stock of controlled foreign corporations X and Y. United States shareholder B owns the other 20 percent of the stock of X and Y. X and Y both use the calendar year as the taxable year. A elects to treat X and Y as a related group for 1977. For purposes of determining the amounts includible in B's gross income under section 951(a) in respect of X and Y, the election made by A shall be disregarded and all of B's computations shall be made without regard to this section, as illustrated in § 1.952–3(d).

Example (2). The facts are the same as in example (1). In addition, the amount of X's qualified investments in foreign base company shipping operations on December 31, 1977, determined as provided in § 1.955A–2 and modified as provided in paragraph (c) (3) and (4) of this section, is $1,000. A does not elect to treat X and Y as a related group for 1978. The amount of X's qualified investments in foreign base company shipping operations on December 31, 1978, determined without regard to paragraph (c) (3) adn (4) of this section, is $1,200. The amount of X's qualfied investments in foreign base company shipping operations on December 31, 1977, determined without regard to paragraph (c) (3) and (4) of this section, is $900. X's increase in qualified investments in foreign base company shipping operations for 1978 is $300.

(d) *Procedure.*—(1) *Time and manner of making election.* A United States

shareholder shall make an election under this section to treat two or more controlled foreign corporations as a related group for a group taxable year by filing a statement to such effect with the return for the taxable year within which or with which such group taxable year ends. The statement shall include the following information:

(i) The name, address, taxpayer identification number, and taxable year of the United States shareholder;

(ii) The name, address, and taxable year of each controlled foreign corporation which is to be a member of the related group; and

(iii) A schedule showing the calculations by which the amounts described in this section have been determined.

A consent to an election required by paragraph (b)(1)(v) of this section shall include the same information required for the election statement.

(2) *Revocation.* (i) Except as provided in subdivision (ii) of this subparagraph, an election under this section by a United States shareholder shall be binding for the group taxable year for which it is made.

(ii) Upon application by the United States shareholder (and any other United States shareholder controlled by such shareholder which consented under paragraph (b)(1)(v) of this section to the election), an election made under this section may, subject to the approval of the Commissioner, be revoked. Approval will not be granted unless a material and substantial change in circumstances occurs which could not have been anticipated when the election was made. The application for consent to revocation shall be made by mailing a letter for such purpose to Commissioner of Internal Revenue, Attention: T:C:C, Washington, D.C. 20224, containing a statement of the facts which justify such consent.

(c) *Coordination with section 955(b)(3).* If a United States shareholder elects under this section to treat two or more controlled foreign corporations as a related group for any taxable year, and if such United States shareholder is required under § 1.955A–4(c)(2) for purposes of filing any return to estimate the qualified investments in foreign base company shipping operations of any member of such group, then such United States shareholder shall, for purposes of filing such return, determine the amount includible in his gross income in respect of each member of such related group on the basis of such estimate. If the actual amount of such investments is not the same as the amount of the estimate, the United States shareholder shall immediately notify the Commissioner. The Commissioner will thereupon redetermine the amount of tax of such United States shareholder for the year or years with respect to which the incorrect amount was taken into account. The amount of tax, if any, due upon such redetermination shall be paid by the United States shareholder upon notice and demand by the district director. The amount of tax, if any, shown by such redetermination to have been overpaid shall be credited or refunded to the United States shareholder in accordance with the provisions of sections 6402 and 6511 and the regulations thereunder. If a United States shareholder elects under this section and if the United States shareholder has made an election under section 955(b)(3) as to at least one member of the related group, then the qualified investment amounts necessary for the calculations of paragraphs (c) (3) and (4) of this section shall be obtained, for each member of the related group, as of the determination dates applicable to each of the members.

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

Example (1). (a) Controlled foreign corporations X and Y are wholly owned subsidiaries of domestic corporation M. X and Y use the calendar year as the taxable year. For 1977, X and Y are not export trade corporations (as defined in section 971(a)), nor have they any income derived from the insurance of United States risks (within the meaning of section 963(a)). M does not elect to treat X and Y as a related group for 1977.

(b) For 1977, X and Y each have gross income (determined as provided in § 1.951–6(h)(1)) of $1,000. X's foreign base company income is $20 and Y's foreign base company income is $0, determined as follows, based on the facts shown in the following table:

	X	Y
(1) Foreign base company shipping income	$1,000	$1,000
(2) Less: amounts excluded from subpart F income under section 952(b) (relating to U.S. income) and amounts excluded from foreign base company income under section 945(b)(4) (relating to corporation not availed of to reduce taxes)	0	0
(3) Balance	1,000	1,000
(4) Less: deductions allocable under § 1.954–1(c) to balance	800	1,040
(5) Remaining balance	200	0
(6) Less: increase in qualified investments in foreign base company shipping operations	180	
(7) Foreign base company income	20	

(c) For 1977, Y has a withdrawal of previously excluded subpart F income from investment in foreign base company shipping operations of $20, determined as follows, on the basis of the facts shown in the following table:

(1) Qualified investments in foreign base company shipping operations at Dec. 31, 1976	$1,210
(2) Less: qualified investments in foreign base company shipping operations at Dec. 31, 1977	1,170
(3) Balance	40
(4) Less: excess of recognized losses over recognized gains on sales during 1977 of qualified investments in foreign base company shipping operations	20
(5) Tentative decrease in qualified investments in foreign base company shipping operations for 1977	20
(6) Limitation described in § 1.955A–1(b)(2)	160
(7) Y's amount of previously excluded subpart F income withdrawn from investment in foreign base company shipping operations (lesser of lines (5) and (6))	20

Example (2). (a) The facts are the same as in example (1), except that M does elect to treat X and Y as a related group for 1977.

(b) The group excess deduction, which is solely attributable to Y's net shipping loss, is $40 (i.e., $1,040 − $1,000). Since X is the only member of the related group with net shipping income, X's pro rata share of the group excess deduction is the entire $40 amount.

(c) X's foreign base company income for 1977 is zero, determined as follows:

(1) Preliminary net foreign base company shipping income (line (b) (5) of example (1))	$200
(2) Less: X's pro rata share of group excess deduction	40
(3) Remaining balance	160
(4) Less: increase in qualified investments in foreign base company shipping operations	160
(5) Foreign base company income	0

(d) The group excess investment, which is solely attributable to X's excess investment, is $20 (i.e., $180 minus $160). Since Y is the only member of the related group with a shortfall in qualified investments, Y's share of the group excess investment is the entire $20 amount.

(e) During 1976 and 1977, Y owns no stock of X. Y's withdrawal of previously excluded subpart F income from investment in foreign base company shipping operations for 1977 is zero, determined as follows:

(1) Qualified investments at Dec. 31, 1976	$1,210
(2)(i) Qualified investments at Dec. 31, 1977 (determined without regard to paragraph (c) (4) of this section)	1,170
(ii) Y's pro rata share of group excess investment	20
(iii) Total qualified investments at Dec. 31, 1977 (Line (i) plus line (ii))	1,190
(3) Balance (line (1) minus line (2) (iii))	20
(4) Less: excess of recognized losses over recognized gains on sales during 1977 of qualified investments in foreign base company shipping operations	20
(5) Decrease in qualified investments for 1977	0

§ 1.955A-4 Election as to date of determining qualified investment in foreign base company shipping operations.

(a) *Nature of election.* In lieu of determining the increase under the provisions of section 954(g) and § 1.954-7(a) or the decrease under the provisions of section 955(a)(2) and § 1.955A-1(b) in a controlled foreign corporation's qualified investments in foreign base company shipping operations for a taxable year in the manner provided in such provisions, a United States shareholder of such controlled foreign corporation may elect, under the provisions of section 955(b)(3) and this section, to determine such increase in accordance with the provisions of § 1.954-7(b) and to determine such decrease by ascertaining the amount by which—

(1) Such controlled foreign corporation's qualified investments in foreign base company shipping operations at the close of such taxable year exceed its qualified investments in foreign base company shipping operations at the close of the taxable year immediately following such taxable year, and reducing such excess by

(2) The amount determined under § 1.955A-1(b)(1)(ii) for such taxable year subject to the limitation provided in § 1.995A-1(b)(2) for such taxable year. An election under this section may be made with respect to each controlled foreign corporation with respect to which a person is a United States shareholder within the meaning of section 951(b), but the election may not be exercised separately with respect to the increases and the decreases of such controlled foreign corporation. If an election is made under this section to determine the increase of a controlled foreign corporation in accordance with the provisions of §1.954-7(b), subsequent decreases of such controlled foreign corporation shall be determined in accordance with this paragraph and not in accordance with § 1.955A-1(b).

(b) *Time and manner of making election*—(1) *Without consent.* An election under this section with respect to a controlled foreign corporation shall be made without the consent of the Commissioner by a United States shareholder's filing a statement to such effect with his return for his taxable year in which or with which ends the first taxable year of such controlled foreign corporation in which—

(i) Such shareholder is a United States shareholder, and

(ii) Such controlled foreign corporation realizes foreign base company shipping income, as defined in § 1.954-6.

The statement shall contain the name and address of the controlled foreign corporation and identification of such first taxable year of such corporation.

(2) *With consent.* An election under this section with respect to a controlled foreign corporation may be made by a United States shareholder at any time with the consent of the Commissioner. Consent will not be granted unless the United States shareholder and the Commissioner agree to the terms, conditions, and adjustments under which the election will be effected. The application for consent to elect shall be made by the United States shareholder's mailing a letter for such purpose to the Commissioner of Internal Revenue, Washington, D.C. 20224. The application shall be mailed before the close of the first taxable year of the controlled foreign corporation with respect to which the shareholder desires to compute an amount described in section 954(b)(2) in accordance with the election provided in this section. The application shall include the following information.

(i) The name, address, and taxpayer identification number, and taxable year of the United States shareholder;

(ii) The name and address of the controlled foreign corporation;

(iii) The first taxable year of the controlled foreign corporation for which income is to be computed under the election;

(iv) The amount of the controlled foreign corporation's qualified investments in foreign base company shipping operations at the close of its preceding taxable year; and

(v) The sum of the amounts excluded under section 954(b)(2) and § 1.954-1(b)(1) from the foreign base company income of the controlled foreign corporation for all prior taxable years during which such shareholder was a United States shareholder of such corporation and the sum of the amounts of its previously excluded subpart F income withdrawn from investment in foreign base company shipping operations for all prior taxable years during which such shareholder was a United States shareholder of such corporation.

(c) *Effect of election.*—(1) *General.* Except as provided in subparagraphs (3) and (4) of this paragraph, an election under this section with respect to a controlled foreign corporation shall be binding on the United States shareholder and shall apply to all qualified investments in foreign base company shipping operations acquired, or disposed of, by such controlled foreign corporation during the taxable year following its taxable year for which income is first computed under the election and during all succeeding taxable years of such corporation.

(2) *Returns.* Any return of a United States shareholder required to be filed before the completion of a period with respect to which determinations are to be made as to a controlled foreign corporation's qualified investments in foreign base company shipping operations for purposes of computing such shareholder's taxable income shall be filed on the basis of an estimate of the amount of the controlled foreign corporation's qualified investments in foreign base company shipping operations at the close of the period. If the actual amount of such investments is not the same as the amount of the estimate, the United States shareholder shall immediately notify the Commissioner. The Commissioner will thereupon redetermine the amount of tax of such United States shareholder for the year or years with respect to which the incorrect amount was taken into account. The amount of tax, if any, due upon such redetermination shall be paid by the United States shareholder upon notice and demand by the district director. The amount of tax, if any, shown by such redetermination to have been overpaid shall be credited or refunded to the United States shareholder in accordance with the provisions of sections 6402 and 6511 and the regulations thereunder.

(3) *Revocation.* Upon application by the United States shareholder, the election made under this section may, subject to the approval of the Commissioner, be revoked. Approval will not be granted unless the United States shareholder and the Commissioner agree to the terms, conditions, and adjustments under which the revocation will be effected. Unless such agreement provides otherwise, the change in the controlled foreign corporation's qualified investments in foreign base company shipping operations for its first taxable year for which income is computed without regard to the election previously made will be considered to be zero for purposes of effectuating the revocation. The application for consent to revocation shall be made by the United States shareholder's mailing a letter for such purpose to the Commissioner of Internal Revenue, Washington, D.C. 20224. The application shall be mailed

before the close of the first taxable year of the controlled foreign corporation with respect to which the shareholder desires to compute the amounts described in section 954(b)(2) or 955(a) without regard to the election provided in this section. The application shall include the following information:

(i) The name, address, and taxpayer identification number of the United States shareholder;

(ii) The name and address of the controlled foreign corporation;

(iii) The taxable year of the controlled foreign corporation for which such amounts are to be computed;

(iv) The amount of the controlled foreign corporation's qualified investments in foreign base company shipping operations at the close of its preceding taxable year;

(v) The sum of the amounts excluded under section 954(b)(2) and § 1.954–1(b)(1) from the foreign base company income of the controlled foreign corporation for all prior taxable years during which such shareholder was a United States shareholder of such corporation and the sum of the amounts of its previously excluded subpart F income withdrawn from investment in foreign base company shipping operations for all prior taxable years during which such shareholder was a United States shareholder of such corporation; and

(vi) The reasons for the request for consent to revocation.

(4) *Transfer of stock.* If during any taxable year of a controlled foreign corporation—

(i) A United States shareholder who has made an election under this section with respect to such controlled foreign corporation sells, exchanges, or otherwise disposes of all or part of his stock in such controlled foreign corporation, and

(ii) The foreign corporation is a controlled foreign corporation immediately after the sale, exchange, or other disposition,

then, with respect to the stock so sold, exchanged, or disposed of, the change in the controlled foreign corporation's qualified investments in foreign base company shipping operations for such taxable year shall be considered to be zero. If the United States shareholder's successor in interest is entitled to and does make an election under paragraph (b)(1) of this section to determine the controlled foreign corporation's increase in qualified investments in foreign base company shipping operations for the taxable year in which he acquires such stock, such increase with respect to the stock so acquired shall be determined in accordance with the provisions of § 1.954–7(b)(1). If the controlled foreign corporation realizes no foreign base company income from which amounts are excluded under section 954(b)(2) and § 1.954–1(b)(1) for the taxable year in which the United States shareholder's successor in interest acquires such stock and such successor in interest makes an election under paragraph (b)(1) of this section with respect to a subsequent taxable year of such controlled foreign corporation, the increase in the controlled foreign corporation's qualified investments in foreign base company shipping operations for such subsequent taxable year shall be determined in accordance with the provisions of § 1.954–7(b)(2).

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

Example (1). Foreign corporation A is a wholly owned subsidiary of domestic corporation M. Both corporations use the calendar year as a taxable year. In a statement filed with its return for 1977, M makes an election under section 955(b)(3) and the election remains in force for the taxable year 1978. At December 31, 1978, A's qualified investments in foreign base company shipping operations amount to $100,000; and, at December 31, 1979, to $80,000. For purposes of paragraph (a)(1) of this section, A Corporation's decrease in qualified investments in foreign base company shipping operations for the taxable year 1978 is $20,000 and is determined by ascertaining the amount by which A Corporation's qualified investments in foreign base company shipping operations at December 31, 1978 ($100,000) exceed its qualified investments in foreign base company shipping operations at December 31, 1979 ($80,000).

Example (2). The facts are the same as in example (1) except that A experiences no changes in qualified investments in foreign base company shipping operations during its taxable years 1980 and 1981. If M's election were to remain in force, A's acquisitions and dispositions of qualified investments in foreign base company shipping operations during A's taxable year 1982 would be taken into account in determining whether A has experienced an increase or a decrease in qualified investments in foreign base company shipping operations for its taxable year 1981. However, M duly files before the close of A's taxable year 1981 as application for consent to revocation of M Corporation's election under section 955(b)(3), and, pursuant to an agreement between the Commissioner and M, consent is granted by the Commissioner. Assuming such agreement does not provide otherwise, A's change in qualifed investments in foreign base company shipping operations for its taxable year 1981 is zero because the effect of the revocation of the election is to treat acquisitions and dispositions of qualified investments in foreign base company shipping operations actually occurring in 1982 as having occurred in such year rather than in 1981.

Example (3). The facts are the same as in example (2) except that A's qualified investments in foreign base company shipping operations at December 31, 1982, amount to $70,000. For purposes of paragraph (b)(1)(i) of § 1.955A–1, the decrease in A's qualified investments in foreign base company shipping operations for the taxable year 1982 is $10,000 and is determined by ascertaining the amount by which A's qualified investments in foreign base company shipping operations at December 31, 1981 ($80,000) exceed its qualified investments in foreign base company shipping operations at December 31, 1982 ($70,000).

Example (4). The facts are the same as in example (1). Assume further that on September 30, 1979, M sells 40 percent of the only class of stock of A to N Corporation, a domestic corporation. N uses the calendar year as a taxable year. A remains a controlled foreign corporation immediately after such sale of its stock. A's qualified investments in foreign base company shipping operations at December 31, 1980, amount to $90,000. The changes in A Corporation's qualified investments in foreign base company shipping operations occurring in its taxable year 1979 are considered to be zero with respect to the 40-percent stock interest acquired by N Corporation. The entire $20,000 reduction in A Corporation's qualified investments in foreign base company shipping operations which occurs during the taxable year 1979 is taken into account by M for purposes of paragraph (c)(1) of this section in determining its tax liability for the taxable year 1978. A's increase in qualified investments in foreign base company shipping operations for the taxable year 1979 with respect to the 60-percent stock interest retained by M is $6,000 and is determined by ascertaining M's pro rata share (60 percent) of the amount by which A's qualified investments in foreign base company shipping operations at December 31, 1980 ($90,000) exceed its qualified investments in foreign base company shipping operations at December 31, 1979 ($80,000). N does not make an election under section 955(b)(3) in its return for its taxable year 1980. Corporation A's increase in qualified investments in foreign base company shipping operations for the taxable year 1980 with respect to the 40-percent stock interest acquired by N is $4,000.

PART 9—[AMENDED]

§ 9.2 [Removed]

Par. 14. Section 9.2 of the Temporary

Regulations under the Tax Reduction Act of 1975 is removed.

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: April 26, 1983.

John E. Chapoton,
Assistant Secretary of the Treasury.

[FR Doc. 83-12815 Filed 5-11-83; 2:03 pm]
BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Tennessee Permanent Regulatory Program; Informal Conference on Status

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

ACTION: Notice of informal conference.

SUMMARY: On August 10, 1982, the Secretary of the Interior approved Tennessee's program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) (See 47 FR 34724). On April 8, 1983, the Director, OSM, notified Tennessee's Governor that OSM had reason to believe that serious problems exist which are adversely affecting the effective implementation, administration, maintenance and enforcement of Tennessee's approved regulatory program (See "Supplemental Information" below).

Under the provisions of OSM's regulations at 30 CFR 733.12(c), the Director may hold an informal conference to discuss the facts surrounding the Director's notification if such an informal conference is requested by the State. By letter dated April 18, 1983, the Governor of Tennessee requested that the Director hold an informal conference. Accordingly, the Director hereby notifies Tennessee and the public that OSM will hold an informal conference on May 24, 1983, at the address shown below under "ADDRESSES." All interested persons may attend the informal conference.

DATE: OSM has scheduled an informal conference on May 24, 1983, to be held at the address below.

ADDRESSES: The informal conference will be held on May 24, 1983, beginning at 1:00 p.m. at the Knoxville Hilton, 501 W. Church Street, Knoxville, Tennessee 37902, Meeting Rooms 1 and 2.

Copies of Administrative Record documents referenced in this notice are available for public inspection and copying during normal business hours at: Office of Surface Mining, 530 Gay Street, S.W., Suite 400, Knoxville, Tennessee 37902; Telephone: (615) 524-7648.

FOR FURTHER INFORMATION CONTACT: Mr. James Curry, Knoxville Field Office Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, S.W., Suite 400, Knoxville, Tennessee 37902; Telephone: (615) 524-7648.

SUPPLEMENTARY INFORMATION: On February 3, 1982, the State of Tennessee resubmitted to the Department of the Interior its proposed permanent regulatory program under SMCRA. This followed an initial approval in part and disapproval in part of the proposed program which was published in the **Federal Register** on October 10, 1980 (45 FR 67372-67395).

The Secretary reviewed the State's submission, provided the public an opportunity to review it, and conditionally approved the program on August 10, 1982 (47 FR 34724).

On April 8, 1983, the Director, OSM, notified the Governor of Tennessee that OSM had reason to believe that serious problems exist which are adversely affecting the effective implementation, administration, maintenance, and enforcement of Tennessee's approved permanent regulatory program under SMCRA.

Since the approval of Tennessee's program, and in keeping with its policy of working closely with the State, OSM has had numerous discussions with officials from the Tennessee Division of Surface Mining (DSM) about the State's performance. Recent discussions and investigations have centered on inadequacies of DSM's implementation of the approved program in the area of permitting.

A review of all permitting information provided by DSM to OSM's Knoxville Field Office indicates that DSM issued at least 164 permanent program permits between August 10, 1982 and March 30, 1983. Only four of the 164 permits appear to have been issued in accordance with the permitting procedures of Tennessee's approved program. The remaining 160 appear to have been issued with one or more of the following deficiencies:

(1) Without public notice and agency coordination.

(2) Without written findings of permit adequacy.

(3) Without complete information from the applicant.

(4) Prior to technical review and approval.

(5) Prior to expiration of the public comment period.

(6) Without pre-mine inspection.

(7) With existing violations on the site.

(8) Without review of the bond adequacy.

OSM's review focused on the above problem areas. Other problems, such as deficiencies in the technical adequacy of the permit applications may exist. The 164 permits issued fall into the following three categories:

(1) Eighty administrative updates of permanent program permits were issued which DSM indicated to Tennessee coal mine operators were permanent program permits. These permits were issued without requiring the operators to submit complete applications. Each permit in this category was deficient for some or all the eight reasons listed above, and none of them appears to have been properly issued.

(2) Forty-six renewals of interim program permits were issued which the State indicated to the operators were permanent program permits. The State issued these permits after receiving applications from the operators. Only three of these permits appear to have been issued without most or all of the eight deficiencies listed above. It appears that none of these 43 permits was properly issued.

(3) Thirty-eight permanent program permits were issued for new mining areas. Only one of these permits appears to have been issued without any of the deficiencies listed above. None of the other 37 permits appears to have been properly issued.

In addition to these 164 permits, OSM has concerns relating to the permitting of 78 tipples and processing plants. Under the 1980 Tennessee Coal Surface Mining Law (TCSML), tipples, coal storage and processing plants were required to have a coal surface mining permit in order to operate. However, the State made no attempt to permit or regulate the majority of these operations. Shortly after primacy the State issued a letter to tipple operators advising them that their (NPDES) permit would be temporarily recognized as meeting the permit requirements of DSM and that these operators had until May 15, 1983, to submit complete applications. These permitting instructions given by DSM to tipple operators, which later may have been revoked, were in violation of the State program requirement that operators who expect to continue operations after the eighth month following primacy, submit a complete program application within two months after primacy. Apparently there are no current instructions from DSM to the tipple operators.

Pursuant to 30 CFR 733.12(b)(3), the Director specified a proposed schedule for DSM to correct the deficiencies in its program.

Section 733.12(c) of 30 CFR requires, in part, that the Director provide the State regulatory authority an opportunity for an informal conference within 15 days of receipt of the Director's written notification. On April 18, 1983, the Governor of Tennessee requested that the Director hold such an informal conference.

The Director has agreed to Tennessee's request, and hereby gives public notice of the informal conference for all persons wishing to attend. The date, time and location of the informal conference are identified above under the "Date" and "Addresses" sections of this notice.

The informal conference may pertain to the facts or the time period for accomplishing remedial actions as specified in the Director's notification.

Conference Rules

The informal conference is an opportunity for the Director to discuss the status of the implementation of Tennessee's program with Tennessee officials.

No testimony from the public will be taken but a verbatim transcript of the meeting will be kept.

Dated: May 16, 1983.

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 83-13521 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 819

Providing Environmental Services to Nonmilitary Agencies and Individuals

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its Sales and Service regulations by removing Part 819—Providing Environmental Services to Nonmilitary Agencies and Individuals, of Chapter VII, Title 32. The source document, Air Force Regulation (AFR) 105-9 has been revised. It is intended for internal guidance and has no applicability to the general public. This action is a result of departmental review in an effort to insure that only regulations which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: May 19, 1983.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Pfeffer, HQ USAF/XOORF, Washington, D.C. 20330, telephone (202) 697-4375.

List of Subjects in 32 CFR Part 819

Aircraft, Federal buildings and facilities, Weather.

PART 819—[REMOVED]

Accordingly, 32 CFR is amended by removing Part 819.

(10 U.S.C. 8012)

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-13442 Filed 5-18-83; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11 11-34-83]

Establishment of Special Local Regulations; "COORS MEMORABLE MEMORIAL DAY"

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the COORS MEMORABLE MEMORIAL DAY on the Colorado River. This event will be held on 28-29 and 30 May 1983, at Bluewater Marina. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on 28 May 1983, and terminate on 30 May 1983.

FOR FURTHER INFORMATION CONTACT: Lt N. M. Turner, Commander(bpa), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, (213) 590-2213.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. There was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information: The principal individuals involved in drafting this rule are LT Noris M. Turner, Chief, Boating and Public Affairs Branch, Eleventh Coast Guard District, and LT Catherine M. Kelly, Project Attorney, Legal Office, Eleventh Coast Guard District.

Special Local Regulation

Discussion of regulations: The United Boat Racers "Coors Memorable Memorial Day" will be conducted beginning 28 May 1983, starting from Bluewater Marine Park. This event will have 65 16- to 20-foot dragboats that could pose hazards to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

Evaluation: These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area will be open for the passage of commercial vessels and can be opened periodically to recreational vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding the following section:

§ 100.35-11-1134 United Boat Racer/ Coors Memorable Memorial Day.

(a) *Regulated area.* The following regulated area will be closed intermittently to all vessel traffic from 7:00 am to 7:00 pm each day on 28 thru 30 May 1983: That portion of the Colorado River at Parker, Arizona off Bluewater Marine Park, starting at approximate river mile 179, thence southerly along the natural flow of the river to approximate river mile 178 and return.

(b) *Special Local Regulations.* (1) No person or vessel may enter or remain in the regulated area unless participating in the event or authorized by the sponsor of the event to do so.

(2) Procedures For Transiting: The regulated area will be opened every hour on the hour or after each heat or race for a minimum of ten (10) minutes for the safe transit of nonparticipant water craft.

(3) These regulations are temporary in nature and shall cease to be in effect or further enforced at the end of the period set forth.

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b)).

Dated: May 10, 1983.

J. F. Culbertson,

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

[FR Doc. 83-13507 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD 02-83-02]

Memphis Cotton Carnival River Pageant

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a regulated area at Mile 730.0 to 740.0 of the Lower Mississippi River on 21 May 1983. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in that area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This amendment will be effective only on 21 May 1983.

FOR FURTHER INFORMATION CONTACT: CDR R. C. Herold, Chief, Boating Technical Branch, Second Coast Guard District, 1430 Olive Street, St. Louis, MO 63103, (314) 425-5977.

SUPPLEMENTARY INFORMATION: This special local regulation is issued pursuant to 46 U.S.C. 454 and 33 CFR 100.35, for the purpose of promoting the safety of life and property on the Lower Mississippi River between miles 730.0 and 740.0 during the Memphis Cotton Carnival River Pageant on 21 May 1983. This event will have an unusually large concentration of spectator boats which could pose hazards to navigation in the area. Therefore, these special local regulations are deemed necessary for the promotion of safety of life and property in the area during the river pageant.

A notice of proposed rule making has not been published for these regulations. They are published as a final rule since there was insufficient time to publish a notice of proposed rule making prior to the date of the event and the regulations are needed in order to protect life and property.

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

Drafting Information: The principle persons involved in the drafting of this regulation are CDR R. C. HEROLD, Project Officer, Chief, Boating Technical Branch, and LT T. A. Councilor, Project Attorney, Assistant Legal Officer, Second Coast Guard District.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding a temporary § 100.35-0202 to read as follows:

§ 100.35-0202 Lower Mississippi River, miles 730.0 through 740.0.

(a) The following portion of the Lower Mississippi River will be closed to commercial vessel navigation or mooring from 5:30 p.m. (local time) until 9:30 p.m. (local time) on 21 May 1983.

(1) The area between Mile 730.0-740.0 Lower Mississippi River is designated the regatta area. The above times represent a guideline for possible river closure times not to exceed FOUR (4) hours in duration.

(b) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(1) The Patrol Commander may be reached on Channel 16 (156.8 MHZ) when required.

(c) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) This paragraph 100.35-02 will become effective at 5:30 p.m. (local time) on 21 May 1983 and will no longer be effective after 9:30 p.m. on 21 May 1983.

(Sec. 1, 35 Stat. 69 as amended, Sec. 6(b)(1), 80 Stat. 837; 46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: May 5, 1983.

S. B. Vaughn,

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

[FR Doc. 83-13506 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD 81-057]

Chesapeake Bay and Tributaries, Maryland; Regulated Navigation Area

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule establishes an Ice Navigation Season Regulated Navigation Area (RNA) on the northern portion of Chesapeake Bay and its tributaries, including the Chesapeake and Delaware Canal. The regulations for this Regulated Navigation Area will be placed in effect and terminated at the direction of the Captain of the Port, Baltimore. The purpose of this Regulated Navigation Area is to enhance the safety of navigation in the affected waters. It requires operators of certain vessels to be aware, during their vessel's transit of the Regulated Navigation Area, of currently effective Ice Navigation Season Captain of the Port Orders issued by the Captain of the Port, Baltimore, Maryland.

EFFECTIVE DATE: This regulation is effective June 20, 1983.

FOR FURTHER INFORMATION CONTACT: Ensign Randy Strobridge, Project Manager, Office of Marine Environment and Systems, Room 1606, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, (202) 426-4958.

SUPPLEMENTARY INFORMATION: On December 16, 1982, the Coast Guard published a notice of proposed rulemaking (47 FR 56370) and invited comments. Comments were received from three sources representing commercial maritime interests. There was no request for a public hearing.

Drafting Information

The principal persons involved in drafting this document are: Ensign Randy Strobridge, Office of Marine

Environment and Systems, Project Manager, and Lieutenant Walter J. Brudzinski, Office of Chief Counsel, Project Counsel.

Discussion of Comments

One comment questioned the burden placed on vessel operators by the regulation to establish communications with the Coast Guard. While it is true that this regulation places a burden on the operators of vessels entering or navigating within the Regulated Navigation Area, such a burden is insignificant when compared with the benefits of having up-to-date knowledge of current ice conditions and the corresponding Captain of the Port Orders. Present requirements do not ensure that vessel operators will have knowledge of up-to-date conditions prior to commencing, or at any time during their transit. While the requirement exists (33 CFR 160.105) for each person who has notice of an order to comply with that order, rapidly changing ice conditions and the need for frequent amendment of the corresponding Captain of the Port Orders render it virtually impossible to initiate individual notice to each person likely to be affected by that order or to provide effective local distribution to the various reaches of the affected waters.

One comment voiced concern over the ability of operators to contact the Coast Guard on a timely basis to determine existing COTP restrictions. To facilitate compliance with the regulation, a recorded telephone message containing information on current orders is provided by the COTP Baltimore through the Marine Safety Office, Baltimore, Maryland. Affected vessel operators can comply by calling the COTP Baltimore recorded telephone announcement containing the latest COTP Orders. Also, other Coast Guard units in the area may have information regarding currently effective orders.

One comment stated that the Regulated Navigation Area would continue over an extended period of time regardless of whether or not ice was present. The regulations for this RNA would become effective at the direction of the Captain of the Port, Baltimore, only when ice is expected to present a hazard to navigation on these waters. This would usually begin in December of each year and extend to the following March (Ice Navigation Season). In the event that favorable weather conditions are experienced during this period, so that there is no anticipated need to issue COTP Ice Orders, the RNA regulations will not be placed in effect.

Two comments stated there is little evidence that this regulation is justified for reasons of safety. This regulation requires vessel operators to be aware of COTP Ice Orders, and provides a means whereby all operators may know which areas are hazardous to navigation and which areas are not. At present, the Coast Guard cannot be totally assured that all operators know what orders are in effect. The potential for becoming beset in the ice is thereby increased. Under this regulation, operators will be aware of current orders because they will be required to contact the Captain of the Port. Presently, transits over the affected waters have been made irrespective of, or contrary to, the restrictions imposed by currently effective COTP Orders. The result has been an increase in the potential for vessel casualties resulting in pollution of the marine environment, as well as the monopolizing of Coast Guard resources to assist vessels beset in the ice.

Two comments questioned the Coast Guard's ability to obtain and maintain accurate, timely, and meaningful readings on ice conditions within the RNA. The specific COTP Ice Orders are based on information accumulated by Coast Guard vessels involved in ice operations, as well as from Coast Guard flight operations conducted over the affected area. Input from commercial operators is also utilized and is considered very valuable in the maintenance of an accurate assessment of existing ice conditions. The Coast Guard is therefore able to obtain accurate and timely information regarding conditions within the Regulated Navigation Area, and issue Ice Orders which reflect those conditions.

One comment stated that COTP Orders do not take into account local conditions or the capabilities of specialized vessels. The COTP Ice Orders contain specific information concerning ice conditions in particular locations within the Baltimore COTP Zone. The orders outline particular structural requirements and minimum shaft horsepower restrictions for vessels operating within the RNA as well. The determination to restrict navigation within the RNA is based upon local information regarding ice conditions and the capabilities of typical vessels to operate under those conditions.

Finally, one comment suggested that the regulation needs to provide for exceptions to COTP imposed restrictions. The Coast Guard recognizes that ice conditions within the RNA can change rapidly as a result of a shift in wind direction or other weather forces. Consequently, the possibility exists that a vessel operator may be confronted by a situation in which a current COTP Order appears to be inappropriate for actual ice conditions in a certain area. In such instances, vessel operators should contact COTP Baltimore and provide any information which will serve to update effective COTP Orders. Such information will assist COTP Baltimore in maintaining accurate data on ice conditions within the regulated Navigation Area, and in responding to changing conditions in a timely manner with the appropriate order.

Having considered the foregoing comments and the overall statutory obligation of the Coast Guard to ensure the safety of life and property upon waters of the United States, the proposed rule is adopted without major, substantive change.

Evaluation

This regulation has been reviewed under the provisions of Executive Order 12291 and has been determined to be nonmajor. In addition, this regulation is considered to be nonsignificant in accordance with the guidelines set out in Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis, and Review of Regulations" dated May 22, 1980.

A full Regulatory Evaluation document has not been prepared since the economic impact of the regulation is minimal. The costs of complying with this rule are not quantifiable to any extent practicable. Some vessel operators may use the telephone to contact the COTP and request the current COTP Orders. The costs of placing a brief long distance telephone call compared with the overall operational costs of the vessel's transit through the Regulated Navigation Area are insignificant. Further, these costs will be incurred only in those instances where the vessel's operation requires transit through the Regulated Navigation Area during the periods the rules are in effect. These insignificant costs are outweighed substantially by the benefits of having up-to-date information on ice conditions, the avoidance of ice concentrations, the lessened risk of becoming ice-bound, and the lessened risk of vessel damage.

In accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities, for the reasons set forth above.

List of Subjects in 33 CFR Part 165

Harbors, Waterways, Marine safety, Security measures, Vessels, Navigation (water).

PART 165—[AMENDED]

In consideration of the foregoing, Chapter I of Title 33, Code of Federal Regulations, is amended by adding new § 165.503 to read as follows:

§ 165.503 Chesapeake Bay ice navigation season.

(a) The following is a Regulated Navigation Area: the waters within the boundary of a line which starts at the intersection of the Delaware-Maryland boundary and the coastline and follows the Delaware-Maryland boundary west and north to the Pennsylvania boundary but includes the Chesapeake and Delaware Canal and the reaches of the Nanticoke River; thence due east along the Pennsylvania-Maryland boundary to the West Virginia boundary; thence south and eastward along the Maryland-West Virginia boundary to the Virginia boundary; thence southwestward along the Virginia-West Virginia boundary to a point 39°06'N. latitude, 78°30'W. longitude; thence to a point 38°19.5'N. latitude, 77°25.2'W. longitude; thence to a point 37°55'N. latitude, 76°28.2'W. longitude; thence to a point 37°55'N. latitude, 76°16.8'W. longitude; thence to a point 37°56.5'N. latitude, 76°10.5'W. longitude; thence to a point 37°57.2'N. latitude, 76°03'W. longitude on Chesapeake Bay; thence along the Maryland-Virginia boundary to the sea.

(b) The regulations in paragraph (c) and (d) of this section are placed in effect and terminated by the Captain of the Port Baltimore by notice in the **Federal Register.** Notice is also given in the Fifth Coast Guard District Local Notice to Mariners and other available public notice means such as COTP newsletters and news broadcasts. This Regulated Navigation Area will normally be placed in effect and terminated between December and March of the following year.

(c) This Regulated Navigation Area applies to:

(1) Operators of those vessels defined under subparagraph (3) of section 5 of the Port and Tanker Safety Act, 92 Stat. 1482 (46 U.S.C. 391a), which includes any vessel—

(i) Regardless of tonnage, size, or manner of propulsion;

(ii) Whether self-propelled or not; and

(iii) Which carries oil or any hazardous materials in bulk as cargo or in residue;

(2) Operators of those vessels defined under section 4, subparagraphs (1) through (3) of the Vessel Bridge-to-Bridge Radiotelephone Act, 85 Stat. 164 (33 U.S.C. 1203(a) (1)–(3)), which includes—

(i) Every power-driven vessel of three hundred gross tons and upward;

(ii) Every vesssel of one hundred gross tons and upward carrying one or more passengers for hire; and

(iii) Every towing vessel of twenty-six feet or greater in length.

(d) Upon entering or getting underway in this Regulated Navigation Area when the regulations in this section are in effect, operators of vessels described in paragraph (c) of this section shall check with the Captain of the Port, Baltimore, by the most rapid means available, and request the current COTP Orders issued for this Regulated Navigation Area. Operators of affected vessels that connot meet this requirement shall not navigate their vessels in the Regulated Navigation Area.

(e) If unable to comply with a currently effective COTP Order, operators of vessels described in paragraph (c) of this section shall not navigate their vessels in the Regulated Navigation Area and shall notify COTP Baltimore by the most rapid means available. Such notification shall include:

(1) The name of the vessel,

(2) The vessel's location, and

(3) That provision of the currently effective order with which the vessel connot comply.

(Sec. 2, 92 Stat. 1472, 1477 (33 U.S.C. 1223, 1231); 49 CFR 1.46(n)(4))

Dated: April 20, 1983.

B.F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 83-13509 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-14-M

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Seaway Regulations, Miscellaneous Amendments

Correction

In FR Doc. 83-11988 beginning on page 20690 in the issue of Monday, May 9, 1983 make the following correction:

On page 20691, column one, § 410.10(c), in the table under "Overall length of vessels", the last entry "More than 180 m but not more than 225.5 m." should read "More than 180 m. but not more than 222.5 m."

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2337-7]

Approval and Promulgation of Implementation Plans; Hawaii

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The State of Hawaii has submitted a revision to their State Implementation Plan (SIP) for Lead. This revision provides a plan for maintenance of the Lead National Ambient Air Quality Standards (NAAQS). EPA has reviewed the submitted revision with respect to Section 110 of the Clean Air Act and determined that it should be approved.

EFFECTIVE DATE: This action is effective July 18, 1983.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Director, Air Management Division, Region 9, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano (415) 974-7641.

ADDRESSES: A copy of the revision to the Hawaii State Implementation Plan (SIP) for Lead is located at the Region 9 Office and the following locations:

The Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408

State of Hawaii, Department of Health, Honolulu, Hawaii 96801

SUPPLEMENTARY INFORMATION:

Background

On October 5, 1978, EPA promulgated the primary and secondary NAAQS for Lead. The Standards were set at a level of 1.5 micrograms of lead per cubic meter of air, averaged over a calendar quarter. Section 110 of the Clean Air Act requires states to submit implementation plans to EPA detailing how the NAAQS will be achieved and maintained in their areas.

EPA published requirements for Lead SIPs in 40 CFR Part 51 (43 FR 46264). These provisions require the submission of air quality data, emissions data, a control strategy, air quality modeling, and a demonstration that the Lead NAAQS will be attained within the time frame specified by the Clean Air Act.

Discussion

On October 29, 1982, the Governor of Hawaii submitted a revision to the SIP for Lead. The October 22, 1982 revision

was compared with the applicable requirements of 40 CFR Part 51, including emission inventory, control strategy, modeling, and new source review.

The NAAQS for lead has never been exceeded in Hawaii and the emission inventory shows that there are no major lead emitting sources. The contribution of lead from stationary sources was calculated for 1980 and accounted for less than two percent of total emissions. Mobile sources contribute the majority of lead in the atmosphere in Hawaii. Estimates for automobile lead emissions were made from calendar year 1977.

Since automobile generated lead emissions are the only notable lead emission sources, the evaluation contained in the SIP centers on these sources.

The SIP's control strategy for maintenance of the Lead NAAQS is the reduction of the amount of lead in gasoline as mandated by EPA (38 FR 33734).

The ambient concentrations of lead are well below the NAAQS in Hawaii, and all urban areas in Hawaii had a population of less than 500,000 in 1970. Therefore, in accordance with Appendix D 40 CFR Part 58 air quality monitoring is not required for the State of Hawaii. However, the plan describes a lead monitoring contingency plan. Should the need present itself, the State of Hawaii can establish two lead monitoring sites by using existing particulate matter sites to incorporate lead monitoring sites.

In addition, Section 2 parts 1, 2, and 3 of Hawaii's Air Pollution Control Regulation lists types of sources exempt from the preconstruction review requirement. The list does not exempt lead sources, and therefore constitutes a permitting program for New Stationary Sources of lead.

EPA Actions

As a result of the above evaluation, EPA is taking final action under Section 110 of the Clean Air Act to approve the revision to the Hawaii SIP for Lead.

EPA's approval is being done without prior proposal because the Lead SIP is non-controversial. The public should be advised that this approval action will be effective 60 days from the date of this notice. However, if notice is received or critical comments, the approval action will be withdrawn and a subsequent notice will indefinitely postpone the effective date, modify the final action to a proposal action, and establish a comment period.

Regulatory Process

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

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in the proceedings to enforce its requirements.

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

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Authority: Sections 110 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7410 and 7601(a)].

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: May 10, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 52—[AMENDED]

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

Subpart M—Hawaii

Section 52.620 is amended by adding paragraph (c)(14) as follows:

§ 52.620 Identification of plan.

* * * * *

(c) * * *

(14) Hawaii State Lead SIP Revision submitted by the State on October 29, 1982.

* * * * *

[FR Doc. 83-13418 Filed 5-18-83; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 86

[AMS-FRL-2306-5]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Extension of Alternative Durability Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action extends the optional motor vehicle Alternative Durability Program beyond the 1984 model year. This program was initiated as a temporary pilot program that would expire after the 1984 model year. It provides an alternative method of determining the emission control durability of new light-duty vehicles and light-duty trucks. It is intended to reduce motor vehicle certification costs without reducing the stringency of the emission standards.

DATE: These regulations are effective as of June 20, 1983.

ADDRESS: Material relevant to this final rule is contained in Public Docket No. A-80-24. The docket is located at the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays and a reasonable fee may be charged for coping.

FOR FURTHER INFORMATION CONTACT: David H. Ferris, Certification Policy and support Branch, Certification Division, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone (313) 668-4345.

SUPPLEMENTARY INFORMATION: OMB Control No. 2000-0390.

I. Applicability

The provisions of these regulations apply to 1981 and later model year light-duty vehicles and light-duty trucks.

II. Background

The Alternative Durability Program was implemented as a temporary pilot program on June 30, 1980 (45 FR 44188). The Alternative Durability Program allows manufacturers to test production vehicles to generate durability data rather than more expensive preproduction prototype vehicles. Manufacturers are also allowed to test fewer durability-data vehicles in total but the data from all vehicles must be included in the average. This also reduces typical manufacturer costs while maintaining the quality of durability evaluation. A full description of the Alternative Durability Program and its benefits appears in the preamble to the original rule, 45 FR 44188 (June 30, 1980).

The final notice of the pilot program specifically asked interested parties to comment on the program 45 FR 44191 (June 30, 1980) so that the Agency could evaluate it. While EPA's experience under the pilot program did not justify making the program mandatory, no comments were received that objected to the program as a voluntary alternative. No commenters expressed environmental concerns about the

program and EPA found no reduction in the stringency of certification requirements for the two manufacturers that participated.

Only two manufacturers chose to participate in the pilot program. One participating manufacturer has petitioned the Administrator to extend the program (docket A–80–24–II–D–2). This manufacturer has realized substantial cost savings as a result of this program without compromising the stringency of the certification requirements. This suggests that there is merit to extending the optional program even though only two manufacturers took part in it. EPA has received no formal comments explaining why other manufacturers did not participate, and other manufacturers might opt to participate in the future. Accordingly, EPA has decided to continue the program beyond the 1984 model year.

III. Description of Changes

40 CFR 86.085–1 and 86.085–13 are being added to extend the program to 1985 and later model years. Section 86.085–24(h)(1) will be revised to specify that production vehicles be selected "from each model year's production" rather than "from the 1981, 1982, and 1983 model year." Section 86.085–24(h)(1)(v) has been added to specifically allow the carryover of production durability data from a previous model year if the selected design had already been durability tested. Section 86.085–28 is amended to include the compliance procedures for the program.

In addition, § 86.085–13(f) is amended to require manufacturers withdrawing from ADP to complete testing of production durability-data vehicles for the last model year certified under ADP in order to ensure compliance for that model year. If the production durability data indicate an emission compliance problem, the manufacturer may continue to participate in the program and use the production vehicle data for future model years or withdraw from the program and remedy any noncompliance that was discovered. If a manufacturer chooses to withdraw from the program and noncompliance was indicated by production vehicles, the manufacturer would have to remedy the nonconformity. The manufacturer must determine the extent of the problem and the most appropriate remedies for in-use vehicles and future production. If the manufacturer fails to comply with these requirements, the Administrator may deem the certificates of conformity for the affected engine families void *ab initio*. This provision is being added in order to prevent manufacturers from using the program to obtain a certificate and then either (1) withdrawing from the program without evaluating production vehicles, or (2) discovering a noncomformity and withdrawing from the program without providing a remedy.

IV. Stringency

EPA believes that this extension of the Alternative Durability Program does not alter the stringency of the certification requirements. The deterioration factors generated by the limited number of production vehicles evaluated under the pilot program have substantiated the manufacturer's projected deterioration factors. In addition, this rulemaking makes minor changes that will require a manufacturer to evaluate production vehicles and remedy any noncompliance discovered if they withdraw from ADP. This ensures that there will be no impact on stringency. Further discussion of the impact of the Alternative Durability Program on stringency appears in the preamble to the original rulemaking, 45 FR 44188 (June 30, 1980).

V. Certification Cost Reduction

It is extremely difficult to estimate the total cost savings that will result from this action since the extent to which manufacturers will participate in this program in the future is unknown. However, one participating manufacturer estimated a total savings of over $2 million during the last three model years.

VI. Other Information

Under Executive Order No. 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Analysis. This regulation is not major because (1) it will result in an annual effect on the economy of less than $100 million, (2) it will not result in increased costs or prices for consumers, industries, or others, and (3) it will not have adverse effects on competition, employment, investment, or productivity.

This regulation was submitted to OMB for review as required by Executive Order 12291.

This action extends a voluntary program designed to reduce manufacturer's certification costs and does not create any additional reporting requirements. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and have been assigned OMB control number 2000–0390.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require a regulatory analysis. The certification procedures established by this rulemaking should reduce the burdens, especially durability-data vehicle costs, of compliance with certification requirements for participating manufacturers. Moreover, small-volume manufacturers (less than 10,000 projected sales) are already allowed to use assigned deterioration factors in lieu of testing durability-data vehicles under the provisions of 40 CFR 86.081–14 (48 FR 16259, March 12, 1981). The result is that few small entities will be affected by this regulation. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

The Agency finds that good cause exists for omitting as unnecessary a notice of proposed rulemaking and further public comment, because (1) EPA specifically invited comments on the pilot program in the notice that established it and received no adverse comments, (2) participation by manufacturers is voluntary, (3) no adverse economic or environmental impacts are anticipated, and (4) this will allow manufacturers to continue to obtain cost savings beyond the 1984 model year without interruption.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by filing a petition for review within 60 days of May 19, 1983. EPA finds that this action is of national applicability; accordingly any such petition for review must be filed in the U.S. Court of Appeals for the District of Columbia Circuit. Under section 307(b)(2), this rulemaking may not be challenged later in enforcement actions brought by EPA.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: May 9, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 86—[AMENDED]

For the reasons set forth in the preamble, EPA amends 40 CFR Part 86 as follows:

1. The authority citation for Part 86 reads as follows:

Authority: Sections 202, 206, and 301(a)(1) of the Clean Air Act as amended, 42 U.S.C. 7521, 7524, and 7601(a)(1).

2. A new § 86.085–1, which is identical to § 86.082–1 except for reserved paragraph (c) and revised paragraphs (a) and (d), is added to read as follows:

§ 86.085–1 General applicability.

(a) The provisions of this subpart apply to 1985 and later model year new gasoline-fueled and diesel light-duty vehicles, 1985 and later model year new gasoline-fueled and diesel light-duty trucks, and 1985 and later model year new gasoline-fueled and diesel heavy-duty engines.

(b) Optional applicability. A manufacturer may request to certify any heavy-duty vehicle 10,000 pounds GVWR or less as a light-duty truck. Heavy-duty vehicle provisions do not apply to such a vehicle.

(c) [Reserved].

(d) Alternative Durability Program. For 1985 and later model year light-duty vehicles and light-duty trucks, a manufacturer may elect to participate in the Alternative Durability Program. This optional program provides an alternative method of determining exhaust emission control system durability. The general procedures and a description of the programs are contained in § 86.085–13 and specific provisions on test vehicles and compliance procedures are contained in § 86.085–24 and § 86.085–28 respectively.

(e) Small-Volume Manufacturers. Special certification procedures are available for any manufacturer whose projected combined U.S. sales of light-duty vehicles, light-duty trucks, and heavy-duty engines in its product line are fewer than 10,000 units for the model year in which the manufacturer seeks certification. In order to certify its product line under these optional procedures, the small-volume manufacturer must first obtain the Administrator's approval. Vehicles produced at facilities leased, operated, controlled, supervised, or in ten percent or greater part owned by the manufacturer shall be counted in calculating the total sales of the manufacturer. The small-volume manufacturer's certification procedures are described in § 86.082–14.

3. A new § 86.085–13, which is identical to § 86.081–13 except for revised paragraphs (b), (d), and (f), is added to read as follows:

§ 86.085–13 Alternative Durability Program.

(a) The procedures of the Alternative Durability Program are optional. Manufacturers may use these optional procedures to determine deterioration factors instead of using the procedures that this subpart otherwise requires.

(b) The optional procedures of the Alternative Durability Program apply only to light-duty vehicles and light-duty trucks, and are effective for the 1985 and later model years. All manufacturers of these vehicles are eligible to participate in this program.

(c) For engine families subject to the procedures of the Alternative Durability Program, the manufacturer shall submit deterioration factors to the Administrator for approval to use them for certification. The Administrator shall approve the use of deterioriation factors that:

(1) The manufacturer attests are representative of the durability performance of its vehicles in actual field use when maintained according to the manufacturer's maintenance instructions (as limited under § 86.084–25(a)), and

(2) Are equal to or greater than the deterioration factors that EPA determines under paragraph (d) of this section.

(d) EPA shall determine minimum deterioration factors for engine families subject to the Alternative Durability Program. This determination shall be based on a procedure of grouping engine families (see § 86.085–24(a)) in order to use historical certification data to determine deterioration factors for each engine family group. The historical data shall be updated yearly through the testing of production durability-data vehicles. Test vehicle requirements under these procedures are contained in § 86.085–24(h) and compliance requirements are contained in § 86.085–28 (a)(5) and (b)(5).

(e) Request Procedures. (1) A manufacturer wishing to participate in the Alternative Durability Program must submit to the Administrator, for each model year, a written request describing the engine families that the manufacturer elects to be included in the program.

(2) The Administrator may declare ineligible any engine family for which the Administrator determines there is unreasonable risk in determining a deterioration factor using the methods of the Alternative Durability Program. Furthermore, the Administrator may limit the number of engine families within the manufacturer's product line that are eligible for the Alternative Durability Program.

(3) Upon approval of the manufacturer's request to participate, the Administrator and the manufacturer may enter into a written agreement prescribing the terms and conditions of the program. This agreement shall be equitable as compared to agreements entered into with other manufacturers. The agreement shall specify the following:

(i) The engine families to be included in the program and the engine family groups that have been established by the provisions of § 86.085–24(a) (8) and (9).

(ii) The procedures for the selection of production durability-data vehicles specified under the provisions of § 86.085–24(h).

(iii) The procedures for the determination of minimum exhaust emission deterioration factors for each engine family group.

(f) Withdrawal from Alternative Durability Program.

(1) Subject to the conditions of the following paragraphs, a manufacturer may, at any time, withdraw all of its product line or separate engine family groups from this program. Only entire engine family groups may be withdrawn.

(2) Once any engine family in an engine family group is certified using deterioration factors determined in the Alternative Durability Program, the manufacturer shall operate and test the production durability-data vehicles specified in § 86.085–24(h) in accordance with the procedures of this part.

(3) The Administrator shall notify the manufacturer if a nonconformity of a category of vehicles within the engine family group is indicated by the production durability data. For the purpose of this paragraph, a nonconformity is determined to exist if:

(i) Any emission-data vehicle within an engine family of the model year most recently certified under the Alternative Durability Program is projected to exceed an emission standard by applying deterioration factors generated by a production durability-data vehicle within the same engine family, or

(ii) Any of the most recent model year's production durability-data vehicle configurations tested under paragraph (f)(2) of this section line crosses as defined in § 86.085–28(a)(5)(ii)(C). For the purpose of this paragraph, data from identical vehicles will be averaged as under § 86.085–28(a)(4)(i) (A) and (B).

(4) If the Administrator notifies a manufacturer of such a nonconformity, the manufacturer shall submit, by a date specified by the Administrator, a plan to remedy the nonconformity which is acceptable to the Director, Office of

Mobile Sources. For the purpose of this paragraph, the term "remedy the nonconformity" will have the same meaning as it does when it appears in section 207(c)(1) of the Clean Air Act.

(5) The manufacturer shall comply with the terms of the remedial plan approved by the Director, Office of Mobile Sources.

(6) If a manufacturer does not comply with the requirements of paragraphs (f)(2), (4), or (5) of this section, the Administrator may deem the certificate of conformity for the affected engine families void *ab initio*. [OMB Control Number 2000-0390.]

4. Section 86.085-24 is amended by revising paragraph (h) introductory text paragraph (h)(1), and by adding paragraph (b)(1)(v) to read as follows:

§ 86.085-24 Test vehicles and engines.

* * * * *

(h) Alternative Durability Program durability-data vehicles. This section applies to light-duty vehicle and light-duty truck durability-data vehicles selected under the Alternative Durability Program described in § 86.085-13.

(1) In order to update the durability data to be used to determine a deterioration factor for each engine family group, the Administrator will select durability-data vehicles from the manufacturer's production line. Production vehicles will be selected from each model year's production for those vehicles certified using the Alternative Durability Program procedures.

* * * * *

(v) In lieu of testing a production durability-data vehicle selected under paragraph (h)(1) of this section, and submitting data therefore, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data from a production vehicle of the same configuration for which all applicable data has previously been submitted.

* * * * *

5. Section 86.085-28 is amended by revising paragraph (a)(4) introductory text and (b)(4)(i) and by adding paragraphs (a)(5) and (b)(5) to read as follows:

§ 86.085-28 Compliance with emission standards.

(a) * * *

(4) The procedure for determining compliance of a new motor vehicle with exhaust emission standards is as follows, except where specified by paragraph (a)(5) of this section for the Alternative Durability Program:

* * * * *

(5) The procedure to determine the compliance of new motor vehicles in the Alternative Durability Program (described in § 86.085-13) is the same as described in paragraphs (a)(4)(iii) through (a)(4)(v) of this section. For the engine families that are included in the Alternative Durability Program, the exhaust emission deterioration factors used to determine compliance shall be those that the Administrator has approved under § 86.085-13(c). The evaporative emission deterioration factor for each evaporative emission family shall be determined and applied according to paragraph (a)(4) of this section. The procedures to determine the minimum exhaust emissions deterioration factors required under § 86.085-13(d) are as follows:

(i) Separate deterioration factors shall be determined from the exhaust emission results of the durability-data vehicles for each engine family group. A separate factor shall be established for exhaust HC, exhaust CO, and exhaust NO_x for each engine family group. The evaporative emission deterioration factor for each evaporative family will be determined and applied in accordance with paragraph (a)(4) of this section.

(ii) The deterioration factors for each engine family group shall be determined by the Administrator using historical durability data from as many as three previous model years. These data will consist of deterioration factors generated by durability-data vehicles representing certified engine families and of deterioration factors from vehicles selected under § 86.085-24(h). The Administrator shall determine how these data will be combined for each engine family group.

(A) The test results to be used in the calculation of each deterioration factor to be combined for each engine family group shall be those test results specified in paragraph (a)(4)(i)(A) of this section.

(B) For each durability-data vehicle selected under § 86.085-24(h), all applicable exhaust emission results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The exhaust deterioration factor for each durability-data vehicle shall be calculated as specified in paragraph (a)(4)(i)(B) of this section.

(C) Line crossing. For the purposes of paragraph (a)(5) of this section, line crossing occurs when either of the interpolated 4,000- and 50,000-mile points of the best fit straight line exceeds the applicable emission standard and at least one applicable data point exceeds the standard.

(*1*) The Administrator will not accept for certification line-crossing data from preproduction durability-data vehicles selected under § 86.085-24(c)(1), § 86.085-24 (h)(2), or (h)(3).

(*2*) The Administrator will not accept for certification line-crossing data from production durability-data vehicles selected under § 86.085-24(h)(1) unless the 4,000-mile test result multiplied by the engine family group deterioration factor does not exceed the applicable emission standard. The deterioration factors used for this purpose shall be those that were used in the certification of the production vehicle. Manufacturers may calculate this product immediately after the 4,000-mile test of the vehicle. If the product exceeds the applicable standard, the manufacturer may, with the approval of the Administrator, discontinue the vehicle and substitute a new vehicle. The manufacturer may continue the original vehicle, but the data will not be acceptable if line crossing occurs.

(b) * * *

(4)(i) Paragraph (b)(4) of this section describes the procedure for determining compliance of a new vehicle with exhaust emission standards, based on deterioration factors supplied by the manufacturers, except where specified by paragraph (b)(5) of this section for the Alternative Durability Program.

* * * * *

(5) The procedure to determine the compliance of new motor vehicles in the Alternative Durability Program (described in § 86.085-13) is the same as described in paragraph (b)(4)(iv), (b)(6)(iv) and (b)(7) of this section. For the engine families that are included in the Alternative Durability Program, the exhaust emission deterioration factors used to determine compliance shall be those that the Administrator has approved under § 86.085-13(c). The evaporative emission deterioration factor for each evaporative emission family shall be determined and applied according to paragraph (b)(6) of this section. The procedures to determine the minimum exhaust emissions deterioration factors required under § 86.085-13(d) are as follows:

(i) Separate deterioration factors shall be determined from the exhaust emission results of the durability-data vehicles for each engine family group. A separate factor shall be established for exhaust HC, exhaust CO, and exhaust NO_x for each engine family group. The evaporative emission deterioration factor for each evaporative family will

be determined and applied in accordance with paragraph (b)(6) of this section.

(ii) The deterioration factors for each engine family group shall be determined by the Administrator using historical durability data from as many as three previous model years. These data will consist of deterioration factors generated by durability-data vehicles representing certified engine families and of deterioration factors from vehicles selected under § 86.085–24(h). The Administrator shall determine how these data will be combined for each engine family group.

(A) The test results to be used in the calculation of each deterioration factor to be combined for each engine family group shall be those test results specified in paragraph (a)(4)(i)(A) of this section.

(B) For each durability-data vehicle selected under § 86.085–24(h), all applicable exhaust emission results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The exhaust deterioration factor for each durability-data vehicle shall be calculated as specified in paragraph (a)(4)(i)(B) of this section.

(C) Line crossing. For the purposes of paragraph (b)(5) of this section, line crossing occurs when either of the interpolated, 4,000- and 50,000-mile points of the best fit straight line exceeds the applicable emission standard and at least one applicable data point exceeds the standard.

(*1*) The Administrator will not accept for certification line-crossing data from preproduction durability-data vehicles selected under § 86.085–24(c)(1), § 86.085–24 (h)(2), or (h)(3).

(*2*) The Administrator will not accept for certification line-crossing data from production durability-data vehicles selected under § 86.085–24(h)(1) unless the 4,000-mile test result multiplied by the engine family group deterioration factor does not exceed the applicable emission standard. The deterioration factors used for this purpose shall be those that were used in the certification of the production vehicle. Manufacturers may calculate this product immediately after the 4,000-mile test of the vehicle. If the product exceeds the applicable standard, the manufacturer may, with the approval of the Administrator, discontinue the vehicle and substitute a new vehicle. The manufacturer may continue the original vehicle, but the data will not be acceptable if line crossing occurs.

* * * * *

[FR Doc. 83-13501 Filed 5-18-83; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF ENERGY

41 CFR Parts 9–7 and 9–10

Proposed Amendments to Procurement Regulations

AGENCY: Procurement and Assistance Management Directorate, Department of Energy.

ACTION: Final rule.

SUMMARY: This final rule is to amend the DOE Procurement Regulations. The revisions are intended to update the Regulations as a result of changes in the Federal Procurement Regulations and to simplify operations by providing standard clauses for types of contracts not covered elsewhere.

The intended effect of this revision is to simplify operations by establishing a standard set of contract clauses which will routinely be used in cost type construction contracts and to clarify that bid guarantees are only to be required in contracts awarded as the result of formal advertising. This latter change reflects a change previously made in the Federal Procurement Regulations at 44 FR 34498.

EFFECTIVE DATE: June 20, 1983.

FOR FURTHER INFORMATION CONTACT:
Richard Langston, Procurement Policy Branch, MA421.1, Procurement and Assistance Management, Department of Energy, (202) 252–8188.
Christopher T. Smith, Office of General Counsel, AGC for Procurement, and Financial Incentives, GC44, Department of Energy, (202) 252–1526.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Public Comments.
III. Statutory and Regulatory Requirements.

I. Background

The revisions being made by this rule involve construction contracts. The change is intended to simplify the drafting of cost type construction contracts within DOE. Present practice necessitates determining what clauses will be used for each cost type construction contract. This is because the Federal Procurement Regulations do not specify contract clauses for this type of contract as they do for most other contract types. As a result, each contract specialist tends to select a somewhat different assortment of clauses from various procurement regulations including the Federal Procurement Regulations, the DOE Procurement Regulations and the Defense Acquisition Regulations. This in turn causes confusion for contractors. This change will establish a standard set of "boilerplate" clauses for use in DOE cost type construction contracts and thus simplify and standardize the drafting of this type of contract. Change 8.1 is a listing of changes to the Table of Contents. Change 8.2 revises Part 9–7, "Contract Clauses," to add a new Subpart 9–7.9 entitled "Cost Reimbursement Type Construction Contracts." This addition is necessary because the Federal Procurement Regulations provide guidance only for fixed price type construction contracts. The Department's research activities necessitate that some construction projects be contracted on a cost type basis due to the uncertainties involved in experimental projects. The clauses are divided into "required", "when applicable", and "additional" categories. The required clauses are to appear in all cost type construction contracts. The when applicable clauses are required under stated circumstances. The additional clauses are optional clauses to be used in special circumstances. Change 8.3 deletes a portion of the text of 9–10.103–1 concerning bid guarantees which references an FPR restriction which was removed by the General Services Administration at 44 FR 34498.

II. Public Comments

The changes being made by this final rule were published as a notice of proposed rulemaking on November 29, 1982 at 47 FR 53746. No comments were received from the general public. Comments were received from 4 DOE offices. The following changes were made as a result of the comments.

The notice of proposed rulemaking contained a Change 8.4 which proposed adding a new Subpart 9–18.52, "Value Engineering in Construction Contracts." The comments revealed that there was not a general consensus regarding this topic or the possible benefits to be realized from adopting such a policy. Among the concerns expressed was the belief that the proposed procedure was too lengthy and complex. The proposed change has been deleted from the final rule.

Two required clauses were added to correct an inadvertent omission in the proposed rule. Section 9–7.902–60, "Authorization and consent," was added to the list of clauses required for cost reimbursement type construction contracts. Another clause 9–7.903–30, "Cost and schedule control systems,"

was added to the list of clauses to be used when applicable.

The proposed rule at 9-7.902-3, "Changes," instructed that the changes clause of FPR 1-7.202-2 be used with a slight modification. One reviewer suggested that use of the clause at 9-50.704-11 would be more appropriate for use in cost type construction contracts due to the uncertainties involved in that type of contract. The clause at 9-50.704-11 specifically provides that adjustment of fixed fee due to changes will be made only for material changes while the proposed clause, FPR 1-7.202-2, does not address the nature of the change. The suggestion has been adopted and 9-7.902-3, "Changes," now states that the changes clause of 9-50.704-11 shall be used.

Except for some minor technical changes, the other sections of this final rule are the same as those contained in the November 29, 1982 notice of proposed rulemaking.

III. Statutory and Regulatory Requirements

A. Review Under Executive Order 12291. Under Executive Order 12291 agencies are required to determine whether proposed rules are major rules as defined in the Order. DOE has reviewed this rule and has determined that it is not a major rule because: it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprise. DOE bases this determination on the fact that this proposed rule relates exclusively to the management of the procurement function.

B. Review Under the Regulatory Flexibility Act. This final rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96-354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Act. DOE has determined that this rulemaking imposes no new reporting or recordkeeping requirements on organizations and individuals external to DOE that may be subject to this regulation. On December 31, 1981, at 46 FR 63209, DOE published technical amendments identifying portions of its regulations at Titles 10 and 41 of the Code of Federal Regulations which contained reporting or recordkeeping requirements. These amendments were for the purpose of complying with the Paperwork Reduction Act which requires clearance by OMB of agency reporting or recordkeeping requirements. Some of the contract clauses contained in this rulemaking are the same as those contained in that technical amendment. Those clauses are identified in this rulemaking by including their OMB clearance number parenthetically after the text of the clauses. Accordingly, no new review under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is required.

D. Review Under the National Environmental Policy Act. DOE has concluded that promulgation of this rule clearly would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 432 *et seq.* 1976), the Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), and the DOE guidelines (10 CFR Part 1020), and therefore does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

List of Subjects in 41 CFR Parts 9-7 and 9-10

Government procurement, Reporting and recordkeeping requirements, Construction, Insurance, Sureties and bonds.

For the reasons set out in the preamble, Chapter 9 of Title 41 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., May 13, 1983.

Hilary J. Rauch,

Director, Procurement and Assistance, Management Directorate.

The regulations in 41 CFR Chapter 9 are amended as set forth below.

Authority: Section 644, Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254).

Note.—As an aid in identifying specific proposed changes to the DOE Procurement Regulations, a two number identifier is assigned to each specific change. The first number represents the numerical sequence of proposed changes; thus, this is Change 8 to indicate that this is the eighth time that DOE has issued a notice of proposed rulemaking for the purpose of amending 41 CFR Chapter 9. The second number is the numerical sequence of specific changes proposed within a particular notice; thus, the first change within the eighth notice is identified as Change 8.1.

Change 8.1

The table of contents is amended by adding Subpart 9-7.9 to Part 9-7 to read as follows:

* * * * *

PART 9-7—CONTRACT CLAUSES

* * * * *

Subpart 9-7.9—Cost-Reimbursement Type Construction Contracts

* * * * *

Change 8.2

Part 9-7, "Contract Clauses," is amended to add a new subpart prescribing contract clauses. A new Subpart 9-7.9 "Cost-Reimbursement Type Construction Contracts," is added. The new Subpart 9-7.9 will read as follows:

Subpart 9-7.9—Cost-Reimbursement Type Construction Contracts

Sec.

Subpart 9-7.9—Cost-Reimbursement Type Construction Contracts

§ 9-7.900 Scope of subpart.

This subpart sets forth clauses for use in cost-reimbursement type construction contracts. The clauses are divided into "required", "when applicable", and "additional" categories. The required clauses are to appear in all cost type construction contracts. The when applicable clauses are required under stated circumstances. The additional clauses are clauses to be used in special circumstances.

§ 9-7.901 Applicability.

The clauses set forth in this subpart shall be used in cost-reimbursement type construction contracts.

§ 9-7.902 Required clauses.

The clauses set forth in this 9-7.902 shall be inserted in all cost-reimbursement type construction contracts. Certain clauses have variations depending on certain circumstances as described in the instructions contained in this subpart or the referenced sections.

§ 9-7.902-1 Definitions.

Insert the clause at FPR 1-7.602-1 as modified by DOE-PR 9-7.602-1.

§ 9-7.902-2 Specifications and drawings.

Insert the clause at FPR 1-7.602-2.

§ 9-7.902-3 Changes.

Insert the clause at DOE-PR 9-50.704-11.

(OMB Control No.: 1901-0021)

§ 9-7.902-4 [Reserved.]

§ 9-7.902-5 Termination for default or for convenience of the Government.

Insert the clause at FPR 1-8.702 except add "as supplemented by Part 9-15 of the DOE Procurement Regulation (41 CFR 9-15)" after the reference to "(41 CFR Part 1-15)" in paragraph (f) and make the modification required by FPR 1-8.700.2(a)(3).

§ 9-7.902-6 Disputes.

Insert the clause at DOE-PR 9-7.802-5.

§ 9-7.902-7 Limitation of cost.

Insert the clause at FPR 1-7.202-3 (a) or (b) as appropriate.

§ 9-7.902-8 Allowable cost, fixed fee and payment.

Insert the clauses at DOE-PR 9-50.704-13 and 9-50.704-20.

§ 9-7.902-9 [Reserved.]

§ 9-7.902-10 Material and workmanship.

Insert the clause at FPR 1-7.602-9 but delete the words "at the Contractor's expense, with all shipping charges prepaid" from the fifth sentence of paragraph (a).

(OMB Control No.: 1901-0021)

§ 9-7.902-11 Inspection and acceptance.

Inspection and Acceptance

(a) All work (which term includes, but is not restricted to materials, workmanship, and manufacture and fabrication of components) shall be subject to inspection and test by the Government at all reasonable times and at all places prior to acceptance. Any such inspection and test is for the sole benefit of the Government and shall not relieve the Contractor of the responsibility of providing quality control measures to assure that the work strictly complies with the contract requirments. No inspection or test by the Government shall be construed as constituting or implying acceptance. Inspection or test shall not relieve the Contractor of responsibility for damage to or loss of the material prior to acceptance, nor in any way affect the continuing rights of the Government after acceptance of the completed work under the terms of paragraph (f) of this clause, except as hereinabove provided.

(b) The Contractor shall replace any material or correct any workmanship found by the Government not to conform to the contract requirements.

(c) If the Contractor does not promptly replace rejected material or correct rejected workmanship, the Government may terminate the Contractor's right to proceed in accordance with the clause of this contract entitled "Termination for Default or for Convenience of the Government."

(d) The Contractor shall furnish promptly all facilities, labor, and material reasonably needed for performing such safe and convenient inspection and test as may be required by the Contracting Officer. All inspection and test by the Government shall be performed in such manner as not unnecessarily to delay the work. Special, full size, and performance tests shall be performed as described in this contract.

(e) Should it be considered necessary or advisable by the Government at any time before acceptance of the entire work to make an examination of work already completed, by removing or tearing out same, the Contractor shall, on request, promptly furnish all

necessary facilities, labor and material. If completion of the work has been delayed thereby, the contractor shall, in addition, be granted a suitable extension of time.

(f) Unless otherwise provided in this contract, acceptance by the Government shall be made as promptly as practicable after completion and inspection of all work required by this contract, or that portion of the work that the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except as regards latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the Government's rights under any warranty or guarantee.

§ 9-7.902-12 Superintendence by contractor.

Insert the clause at FPR 1-7.602-12. In situations requiring extraordinary Government control, substitute the clauses at DOE-PR 9-50.704-12 and DOE-PR 9-50.704-42, entitled "Contractor's organization" and "Key personnel."

§ 9-7.902-13 Permits and responsibilities.

Permits and Responsibilities

The Contractor shall be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal, State, and municipal laws, codes, and regulations, in connection with the prosecution of the work. The contractor shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others.

(OMB Control No.: 1901-0021)

§ 9-7.902-14 [Reserved.]

§ 9-7.902-15 Other contracts.

Insert the clause at FPR 1-7.602-15.

(OMB Control No.: 1901-0021)

§ 9-7.902-16 Patent indemnity.

Insert the clause at DOE-PR 9-9.103-1 and see DOE-PR 9-9.103-3(a).

§ 9-7.902-17 Additional bond security.

Insert the clause at FPR 1-7.602-17.

§ 9-7.902-18 Covenant against contingent fees.

Insert the clause at FPR 1-1.503.

§ 9-7.902-19 Officials not to benefit.

Insert the clause at FPR 1-7.102-17.

§ 9-7.902-20 Buy American Act.

Insert the clause at FPR 1-18.605.

(OMB Control No.: 1901-0021)

§ 9-7.902-21 Convict labor.

Insert the clause at FPR 1-12.204.

§ 9-7.902-22 Equal opportunity.

Insert the clause at FPR 1-12.803-2.

§ 9-7.902-23 Labor standards provisions.

Insert the clauses at FPR 1-18.703-1.

(OMB Control No.: 1901-0021 applicable to Contract Work Hours and Safety Standards Act-Overtime Compensation)

§ 9-7.902-24 Examination of records by the Comptroller General.

Insert the clause at FPR 1-7.103-3 as modified by DOE-PR 9-7.103-3.

§ 9-7.902-25 Government property.

Insert the clause at FPR 1-7.203-21 as modified by DOE-PR 9-7.203-21.

(OMB Control No.: 1901-0021)

§ 9-7.902-26 Utilization of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

Insert the clause at FPR Temporary Regulation 50, Supplement 2.

§ 9-7.902-27 Price reduction for defective cost or pricing data.

Insert the clause at FPR 1-3.814-1(a).

§ 9-7.902-28 Payment for overtime premiums.

Insert the clause at FPR 1-7.202-29.

§ 9-7.902-29 [Reserved.]

§ 9-7.902-30 Subcontractor cost or pricing data.

Insert the clause at FPR 1-3.814-3(a) or FPR 1-3.814-3(b) as may be appropriate.

(OMB Control No.: 1901-0021)

§ 9-7.902-31 [Reserved.]

§ 9-7.902-32 Audit.

Insert the clause at FPR 1-3.814-2(a).

§ 9-7.902-33 [Reserved.]

§ 9-7.902-34 Affirmative action for disabled veterans and veterans of the Vietnam Era.

Insert the clause at FPR Temporary Regulation 39 as updated by 41 CFR 60-250.4 except delete the text of paragraph (d) and insert "Reserved—See 47 FR 4258, January 29, 1982."

§ 9-7.902-35 Subcontracts.

Insert the clause at FPR 1-7.202-8 modified as directed by 9-7.202.8.

§ 9-7.902-36 [Reserved.]

§ 9-7.902-37 Affirmative action for handicapped workers.

Insert the clause contained 41 CFR 60-741.4.

§ 9-7.902-38 Clean air and water.

Insert the clause at FPR 1-1.2302.2.

§ 9-7.902-50 Order of precedence.

Insert the clause prescribed by DOE-PR 9-7.202-50.

§ 9-7.902-51 Notice and assistance regarding patent and copyright infringement.

Insert the clause at DOE-PR 9-9.104.

§ 9-7.902-52 Reporting of royalties.

Insert the clause at DOE-PR 9-9.110.

§ 9-7.902-53 Utilization of women-owned business concerns.

Insert the clause at FPR Temporary Regulation 54.

§ 9-7.902-54 Stop work order.

Insert the clause at DOE-PR 9-7.402-59.

§ 9-7.902-55 Authorization and consent.

Insert the clause at DOE-PR 9-9.102-1.

§ 9-7.903 Clauses to be used when applicable.

§ 9-7.903-1 Excusable delays.

Insert the clause at FPR 1-8.708.

§ 9-7.903-2 Negotiated overhead rates.

Insert the clause at FPR 1-3.704-1 as modified by DOE-PR 9-7.203-9.

§ 9-7.903-3 Workmen's compensation insurance (Defense Base Act).

Insert the clause at FPR 1-10.402.

§ 9-7.903-4 Advance payments.

Insert the clause at FPR 1-30.414-2.

§ 9-7.903-5 Performance of work by contractor.

Insert the clause at FPR 1-18.104.

§ 9-7.903-6 Use of U.S. flag commercial vessels.

Insert the clause at FPR 1-19.108-2.

§ 9-7.903-7 Special section 8(a) contract conditions.

Insert the clause at FPR 1-1.713-4(g)(1) in the contract with SBA and the clause at FPR 1-1.713-4(h) in the subcontract if an award is being made by SBA under 8(a) conditions.

§ 9-7.903-8 General Services Administration supply sources.

Insert the clause at FPR 1-7.203-13.

§ 9-7.903-9 Interagency motor pool vehicles and related services.

Insert the clause at FPR 1-7.203-14.

§ 9-7.903-10 Interest.

Insert the clause at FPR 1-7.203-15.

§ 9-7.903-11 Preference for U.S. flag air carriers.

Insert the clause at FPR 1-1.323-2.

§ 9-7.903-12 Cost accounting standards.

Insert the applicable clauses at FPR 1-3.1204.

§ 9-7.903-13 [Reserved.]

§ 9-7.903-14 Progress charts and requirements for overtime work.

Progress Charts and Requirements for Overtime Work

(a) The Contractor shall within five days or within such time as determined by the Contracting Officer, after date of commencement of work, prepare and submit to the Contracting Officer for approval a practicable schedule, showing the order in which the Contractor proposes to carry on the work, the date on which he will start the several salient features (including procurement of materials, plant and equipment), and the contemplated dates for completing the same. The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion at any time. The Contractor shall enter on the chart the actual progress at such intervals as directed by the Contracting Officer, and shall immediately deliver to the Contracting Officer three copies thereof.

(b) If, in the opinion of the Contracting Officer, the Contractor falls behind the progress schedule, the Contractor shall take such steps as may be necessary to improve his progress and the Contracting Offic may require him to increase the number of shifts, or overtime operations, days of work or the amount of construction plant, or all of these steps, and to submit for approval such supplementary schedule or schedules in chart form as may be deemed necessary to demonstrate the manner in which the agreed rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this provision shall be grounds for determination by the Contracting Officer that the Contractor is not prosecuting the work with such diligence as will insure completion within the time specified. Upon such determination the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part thereof, in accordance with the clause of the contract entitled "Termination for Default or for Convenience of the Government."

§ 9-7.903-15 Classification.

Insert the clause at DOE-PR 9-7.103-50.

(OMB Control No.: 1901-0021)

§ 9-7.903-16 Notice to the Government of labor disputes.

Insert the clause at FPR 1-7.203-3.

(OMB Control No.: 1901-0021)

§ 9-7.903-17 Additional technical data requirements.

Insert the clause at DOE-PR 9-9.202-3(c).

§ 9-7.903-18 Security.

Insert the clause at DOE-PR 9-7.103-53.

(OMB Control No.: 1901-0021)

§ 9-7.903-19 Competition in subcontracting.

Insert the clause at FPR 1-7.202-30.

§ 9-7.903-20 Rights in technical data—long form.

Insert the clause at DOE-PR 9-9.202-3(e)(2).

§ 9-7.903-21 Preservation of individual occupational radiation exposure records.

Insert the clause at DOE-PR 9-50.704-41.

(OMB Control No.: 1901-0021)

§ 9-7.903-22 Safety and health.

Insert the clause at DOE-PR 9-50.704-2(a) or DOE-PR 9-50.704-2(b).

(OMB Control No.: 1901-0021)

§ 9-7.903-23 Privacy Act.

Insert the clause at FPR 1-1.327-5.

§ 9-7.903-24 Subcontracting plan for small and small disadvantaged businesses.

Insert the clause at DOE-PR 9-1.710-3(c).

§ 9-7.903-25 [Reserved.]

§ 9-7.903-26 Women-owned business concerns subcontracting program.

Insert the appropriate clause at FPR Temporary Regulation Number 54 if there are subcontracting opportunities.

§ 9-7.903-27 Shop drawings.

Insert the clause at FPR 1-7.602-36 but delete the fourth sentence of paragraph (b) and change "price" to "estimated cost" in paragraph (c).

§ 9-7.903-28 Rights in shop drawings.

(a) Shop drawings for construction means drawings, submitted to the Government by the construction contractor, subcontractor or any lower tier subcontractor pursuant to a construction contract, showing in detail (1) the proposed fabrication and assembly of structural elements and (2) the installation (i.e., form, fit, and attachment details) of materials or equipment. The Government may duplicate, use and disclose in any manner and for any purpose shop drawings delivered under this contract.

(b) This clause, including this paragraph (b), shall be included in all subcontracts hereunder at any tier.

§ 9-7.903-29 Assignments of claims.

Insert the clause at FPR 1-30.703 as modified by DOE-PR 9-9.30.703 if the contract is negotiated in contemplation of an assignment.

§ 9-7.903-30 Cost and schedule control systems.

Insert the clause at DOE-PR 9-7.203-59 under the conditions described.

§ 9-7.904 Additional clauses.

§ 9-7.904-1 Insurance—liability to third parties.

Insert the clause at FPR 1-7.204-5 as modified by DOE-PR 9-7.204-5.

§ 9-7.904-2 Priorities, allocations and allotments.

Insert one of the clauses at DOE-PR 9-7.104-50 when appropriate.

(OMB Control No.: 1901-0021)

§ 9-7.904-3 Nuclear hazards indemnity.

Insert whichever of the clauses at DOE-PR 9-50.704-6 or DOE-PR 9-50.704-7 or DOE-PR 9-50.704-8 as may apply.

(OMB Control No.: 1901-0021)

§ 9-7.904-4 Discounts.

The Contractor shall, to the extent of his ability, take all cash and trade discounts, rebates, allowances, credits, salvage, and commissions, and when unable to take advantage of such benefits he shall promptly notify the Contracting Officer of the reason therefor. In determining the actual net cost of articles and materials of every kind required for the purpose of this contract there shall be deducted from the gross cost thereof all cash and trade discounts, rebates, allowances, credits, salvage, and commissions, which have accrued to the benefit of the Contractor or would have so accrued but for the fault or neglect on the part of the Contractor. Such benefits lost through no fault or neglect on the part of the Contractor, or lost through fault of the Government, shall not be deducted from gross costs.

§ 9-7.904-5 Direct payments.

If bills for purchase of material, machinery or equipment, or payrolls covering employment of laborers or mechanics incurred by the Contractor or by any subcontractor hereunder are not paid promptly by the Contractor or subcontractor as the case may be, the Contracting Officer may, in his

discretion, withhold from payments otherwise due the Contractor an amount equivalent to the amount of any such bill or payroll. Should the Contractor neglect or refuse to pay such bills or payrolls or to direct any subcontractor to pay such bills or payrolls within five (5) days after notice from the Contracting Officer to do so, the Government shall have the right to pay such bills or payrolls directly, and such event a deduction equal to five percent (5%) of the amount so paid directly shall be made from the Contractor's fee.

Change 8.3

PART 9-10—[AMENDED]

Section 9-10.103, "Bid Guarantees," is amended by deleting the phrase, "In addition to the restriction on bid guarantees in FPR 1-10.103-1(a),". The new text will read:

§ 9-10.103 Bid Guarantees.

§ 9-10.103-1 Policy on use.

A bid guarantee may be required only for lump sum or unit price contracts entered into as a result of formal advertising and may not be required for negotiated contracts.

[FR Doc. 13502 Filed 5-18-83; 8:45 am]

BILLING CODE 6450-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-11

[FPMR Amdt. B-53]

Records Management; Methylene Blue Testing

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation updates GSA's policies and procedures concerning methylene blue testing. Regulations concerning microforms of permanent records where the original will be disposed of require that the microforms be processed so that the residual thiosulfate ion concentration will not exceed 0.7 microgram per square centimeter in a clear area. Agencies must meet this requirement by either performing the methylene blue test or using commercial testing services in accordance with specifications in ANSI PH4.8-1978.

EFFECTIVE DATE: May 19, 1983.

FOR FURTHER INFORMATION CONTACT: Carlton L. Brown, Director, Preservation Policy and Services Division (202) 523-3159.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-11

Advisory committees, Archives and records, Classified information, Freedom of Information, Government property management, Interagency reports, Micrographics, Privacy, Records and information management, Word processing.

PART 101-11—[AMENDED]

Section 101-11.506-3(d)(1) is revised to read as follows:

§ 101-11.506-3 Microfilming.

* * * * *

(d) * * *

(1) Microforms of permanent records where the original will be disposed of shall be processed so that the residual thiosulfate ion concentration will not exceed 0.7 microgram per square centimeter in a clear area. Agencies or services that conduct tests for Federal agencies shall meet this requirement by performing the methylene blue test specified in ANSI PH4.8-1978.

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

Dated: April 29, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-13504 Filed 5-18-83; 8:45 am]

BILLING CODE 6820-26-M

41 CFR Ch. 1

[FPR Temp. Reg. 45, Supp. 4]

Fair and Equitable Compensation to Professional Employees

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends the expiration date of Federal Procurement Regulations Temporary Regulation 45 (43 FR 27235, June 23, 1978). The extension reflects the continued applicability of Office of Federal Procurement Policy (OFPP) Policy Letter 78-2, dated March 28, 1978. The effect will be to continue the policies in OFPP Policy Letter 78-2, regarding wage busting for professionals.

DATES: Effective date: April 1, 1983.

Expiration date: This regulation will continue in effect until April 1, 1985, unless canceled earlier.

FOR FURTHER INFORMATION CONTACT: Mr. Frank T. Van Lierde, Office of Federal Acquisition and Regulatory Policy (202-523-4768).

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

CHAPTER 1—[AMENDED]

In 41 CFR Chapter 1, FPR Temporary Regulation 45, Supplement 4, is added to the appendix at the end of the chapter.

Federal Procurement Regulations, Temporary Regulation 45, Supplement 4

To: Heads of Federal agencies

Subject: Fair and equitable compensation to professional employees under Federal contracts for services

1. *Purpose.* This supplement extends the expiration date of FPR Temporary Regulation 45, as previously extended by Supplement 3.

2. *Effective date.* This regulation is effective April 1, 1983.

3. . *Expiration date.* FPR Temporary Regulation 45 and this supplement will expire on April 1, 1985, unless canceled earlier.

4. *Explanation of changes.* Paragraph 3 of FPR Temporary Regulation 45 is revised to delete the expiration date of April 1, 1983, and to prescribe the revised expiration date which appears in paragraph 3, above. The change prescribed in paragraph 4 of Supplement 2 continues in effect.

Ray Kline,

Acting Administrator of General Services.

May 11, 1983.

[FR Doc. 83-13505 Filed 5-18-83; 8:45 am]

BILLING CODE 6820-61-M

NATIONAL COMMISSION ON THE OBSERVANCE ON INTERNATIONAL WOMEN'S YEAR

45 CFR Ch. XIX

Removal of Regulations

The National Commission on the Observance of International Women's Year, 1975 was established by E.O. 11832, January 9, 1975, as amended by

E.O. 11889, November 25, 1975 (3 CFR 1971–1975 Comp., pp. 937 and 1064) and continued by Pub. L. 94–167 (89 Stat. 1003). The Commission was terminated March 31, 1978 pursuant to the terms of the act.

Therefore, pursuant to his authority to assure orderly development of the Code of Federal Regulations (1 CFR 8.2) the Director of the Federal Register is removing the regulations in Title 45, Code of Federal Regulations, Chapter XIX as obsolete.

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-21; RM-4216]

FM Broadcast Station in Agana, Guam; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class C Channel 248 to Agana, Guam as its fourth FM assignment in response to a petition filed by Radio K–57, Inc.

EFFECTIVE DATE: July 5, 1983.

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

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order—Proceeding Terminated

In the matter of: amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Agana, Guam) MM Docket No. 83–21; RM–4216.

Adopted: April 21, 1983.

Released: May 5, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making* (48 FR 4692, published February 2, 1983) issued in response to a petition for rule making filed by Radio K–57, Inc. ("petitioner") proposing to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, to assign Class C FM Channel 248 to Agana, Guam as its fourth FM assignment. Petitioner and Guam Radio Services, Inc. ("Guam Radio") are mutually exclusive applicants for Channel 262, recently assigned at Agana.[1] In response to the *Notice*, petitioner has restated its intention to withdraw its application for Channel 262 should Channel 248 be assigned. Guam Radio filed comments supporting the proposal. Inter-Island Communications, Inc. ("Inter-Island") filed comments in opposition.

2. Guam Radio[2] refers to Guam's geographic isolation, its cultural and economic diversity, and the large number of available channels. According to Guam Radio, the island is undergoing dramatic population and economic growth, requiring additional communications services. Guam Radio claims that the Commission's regulatory philosophy no longer artificially limits market entry in order to protect the economic interests of existing licensees. Pointing to petitioner's intention to withdraw its application for Channel 262 and file for Channel 248 should that latter channel become available at Agana, Guam Radio asserts that this would both avoid a comparative hearing and increase broadcast competition on Guam.

3. Inter-Island, licensee of Radio Station KSTO(FM), Agana, refers to its previous comments regarding the proposal to add Channel 262 wherein it "warned" the Commission that adding a third FM channel at Agana would not be in the public interest. According to Inter-Island, the current proposal is "ill-conceived" and "designed only to undermine" the economic recovery of Guam broadcasters. Inter-Island states that it recognizes that the Commission is not concerned with economic factors, but it claims that, in view of Guam's alleged economic problems, the local market cannot absorb a doubling of the number of FM stations in less than two years. Inter-Island claims the public interest would be better served by selecting a licensee from among the competitors for Channel 262.

4. The thrust of the opposition comments is based on the economic impact of the proposed assignment upon existing Guam broadcasters. While such impact may be significant the issue has traditionally been one that is more appropriate for consideration at the application stage. *Grand Junction, Colorado*, 26 RR 2d 513 (1973). Thus Inter-Island should raise the issue in connection with any application filed for Channel 248 at Agana.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is ordered*, That effective July 5, 1983, the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) *is amended* as follows for the community listed:

City	Channel No.
Agana, Guam	230, 238, 248, and 262

6. *It is further ordered*, That this proceeding *is terminated*.

7. For further information concerning this proceeding, contact Joel Rosenberg, Mass Media Bureau, (202) 634–6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-13452 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

[1] BC Docket No. 81–595, RM–3828.

[2] Guam Radio incorporates by reference its comments submitted in the petition for rule making concerning Channel 262.

47 CFR Part 73

[BC Docket No. 82-333; RM-3997]

FM Broadcast Stations in Del Rio, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class C Channel 242 to Del Rio, Texas, in response to a request from Grande Broadcasting, Inc. The assigned channel could provide a second FM assignment to the community.

EFFECTIVE DATE: July 5, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Del Rio, Texas); BC Docket No. 82–333, RM–3997.

Adopted: April 21, 1983.

Released: May 5, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a *Further Notice of*

Proposed Rule Making, 48 FR 841, published January 7, 1983,[1] proposing the assignment of FM Class C Channel 242 to Del Rio, Texas, as its second FM assignment, in response to a petition filed by Grande Broadcasting, Inc. ("petitioner"). Petitioner filed comments in support of the proposal and restated its continuing interest in applying for the channel, if assigned.

2. A site restriction of approximately 16 miles northwest of Del Rio is required in order to avoid short spacing to Station KSLR (FM), San Antonio, Texas (Channel 241), and unused Channel 244C at Piedras Negros, Coahuila, Mexico. Mexican concurrence has been received.

3. Petitioner has indicated that Grande Broadcasting, Inc. is comprised of principals of Hispanic origin and proposes to serve the large Hispanic population of Del Rio. It notes that no other interests in the proposed assignment have been set forth in comments. Thus, it requests that the Commission expedite service to Del Rio by awarding the channel to Grande Broadcasting, Inc. without the usual procedure of permitting others to apply. Petitioner has cited no cases in which the Commission has ever granted such a request. The Commission believes that the grant of a construction permit without making a new channel assignment available to prospective applicants is inconsistent with the holding of *Ashbacker Radio Corporation* v. *F.C.C.*, 326 U.S. 327 (1945). The fact that no other interested parties have stepped forward by submitting comments has not been a factor in past cases to support an assumption that no other applications would be filed. Nor has there been a showing of urgency that the usual procedure should be bypassed. Thus, petitioner's request is denied.

4. The Commission has determined that the public interest would be served by assigning Class C Channel 242 to Del Rio, Texas, since it could provide a second local FM broadcast service to that community.

[1] A *Notice of Proposed Rule Making*, 47 FR 29291, published July 6, 1982, proposed the assignment of Channel 249A to Del Rio, Texas, as its second FM assignment. The *Notice* required Mexican concurrence. Mexico objected to the proposed assignment as being short spaced to adjacent Channel 248B at Jiminez, Coahuila, Mexico. In accordance with the provisions of the U.S.-Mexican FM Broadcasting Agreement, 46 F.C.C. 2d 293 (1973) and 46 F.C.C. 2d 153 (1974), FM channel assignments and related matters for the use of FM facilities in the border area are subject to the provisions of the respective agreements which provide for the right to object to any particular proposal. A staff study indicated that no other Class A channel was available for assignment to Del Rio. However, it was determined that Class C Channel 242 can be assigned to Del Rio with a site restriction.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is ordered*, That effective July 5, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended, as follows:

City	Channel No.
Del Rio, Texas	232A, 242

6. *It is further ordered*, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-13555 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 81 and 83

[Docket No. 21349; FCC 83-198]

Stations on Land and Shipboard in the Maritime Services; Implementation to Changes in Frequencies, Operating Procedures and Other Criteria Relating to Radiotelephony in the Band 4000 to 23000 kHz in the Maritime Mobile Services Adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action implements a frequency allotment plan for HF (high frequency) maritime radiotelephone utilization. Essentially, a temporary assignment plan which has been in effect since 1978, is made permanent. This action results from changes adopted at the World Maritime Administrative Radio Conference, Geneva, 1974. These amendments will bring the rules into conformance with international frequency allotments.

EFFECTIVE DATE: June 17, 1983.

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

FOR FURTHER INFORMATION CONTACT: Nicholas Bagnato, Private Radio Bureau, (202) 632-7175.

List of Subjects

47 CFR Part 81

Coast stations, Radio, Telephone.

47 CFR Part 83

Ship stations, Radio, Telephone.

Report and Order (Proceeding Terminated)

In the matter of amendment of Parts 81 and 83 to implement changes in frequencies, operating procedures and other criteria relating to radiotelephony in the band 4000 to 23000 kHz in the maritime mobile services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974; Docket No. 21349.

Adopted: April 27, 1983.

Released: May 11, 1983.

By the Commission; Commissioner Jones absent.

1. In this Report and Order we are adopting the frequency assignment plan which had been proposed for high seas ship and coast radiotelephony stations. We are also treating applications for new high seas coast radiotelephony services filed during the pendency of this proceeding. Further, two petitions for reconsideration filed in Docket Nos. 20449 and 20906 are in effect mooted by the actions taken herein and, therefore, are being dismissed.

Background

Frequency Assignment Plan

2. The World Maritime Administrative Radio Conference, Geneva, 1974, (WARC) amended the high frequency (HF) spectrum plan allotting frequencies for ship-shore radiotelephony in the international Radio Regulations. Although the total number of channels was increased from 137 to 176 worldwide, the number of nations sharing the channels was also increased in the revised allotment plan which went into effect in January 1978. The United States notified the International Frequency Registration Board of the use by coast stations of all frequencies it is allotted. (The frequency allotment for the United States is divided between Government and non-Government stations.)

3. Subsequent to the WARC's revised allotment plan, the Commission issued a Notice of Inquiry [1] in this proceeding seeking comments concerning the assignment of the HF radiotelephone frequencies to non-Government ship and coast stations. After reviewing the comments, a Temporary Frequency

[1] FCC 77-519, released August 5, 1977, 42 FR 40224.

Assignment Plan was adopted [2] which essentially provided a one-for-one replacement of the frequencies previously utilized by coast stations. In some cases where additional frequencies were available, coast stations which had been required to share frequencies with other U.S. coast stations, were assigned frequencies without such U.S. sharing arrangements. The Temporary Plan was designed to meet the WARC implementation date while providing time to investigate potential problem areas.

4. After implementation of the Temporary Plan, the Commission requested the existing licensees of HF radiotelephony coast stations to provide utilization data for all assigned frequencies.[3] Upon preliminary review of the utilization data submitted and noting the lack of complaints from the user community, the Commission proposed to finalize the Temporary Plan in the Notice of Proposed Rule Making (NPRM) [4] with minor modifications. Additionally, reorganization and clarification of several rule sections were proposed.

New Station Applications

5. Additionally, the Commission has four pending applications seeking new HF radiotelephone frequency assignments:

(a) RadioCall Corporation (RadioCall), the licensee of VHF public coast stations KGW423, Honolulu, and KLU758 Wailuku, Hawaii, seeks authority (File No. 237–M–L–31) to provide high seas radiotelephone service on four frequencies previously assigned to Honolulu station KQM which closed in 1978.

(b) Gulf Coast Communications Corporation (Gulf Coast), Palmetto, Florida, the licensee of public coast station KUZ383 providing local area service in the 156–162 MHz (VHF) band, requests (File No. 81–M–L–93) assignment of a frequency in the 4 MHz band to serve the Gulf of Mexico and the Caribbean Sea.

(c) Global Communications, Inc. (Global), St. Thomas, U.S. Virgin Islands, a licensee of public coast station WAH requests authority (File No. 8–M–L–110) to modify its license to provide high seas radiotelephone service in the Caribbean area on twelve specified frequencies.

(d) WJG Telephone Company, Inc. (WJG), Memphis, Tennessee, the licensee of a number of public coast stations providing local (VHF) and regional (MF) service on the Mississippi River System, requests authority (File No. 276–M–ML–22) to provide high seas radiotelephony service on HF frequencies.

The NPRM noted that applications were pending from Gulf Coast, Global and General Telephone Company. The General Telephone Company's application has been withdrawn. WJG filed its application after the NPRM was issued. RadioCall's application preceded the NPRM but was inadvertently omitted from that document. Thus, the four applications described above are currently pending before the Commission.

Comments

6. Comments in this preceeding were filed by the following:

—AMCOM, Inc. (AMCOM);
—American Telephone and Telegraph Company (AT&T);
—Mobile Marine Radio, Inc. (MMR);
—WCM Radio Pittsburgh, Inc. (WCM); and
—WJG Telephone Company, Inc. (WJG).

Reply comments were received from AMCOM, AT&T, Global Communications, Inc. (Global), MMR, and WJG.

Frequency Assignment Plan

7. All the commenters generally supported the finalization of the Temporary Assignment Plan. AT&T requested a minor modification in the assignment of frequencies among its three stations. Additionally, all the commenters argued that additional frequency assignments were required to alleviate interference problems experienced from the co-channel operations of foreign stations, and/or to provide frequencies for new entries in this service.[5] In essence, they suggest that the Commission seek additional frequencies from existing Government assignments and allocate International Fixed Public Radio Service (IFPRS) frequencies to the Maritime Mobile Service on a secondary basis.

8. In view of the successful performance of the Temporary Assignment Plan and the support of the commenters, we conclude that at this time the plan should be implemented substantially as proposed. Minor modifications are being made, however, to accommodate suggestions and clarifications as well as to provide for assignments to certain stations as a result of the actions taken on pending applications specified below.

New Station Applications

RadioCall

9. RadioCall applied for four frequencies to provide high seas service in the Hawaiian Islands. This service was previously provided by public coast station KQM which has discontinued service. No opposition was received concerning RadioCall's application. Further, it appears no interference will result from the assignment of these frequencies as requested. Accordingly, we conclude that it is in the public interest to grant RadioCall's application.

Gulf Coast

10. Gulf Coast applied for assignment of a 4 MHz frequency to augment the primarily local service it provides in the Tampa, Florida area. However, the Commission found Gulf Coast unqualified to remain a licensee and denied its applications for license renewal and an additional channel in a separate proceeding.[6] Gulf Coast has filed an appeal of this decision in the U.S. Court of Appeals for the District of Columbia.[7] We will hold Gulf Coast's application for a 4 MHz frequency assigment pending action on its appeal by the Court.

Global

11. Although Global initially requested assignment of twelve specified HF frequencies, it withdrew its request for seven of these frequencies as a result of petitions to deny filed by AT&T and MMR. Essentially, these seven frequencies would cause unacceptable interference with AT&T's public coast station located at Miami, Florida, and MMR's public coast station located at Mobile, Alabama. AT&T also opposes Global operating on three of the remaining five HF frequencies for which it continues to seek authorization. AT&T argues that under certain conditions

[2] Order, Docket No. 21349, FCC 77–785 released November 16, 1977, 42 FR 60145.

[3] The requests for utilization data were made by letters dated March 27, 1980, and July 8, 1980.

[4] Docket No. 21349, FCC 81–547, released December 11, 1981, 46 FR 62113.

[5] The Commission stated in the Report and Order in PR Docket No. 80–583, FCC 81–551, released December 10, 1981, 46 FR 60457, that it recognized the shortage of frequencies in the high seas radiotelephony service. Further, in the Final Protocol to both the World Maritime Administrative Radio Conference, Geneva, 1974 (at XII) and the World Administrative Radio Conference, Geneva, 1979 (at no. 38) the United States noted the inadequacy of the HF allotment plan for coast radiotelephone stations and reserved the right to make other assignments.

[6] See *Gulf Coast Communications, Inc.*, PR Docket Nos. 78–259 (File No. 40–M–RL–28) and 78–260 (File No. 179–M–ML–54), 81 FCC 2d 499 (Rev. Bd. 1980), *recon. denied*, FCC 81R–11, released February 4, 1981, *Review denied*, FCC 82–128, released April 16, 1982, *Pet. for recon. dismissed*, FCC 82I–53, released June 7, 1982.

[7] *Gulf Coast Communications Inc. v. FCC*, D.C. Cir. No. 82–1760.

Global's use of 17236.0 kHz, 17239.1 kHz, and 22664.2 kHz would cause harmful interference to its public coast station located at San Francisco, California. Global, however, states that given the distance between its station in the Virgin Islands and AT&T's San Francisco station, as well as the time zone difference, no insurmountable barrier to sharing these three frequencies exists. Global indicates it is confident that technical and operating protocols can prevent interference and, therefore, requests assignment of the subject frequencies on a secondary basis.

12. We find that it is in the public interest to grant Global's application for modification of its station license (WAH, St. Thomas, U.S. Virgin Islands) to add the frequencies 6515.7 kHz and 6518.8 kHz, and on a secondary basis to station KMI (San Francisco, California) to add the frequencies 17236.0 kHz, 17239.1 kHz, and 22664.2 kHz. Global's utilization of the two 6 MHz frequencies is unlikely to cause harmful interference with the stations assigned these frequencies which are located on the inland waterways. Also no opposition to such an assignment was received. Further, it appears that Global can reasonably share the use of the three remaining frequencies with station KMI. The assignment of these frequencies to Global on a secondary basis minimizes any potential interference.

WJG

13. After the NPRM was issued in this proceeding, WJG filed an application to provide high seas telephony service from its Memphis, Tennessee facilities. WJG simply requested that it be assigned a full complement of HF duplex frequencies in the 4, 6, 8, 12 and 16 MHz bands. At a minimum it requested that three duplex channels (Channels 803, 1202, and 1620) be assigned. One of the pair of frequencies forming each channel was assigned to WJG for simplex use on the inland waters.[8]

14. AMCOM, AT&T, MMR, and WCM all opposed WJG's application. In regard to WJG's request for a full complement of HF frequencies, the commenters argued that such a general request could only be satisfied by the availability of additional frequencies (e.g., from current Government assignments). It is pointed out that WJG itself at paragraph 3 of its comments recognizes that frequency availability is an impediment to its application. MMR states that WJG's mere generalized request for additional frequency assignments is clearly insufficient to justify reassigning frequencies from other stations to WJG.

15. Concerning WJG's specific request for assignment of Channels 803, 1202 and 1620, WCM and AMCOM object because they share assignments with WJG on frequencies which form one-half of the subject channels. MMR argues that WJG's inland location would result in an undue degradation of service in these bands and, further, questions whether WJG has a serious intent to provide such high seas service in light of its apparent proposal to utilize the same equipment employed to provide service on the inland waterways.

16. We are dismissing pursuant to § 81.27 of the rules, WJG's application for modification of its station authorization to provide high seas telephony service. As WJG itself tacitly recognizes, and as the comments argue vociferously, at this time frequency availability precludes the assignment of a full complement of frequencies in the 4, 6, 8, 12 and 16 MHz bands to WJG. Additionally, WJG fails to identify which specific frequencies it seeks assignment in each megahertz order. Further, it appears that assignment of Channels 803, 1202 and 1602 would cause harmful interference to other stations providing service on the inland waterways. In fact, considering WJG's stated heavy use of its HF simplex frequencies (which form part of these Channels) it appears that proposed duplex operations would interfere with its own service on the inland waterways.

Future Action

17. Although we are adopting the Temporary Plan, we recognize that by assigning all of the availble frequencies to existing stations, new entry into this service will be extremely limited. Therefore, we are exploring or intend to explore a number of potential solutions to this problem. First, we will investigate the possibility of the sharing of some existing Government frequency allotments by non-Government users. Second, implementation of the Final Acts of the 1979 World Administrative Radio Conference may offer some spectrum relief by making available new assignments for marine HF telephony in the 4 and 8 MHz bands.[9] We are also exploring with the National Telecommunications and Information Administration (NITA) the possibility of obtaining additional frequency assignments through applications filed in the Experimental Serice.[10] If these operations prove feasible, expansion of assignments in the Maritime Service may be possible.

18. Finally, our analysis of frequency utilization data supplied by licensees during the course of this proceeding indicates that more efficient utilization of these frequencies may be possible. The data do not dissuade us from the conclusion that the temporary frequency assignment plan should be made permanent. In this respect we agree with the commenters. But it is sufficient to convince us to explore, in a future proceeding, methods of improving the utilization of HF frequency assignments. We intend to investigate the possibility of establishing loading criteria for this service.[11] Frequencies that remain underutilized could become subject to reassignment or sharing. Additionally, we wish to look toward added flexibility in the types of service which can be provided on maritime frequencies (for example, data and facsimile) without increasing interference potential. Further, the traditional dichotomy between stations providing voice and record services may no longer be valid.[12] Thus, it may be advantageous to consider, in this subsequent proceeding, permitting International Record Carriers (IRC's) to provide voice services and allow AT&T to provide non-voice communications services.

Summary of Actions

19. In summary, we are: (1) amending the rules to adopt the proposed Assignment Plan with minor modifications and clarifications, (2) granting RadioCall's application to provide high seas service in the Hawaiian Islands, (3) retaining Gulf Coast's application for a 4 MHz frequency on file pending action by the U.S. Court of Appeals on its appeal, (4) granting Global's application for five HF frequencies to provide HF radiotelephony service in the U.S. Virgin Islands, and (5) dismissing WJG's application to provide HF high seas

[8] Although WJG did not submit utilization reports as requested (WJG states that it did not receive the two letter requests), it did state that it used its existing HF simplex assignments for over eight hours per day on average, for communications with vessels.

[9] See, *Notice of Proposed Rule Making*, General Docket No. 80-739, FCC 82-508, released December 30,1982, 48 FR 3790.

[10] MMR, AT&T, and Global have filed applications for experimental (research) authority for such cross-band operations.

[11] For example, loading criteria has been used in other radio services for assignment of additional frequencies. See Docket No. 20870, 84 FCC 2d 857 (1981).

[12] cf. *Overseas Communications Services*, CC Docket No. 80-632, adopted December 8, 1982, FCC 82-547, 48 FR 797.

radiotelephony service at Memphis, Tennessee.

20. Additionally, we are dismissing as moot petitions for reconsideration filed by AT&T in Docket Nos. 20449 and 20906. These petitions relate to HF radiotelephony assignments to MMR which predate the Temporary Assignment Plan. The finalization of the Plan in this proceeding surpersedes the issues raised by AT&T. Therefore, the petitions are moot.

21. The rule amendments proposed in this proceeding essentially implement changes adopted by the World Maritime Administrative Radio Conference, Geneva, 1974. In effect, the rules maintain the *status quo* among high seas radiotelephone coast stations, ship stations, and stations on the inland waterways operating on HF frequencies. Therefore, the Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) do not apply to this rule making proceeding, because the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

22. Regarding questions on matters covered in this document contact Nicholas G. Bagnato or Robert H. McNamara (202) 632-7115.

23. Accordingly, it is ordered, That under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), the Commission's rules are amended as set forth in the attached Appendix, effective June 17, 1983.

24. It is further ordered, That the application of RadioCall Corporation, File No. 237-M-L-31, for authority to operate a high seas public coast radiotelephony station located in Honolulu, Hawaii, is granted.

25. It is further ordered, That the application of Global Communications, Inc., File No. 8-M-ML-110, as amended, to modify its authority to operate public coast station WAH to include high seas radiotelephony service on the frequencies 6515.7 kHz and 6518.8 kHz, and, on a secondary noninterference basis to station KMI, 17236.0 kHz 17239.1 kHz and 22664.2, is granted.

26. It is further ordered, That the application of WJG Telephone Company, Inc. (File No. 276-M-ML-22) to modify its authorization to operate public coast station WJG, is dismissed.

27. It is further ordered, That the Petition For Reconsideration filed by American Telephone and Telegraph Company in Docket No. 20449 is dismissed as moot.

28. It is further ordered, That the Petition For Reconsideration filed by American Telephone and Telegraph Company in Docket No. 20906 is dismissed as moot.

29. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 164, 305)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

1. In § 81.134, paragraph (c)(1) is revised as follows:

§ 81.134 Transmitter power.

* * * * *

(c) * * *

(1) For carrier frequencies other than 2638 kHz and those frequencies listed in § 81.361(a):

Frequency band (kHz)	Class of emission	Power (peak envelope power)
2000 to 4000	A3A, A3H[2], A3J[1]	800 watts by day. 400 watts by night.
4000 to 27,500	A3A, A3J	10 kilowatts.

[1] When using 2182 kHz for purposes other than distress calls and distress traffic, and urgency and safety signals and messages, the carrier power of limited coast stations shall not exceed 50 watts for A3J emission.

[2] Use of A3H on 2182 kHz is limited for communications with foreign ships.

* * * * *

2. In § 81.186, paragraph (d) is revised as follows:

§ 81.186 Hours of service of stations on land.

* * * * *

(d) Unless otherwise specified for particular stations, the hours of service of each public regional coast station or public local service (VHF) coast station shall, within the scope of its normal operation, be such as to meet the requirements of the particular region served by the station.

* * * * *

§ 81.304 [Amended]

3. In § 81.304 the table in paragraph (a) is amended, and certain subparagraphs in paragraph (b) are redesignated and the remaining subparagraphs are removed.

(a) * * *

Carrier frequency	Conditions of use	
	Section	Limitations
(kHz)		
1619	81.307	7, 14, and 16.
1622	81.307	7, 14, and 16.
1643	81.308	7, and 14.
1646	81.308	7, and 14.
1649	81.308	7, and 14.
1652	81.308	7, and 14.
1705	81.308	7, and 14.
1708	81.308	7, and 14.
1709	81.308	7, and 14.
1712	81.308	7, and 14.
2003	81.308	7, and 14.
2006	81.308	7, and 14.
2086	81.307(a)	8.
2115	81.308	7, and 14.
2118	81.308	7, and 14.
2182	81.191 and 81.305.	1, 14, and 15.
2309	81.308	7, and 14.
2312	81.308	7, and 14.
2379	81.307	7, and 14.
2382	81.307	7, 14, and 16.
2397	81.308	7, and 14.
2400	81.306(b)	7, and 14.
2400	81.308	
2419	81.308	7, and 14.
2422	81.308	7, and 14.
2427	81.308	7, and 14.
2430	81.308	7, and 14
2442	81.306(b)	
2447	81.308	7, and 14.
2450	81.308	7, and 14.
2450	81.306(b)	
2466	81.306(b)	
2479	81.308	7, and 14.
2482	81.308	7, and 14.
2482	81.306(b)	
2490	81.306(b)	
2506	81.308	7, and 14.
2506	81.306(b)	
2509	81.308	7, and 14.
2512	81.308	7, and 14.
2514	81.306(b)	2.
2522	81.306(b)	
2530	81.306(b)	
2535	81.308	7, and 14.
2538	81.308	
2538	81.306(b)	
2550	81.306(b)	2
2558	81.306(b)	
2563	81.308	7, and 14.
2566	81.308	7, and 14.
2566	81.306(b)	
2572	81.306(b)	
2582	81.306(b)	2.
2585	81.306(b)	8.
2590	81.306(b)	
2598	81.306(b)	
2616	81.308	7, 14, and 17.
2638		5.
2782	81.307	
3258	81.308	7, 14, and 17.
3261	81.308	7, and 14.
4063	81.307	
4067.8	81.307	
4115.7	81.307	
4357.4	81.306	
4363.6	81.306	
4366.7	81.306, and 81.308.	
4369.8	81.306, and 81.308.	
4382.2	81.306	
4383.8	81.309	
4385.3	81.305	
4388.4	81.305	
4391.5	81.306	
4397.7	81.306, and 81.308.	
4403.9	81.306	
4407	81.306	
4410.1	81.306, and 81.307.	13.
4413.2	81.306	
4422.5	81.306, and 81.308.	

Carrier frequency	Conditions of use	
	Section	Limitations
4425.6	81.306, and 81.308.	
6209.3	81.307	
6212.4	81.307	
6515.7	81.307	
6518.8	81.307	
8201.2	81.307	
8213.6	81.307	
8722	81.306	
8725.1	81.307	
8728.2	81.306	
8731.3	81.306	
8737.5	81.307	
8740.6	81.306	
8743.7	81.306	
8746.8	81.306	
8749.9	81.306	
8759.2	81.306	
8762.3	81.306	
8784	81.306	
8790.2	81.306	
8793.3	81.306	
8796.4	81.306	
8805.7	81.306	
8808.8	81.306	
8811.9	81.306	
12331.1	81.307	
13100.8	81.306	
13103.9	81.306, and 81.307.	
13107	81.306	
13116.3	81.306	
13122.5	81.306	
13125.6	81.306	
13128.7	81.306	
13131.8	81.306	
13134.9	81.306	
13144.2	81.306	
13165.9	81.306	
13169	81.306	
13175.2	81.306	
13178.3	81.306	
13184.5	81.306	
13187.6	81.306	
13190.7	81.306	
16518.9	81.307	
17232.9	81.306	
17236	81.306	
17239.1	81.306	
17245.3	81.306	
17251.5	81.306	
17257.7	81.306	
17260.8	81.306	
17263.9	81.306	
17279.4	81.306	
17291.8	81.306, and 81.307.	
17304.2	81.306	
17310.4	81.306	
17325.9	81.306	
17329	81.306	
17356.9	81.306	
22596	81.306	
22608.4	81.306	
22623.9	81.306	
22636.3	81.306	
22639.4	81.306	
22642.5	81.306	
22661.1	81.306	
22664.2	81.306	
22676.6	81.306	
22679.7	81.306	
22689	81.306	
22704.5	81.306	
22707.6	81.306	
(MHz)		
156.750	81.304	12.
156.800	81.304	11.
156.850	81.185	4.
161.800	81.304	3, 9, and 10.
161.825	81.304	3, 9, 10, and 19.
161.850	81.304	3, 9, and 10.
161.875	81.304	3, 9, 10, and 19.
161.900	81.304	3, and 9.
161.925	81.304	3, 9, and 19.
161.950	81.304	3, and 9.
161.975	81.304	3, 9, and 19.
162.000	81.304	3, and 9.
162.025	81.304	9, and 18.

(b) Authorization and use of carrier frequencies in paragraph (a) of this section shall be in accordance with the following limitations and conditions.

Old section	New section
1	1
2	2
6	3
7	4
8	5
9	6
11	7
21	8
22	9
24	10
25	11
26	12
27	13
29	14
44	15
50	16
52	17
62	18
63	19

* * * * *

Sections 81.304(b) (3), (4), (5), (10), (12), (13), (14), (15), (16), (17), (18), (19), (20), (23), (28), (30), (31), (32), (33), (34), (35), (36), (37), (38), (39), (40), (41), (42), (43), (45), (46), (47), (48), (49), (51), (53), (54), (55), (56), (57), (58), (59), (60), and (61), are removed.

4. In § 81.305 paragraph (a) is revised to read as follows:

§ 81.305 Frequencies for calling and distress.

(a) In the band 1605–4000 kHz, the frequency 2182 kHz is the international radiotelephone distress, safety and calling frequency and shall be assigned to all public coast stations operating on frequencies in the band 1605—4000 kHz. In the band 156–162 MHz, the frequency 156.800 MHz is the international distress, safety and calling frequency and shall be assigned to all public coast stations operating in the band 156–162 MHz. 2182 kHz and 156.8 MHz may be used by public coast stations solely for the transmission of:

* * * * *

5. Section 81.306 is revised to read as follows:

§ 81.306 Frequencies available below 27.5 MHz.

(a) Frequencies between 4000 and 23000 kHz available for assignment to public coast stations:

Coast station location	Channel designation	Coast station carrier frequency (kHz)	
		Transmit	Receive
San Francisco, CA	401	4357.4	4063.0
	411	4403.9	4109.5
	411	4407.[illegible]	4112.6
	801	8726.[illegible]	8204.3
	809	8743.7	8219.8
	811	8759.[illegible]	8235.3
	821	8784.[illegible]	8260.1
	120	13,100.[illegible]	12,330.0
	1202	13,103.9	12,333.1
	1203	13,107.0	12,336.2
	1229	13,187.6	12,416.8
	1230	13,190.7	12,419.9
	1602	17,236.0	16,463.1
	1603	17,239.1	16,466.2
	1616	17,279.4	16,506.5
	1624	17,304.2	16,531.3
	2214	22,636.3	22,040.3
	2223	22,664.2	22,068.2
	2228	22,679.7	22,083.7
	2236	22,704.5	22,108.5
New York, NY	410	4385.3	4090.9
	411	4388.4	4094.0
	416	4403.9	4109.5
	422	4422.5	4128.1
	808	8740.6	8216.7
	811	8749.9	8226.0
	815	8762.3	8238.4
	826	8796.4	8272.5
	1203	13,107.0	12,336.2
	1210	13,128.7	12,357.9
	1211	13,131.8	12,361.0
	1228	13,184.5	12,413.7
	1230	13,190.7	12,419.9
	1605	17,245.3	16,472.4
	1620	17,291.8	16,518.9
	1626	17,310.4	16,537.5
	1631	17,325.9	16,553.0
	2201	22,596.0	22,000.0
	2205	22,608.4	22,012.4
	2210	22,623.9	22,027.9
	2236	22,704.5	22,108.5
Miami, FL	403	4363.6	4069.2
	412	4391.5	4097.1
	417	4407.0	4112.6
	423	4425.6	4131.2
	802	8722.0	8198.1
	805	8731.3	8207.4
	810	8746.8	8222.9
	814	8759.2	8235.2
	825	8793.3	8269.4
	831	8811.9	8288.0
	1206	13,116.3	12,345.5
	1208	13,122.5	12,351.7
	1209	13,125.6	12,354.8
	1215	13,144.2	12,373.4
	1223	13,169.0	12,398.2
	1230	13,190.7	12,419.9
	1601	17,232.9	16,460.0
	1609	17,257.7	16,484.8
	1610	17,260.8	16,487.9
	1611	17,263.9	16,491.0
	1616	17,279.4	16,506.5
	2215	22,639.4	22,043.4
	2216	22,642.5	22,046.5
	2222	22,661.1	22,065.1
Mobile, AL	405	4369.8	4075.4
	414	4397.7	4103.3
	419	4413.2	4118.8
	824	8790.2	8266.3
	829	8805.7	8281.8
	830	8808.8	8284.9
	1212	13,134.9	12,364.1
	1225	13,175.2	12,404.4
	1226	13,178.3	12,407.5
	1607	17,251.5	16,478.6
	1632	17,329.0	16,556.1
	1641	17,356.9	16,584.0
	2227	22,676.6	22,080.6
	2231	22,689.0	22,093.0
	2237	22,707.6	22,111.6
Honolulu, HI	418	4410.1	4115.7
	808	8740.6	8216.7
	1222	13,165.9	12,359.1
	1601	17,232.9	16,460.0
St. Thomas, VI [1]	604	6515.7	6209.3
	605	6518.8	6212.4
	1602	17,236.0	16,463.1
	1603	17,239.1	16,466.2
	2223	22,664.2	22,068.2
Delcambre, LA	404	4366.7	4072.3
Rogers City, MI [2]	405	4369.8	4075.4
Lorain, OH	409	4382.2	4087.8
Buffalo, NY	418	4410.1	4115.7
Buffalo, NY	826	8796.4	8272.5
Lorain, OH	826	8796.4	8272.5

[1] Provisional assignment of frequencies pending allotment to Virgin Islands in Article 16 proceeding.

[2] Provisional assignment of frequencies pending allotment to U.S. Central in Article 16 proceeding.

(b) Frequencies between 1605 and 4000 kHz available for assignment to public coast stations:

Coast station located in the vicinity of	Coast station carrier frequency (kHz)		Conditions of use
	Transmit	Receive	
Agana, Guam	2506	2009	
Boston, MA	2450	2366	
	2506	2406	
	2566	2390	(2).
New York, NY	2482	2382	
	2522	2128	
	2558	2166	
	2590	2198	
Wilmington, DL	2558	2166	
Baltimore, MD	2400	2400	
Norfolk-Quantico, VA	2450	2366	(2).
	2538	2142	
Charleston, SC-Jacksonville, FL	2566	2390	
Miami, FL	2442	2406	(2).
	2490	2031.5	
	2514	2118	(3).
Tampa, FL	2466	2009	
	2550	2158	(3).
Mobile, AL	2572	2430	
New Orleans, LA	2482	2382	
	2556	2166	
	2598	2206	(2).
Delcambre, LA	2506	2458	(2).
Galveston, TX	2450	2366	(2 and 4).
	2530	2134	
Corpus Christi, TX	2538	2142	(5).
Ponce, PR	2585	2086	
San Juan, PR	2530	2134	
Buffalo, NY	2514	2118	(8).
Rogers City, MI	2550	2158	(8).
	2582	2206	(8).
Los Angeles-San Diego, CA	2466	2382	(1 and 6).
	2522	2126	7 a.m. to 7 p.m., P.s.t. only.
	2566	2009	7 a.m. to 7 p.m., P.s.t. only.
	2598	2206	
San Francisco-Eureka, CA	2450	2003	
	2506	2406	
Astoria, OR	2442	2009	(2).
Astoria-Portland, OR	2598	2206	
Coos Bay, OR	2566	2031.5	7 a.m. to 7 p.m., P.s.t. only.
Seattle, WA	2522	2126	
	2482	2430	(7).
Kahuku, HI	2530	2134	
St. Thomas Island, VI	2506	2009	

(1) Available on the condition that harmful interference is not caused to any ship station operating within 300 nautical miles of New Orleans, LA and is transmitting to a coast station in that port.

(2) Day only.

(3) Unlimited hours of use from December 15 to April 1, annually, and day only from April 1 to December 15, annually, on the condition that harmful interference shall not be caused to the service of any ship station in the Great Lakes area.

(4) Available on the condition that harmful interference is not caused to the service of any coast station located in the vicinity of Boston, Massachusetts, or San Francisco-Eureka, California.

(5) Available on the condition that harmful interference is not caused to the service of any coast station located in the vicinity of Norfolk-Quantico, Virginia.

(6) Available on the condition that harmful interference is not caused to the service of any coast station located in the vicinity of Tampa, Florida.

(7) Authorized for use south of 51 degrees north latitude and east of 142 degrees west longitude exclusively during the following daily periods on the condition that harmful interference is not caused to the service of any station in the Alaska area to which this carrier frequency is assigned: Annually from April 1 to September 30, inclusive, from 5 a.m. to 9 p.m., P.s.t., only; and annually from October 1 to March 31, inclusive, from 6 a.m. to 11 p.m., P.s.t., only.

(8) The frequencies 2514, 2550 and 2582 kHz are authorized for use in the Great Lakes area on a shared basis with stations of Canada. Except in the case of distress, the frequency 2550 kHz shall not be used for transmission to ship stations of Canada since the associated ship station transmit frequency 2158 kHz is not available to Canadian ship stations for transmission and 2582 kHz shall not be used for transmission to U.S. ship stations since the associated ship transmit frequency 2206 kHz is not available to U.S. ship stations for transmission.

6. Section 81.307 is amended by revising the heading and text to read as follows:

§ 81.307 Frequencies below 27.5 MHz available for assignment on the Mississippi River System.[1]

(a) The following frequencies are available for assignment to coast stations located on the inland waterways for use on a simplex basis, as indicated below:

Coast station location	Carrier frequency (kHz)
Jeffersonville, IN-Louisville, KY	[1]2086.0
	2782.0
	4115.7
	6518.8
	8725.1
	13,103.9
	17,291.8
Memphis, TN	[1]2086.0
	2782.0
	4087.8
	6209.3
	8201.2
	12,333.1
	16,518.9
Cincinnati, OH	[1]2086.0
	2782.0
	4063.0
	6515.7
	8213.6
	12,333.1
	16,518.9
St. Louis, MO	[1]2086.0
	2782.0
	4410.1
	6212.4
	8737.5
	13,103.9
	17,291.8

[1] Limited to a maximum output power of 150 watts (PEP).

7. Section 81.308 is amended as follows:

§ 81.308 Frequencies available in Alaska.

(a) The carrier frequencies set forth in the following table are authorized for use by common carrier public coast stations in Alaska for communication with ship stations.

Coast station location	Carrier frequency (kHz) [1]	
	Transmit	Receive
Cold Bay	2312	2134
Cordova	2397	2237
Juneau	2400	2240
Ketchikan	2397	2237
Kodiak	2309	2131
Nome	2400	2240
Sitka	2312	2134

[1] Subject to the limitations in § 81.304.

[1] Mississippi River System means the Mississippi River and connecting waters other than the Great Lakes.

(b) The carrier frequencies set forth in the following table are authorized for use by public coast stations, other than common carrier, in Alaska as indicated below. Frequencies designated for use in a zone of the Alaska area are available only to coast stations located in that zone.

Alaska zone [1]	Carrier frequency (kHz) [1]
All	1619
	1622
	2379
	2382
	4383.8
	4397.7
	4425.5
1	1646
	1709
	2006
	2419
	2512
	2566
	2616
	3261
	4403.9
2	1649
	2115
	2430
	2509
	2538
	4422.5
3	1705
	2422
	2450
	2479
	2512
	2535
	4369.8
4	1643
	1705
	2118
	2427
	2447
	2482
	2509
	2563
	3261
	4366.7
5	1652
	1712
	2003
	2430
	2506
	2566
	3258
	4422.5
6	1646
	2450
	2482
	2506
	4403.9

[1] Subject to the limitations in § 81.304.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83-351, the table in paragraph (a) is amended, and certain subparagraphs in paragraph (b) are redesignated and the remaining subparagraphs are removed as follows:

§ 83.351 Frequencies available.

(a) * * *

Carrier frequency	Conditions of use	
	Section	Limitations
(kHz)		
1619	83.370	

Carrier frequency	Conditions of use	
	Section	Limitations
1622	83.370	
1643	83.370	
1646	83.370	
1649	83.370	
1652	83.370	
1705	83.370	
1708	83.370	
1709	83.370	
1712	83.370	
2003	83.366 and 83.355.	
2003	83.370	
2003	83.358	19.
2006	83.370	38.
2009	83.355	
2031.5	83.355	
2065.0	83.362	10, and 11.
2079.0	83.362	10. and 11.
2082.5	83.358 and 83.362.	11 and 12.
2086.0	83.355 and 83.356.	2, 11, and 12.
2093.0	83.362	11. and 13.
2096.5	83.360	11.
2115	83.370	
2118	83.355	
2118	83.370	
2126	83.355	
2131	83.370	17.
2134	83.355	
2134	83.370	17.
2142	83.355	
2142	83.358	4, and 19.
2158	83.355	
2166	83.355	
2182	83.106, 83.352, and 83.353.	1, and 21.
2198	83.355	
2203	83.358	11, 14, and 19.
2206	83.355	
2214	83.362	
2237	83.370	17.
2240	83.370	17.
2366	83.355	
2379	83.370	
2382	83.355	
2382	83.370	
2390	83.355	
2400	83.355	
2406	83.355	
2419	83.370	
2422	83.370	
2427	83.370	
2430	83.355	
2430	83.370	37.
2447	83.370	
2450	83.370	
2458	83.355	37.
2479	83.370	
2482	83.370	
2506	83.370	42.
2509	83.370	
2512	83.370	
2535	83.370	
2538	83.370	39.
2563	83.370	
2566	83.370	
2616	83.370	38.
2638	83.358	19.
2670	83.358 and 83.363.	
2738	83.358	19.
2738	83.362	20.
2782	83.356	
2830	83.356 and 83.362.	19.
3023		45.
3258	83.370	
3261	83.370	43.
4063.0	8354 and 83.356.	
4069.2	83.354	
4072.3	83.354	
4075.4	83.354	
4087.8	83.354 and 83.356.	
4090.9	83.354	
4094.0	83.354	
4097.1	83.354	
4103.3	83.354	
4109.5	83.354	
4112.6	83.354	
4115.7	83.354 and 83.356.	41.
4118.8	83.354	
4125.0	83.360	9.
4128.1	83.354	
4131.2	83.354	
4143.6	83.360	
4366.7	83.370	
4369.8	83.370	
4383.8	83.370	16.
4403.9	83.370	
4410.1	83.356	41.
4419.4	83.360	9.
4422.5	83.370	
5680		45.
6209.3	83.356	
6212.4	83.356	
6218.6	83.360	9.
6221.6	83.360	9.
6515.7	83.356	
6518.8	83.356	
6521.9	83.360	9.
8198.1	83.354	
8201.2	83.356	41.
8204.3	83.354	
8207.4	83.354	
8213.6	83.356	41.
8216.7	83.354	
8219.8	83.354	
8222.9	83.354	
8226.0	83.354	
8235.3	83.354	
8238.4	83.354	
8260.1	83.354	
8266.3	83.354	
8269.4	83.354	
8272.5	83.354	
8281.8	83.354	
8284.9	83.354	
8288.0	83.354	
8291.1	83.360	9.
8294.2	83.360	9.
8725.1	83.356	41.
8737.5	83.356	41.
12330.0	83.354	
12333.1	83.354 and 83.356.	
12336.2	83.354	
12345.5	83.354	
12351.7	83.354	
12354.8	83.354	
12357.9	83.354	
12361.0	83.354	
12364.1	83.354	
12373.4	83.355	
12395.1	83.355	
12398.2	83.354	
12404.4	83.354	
12407.5	83.354	
12413.7	83.354	
12416.8	83.354	
12419.9	83.354	
12429.2	83.360	9.
12432.3	83.360	9.
12435.4	83.360	9.
13103.9	83.356	2 and 41.
16460.0	83.354	
16463.1	83.354	
16466.2	83.354	
16472.4	83.354	
16478.6	83.354	
16484.8	83.354	
16487.9	83.354	
16491.0	83.354	
16506.5	83.354	
16518.9	83.354 and 83.356.	41.
16531.3	83.354	
16537.5	83.354	
16553.0	83.354	
16556.1	83.354	
16584.0	83.354	
16587.1	83.360	9.
16590.2	83.360	9.
16593.3	83.360	9.
17291.8	83.356	2 and 41.
22000.0	83.354	
22012.4	83.354	
22027.9	83.354	
22040.3	83.354	
22043.4	83.354	
22046.5	83.354	
22065.1	83.354	
22068.2	83.354	
23080.6	83.354	
22083.7	83.354	
22093.0	83.354	
22108.5	83.354	
22111.6	83.354	
22124.0	83.360	9.
22127.1	83.360	9.
22130.2	83.360	9.
22133.3	83.360	9.
22136.4	83.360	9.
(MHz)		
121.5	83.351	6.
123.1	83.352	6.
156.050	83.359	5.
156.175	83.359	5.
156.250	83.359	8.
156.275	83.359	19, 20, and 23.
156.300	83.106 and 83.350.	15, 19, 22, and 46.
156.325	83.359	19, 20, and 23.
156.350	83.359	19, 20, and 27.
156.375	83.359	19, 27, 46, 47, and 48.
156.400	83.359	19, 27, and 46.
156.425	83.359	19, 20, 28, 32, and 46.
156.450	83.359	19, 20, 27, 28, and 46.
156.475	83.359	19, 20, 28, and 32.
156.500	83.359	19, 20, and 27.
156.525	83.359 and 83.361.	19, 28, 30, and 46.
156.550	83.359 and 83.361.	19, 20, 27, and 35.
156.575	83.359	19, 20, 28, and 32.
156.600	83.359 and 83.361.	19, 20, 23, and 35.
156.625	83.359	19, 28, 30, and 46.
156.650	83.359	19, 20, 24, 31, and 36.
156.675	83.359	19, 20, and 23.
156.700	83.359 and 83.361.	19, 20, 23, and 35.
156.725	83.359	19, 20, and 23.
156.750	83.359	25.
156.800	83.106, 83.233, and 83.359.	19, 20, 21, and 46.
156.850	83.359	19, 20, 26, and 34.
156.875	83.359	19, 23, and 40.
156.900	83.359	19, 20, 27, and 46.
156.925	83.359	19, 20, 28, and 32.
156.950	83.359	19, 20, and 27.
156.975	83.359	19, 20, and 27.
157.000	83.359	19, 20, and 23.
157.025	83.359	19, 10, and 27.
157.100	83.359	3, 19, and 20.
157.200	83.359	18, 20, and 29.
157.225	83.359	18, 20, and 29.
157.250	83.359	18, 20, and 29.
157.275	83.359	18, 20, and 29.

Carrier frequency	Conditions of use	
	Section	Limitations
157.300	83.359	18, 20, and 29.
157.325	83.359	29.
157.350	83.359	18, 20, and 29.
157.375	83.359	18 and 29.
157.400	83.359	18, 20, and 29.
157.425	83.359	19, 27, 33, 45, and 46.
216-220	83.1105	7.

(b) The authorization and use of the carrier frequencies in paragraph (a) of this section shall be in accordance with the following limitations and conditions.

Old section	New section
1	1
3	2
6	3
8	4
9	5
10	6
11	7
12	8
13	9
23	10
25	11
26	12
29	13
30	14
34	15
36	16
37	17
38	18
40	19
41	20
43	21
44	22
45	23
46	24
47	25
48	26
49	27
50	28
51	29
52	30
53	31
54	32
55	33
57	34
58	35
59	36
61	37
62	38
63	39
64	40
66	41
67	42
68	43
72	44
75	45
76	46
77	47
78	48

* * * * *

Sections 83.351(b) (2), (4), (5), (7), (14), (15), (16), (18), (19), (20), (21), (22), (24), (27), (28), (31), (32), (33), (35), (39), (42), (56), (60), (65), (69), (70), (71), (73) and (74) are removed.

2. Section 83.354, including its heading, is revised to read as follows:

§ 83.354 Frequencies available for communication with public coast stations on frequencies between 4000 and 23000 kHz.

The following frequencies are authorized for use by ship stations for communications with high seas public coast stations.

Coast station location	Channel designation	Ship carrier frequency (kHz)	
		Transmit	Receive
San Francisco, CA	401	4063.0	4357.4
	416	4109.5	4403.9
	417	4112.6	4407.0
	804	8204.3	8728.2
	809	8219.8	8743.7
	814	8235.3	8759.2
	822	8260.1	8784.0
	1201	12,330.0	13,100.8
	1202	12,333.1	13,103.9
	1203	12,336.2	13,107.0
	1229	12,416.8	13,187.6
	1230	12,419.9	13,190.7
	1602	16,463.1	17,236.0
	1603	16,466.2	17,239.1
	1616	16,506.5	17,279.4
	1624	16,531.3	17,304.2
	2214	22,040.3	22,636.3
	2223	22,068.2	22,664.2
	2228	22,083.7	22,679.7
	2236	22,108.5	22,704.5
New York, NY	410	4090.0	4385.3
	411	4094.0	4388.4
	416	4109.5	4403.9
	422	4128.1	4422.5
	808	8216.7	8740.6
	811	8226.0	8749.9
	815	8238.4	8762.3
	826	8275.5	8796.4
	1203	12,336.2	13,107.0
	1210	12,357.9	13,128.7
	1211	12,361.0	13,131.8
	1228	12,413.7	13,184.5
	1230	12,419.9	13,190.7
	1605	16,472.4	17,245.3
	1620	16,518.9	17,291.8
	1626	16,537.5	17,310.4
	1631	16,553.0	17,325.9
	2201	22,000.0	22,596.0
	2205	22,012.4	22,608.4
	2210	22,072.9	22,623.9
	2236	22,108.5	22,704.5
Miami, FL	403	4069.2	4363.6
	412	4097.1	4391.5
	417	4112.6	4407.0
	423	4131.2	4425.6
	802	8198.1	8722.0
	805	8207.4	8731.3
	810	8222.9	8746.8
	814	8235.3	8759.2
	825	8269.4	8793.3
	831	8288.0	8811.9
	1206	12,345.5	13,116.3
	1208	12,351.7	13,122.5
	1209	12,354.8	13,125.6
	1215	12,373.4	13,144.2
	1223	12,396.2	13,169.0
	1230	12,419.9	13,190.7
	1601	16,460.0	17,232.9
	1609	16,484.8	17,257.7
	1610	16,487.9	17,260.8
	1611	16,491.0	17,263.9
	1616	16,506.5	17,279.4
	2215	22,043.4	22,639.4
	2216	22,046.5	22,642.5
	2222	22,065.1	22,661.1
Mobile, AL	405	4075.4	4369.8
	414	4103.3	4397.7
	419	4118.8	4413.2
	824	8266.3	8790.2
	829	8281.8	8805.7
	830	8284.9	8808.8
	1212	12,364.1	13,134.9
	1225	12,404.4	13,175.2
	1226	12,407.5	13,178.3
	1607	16,478.6	17,251.5
	1632	16,556.1	17,329.0
	1641	16,584.0	17,356.9
	2227	22,080.6	22,676.6
	2231	22,093.0	22,689.0
	2237	22,111.6	22,707.6
Honolulu, HI	418	4115.7	4410.1
	808	8216.7	8740.6
	1222	12,359.1	13,165.9
	1601	16,460.0	17,232.9
St. Thomas, VI[1]	604	6209.3	[2] 6515.7
	605	6212.4	6518.8
	1602	16,463.1	17,236.0
	1603	16,466.2	17,239.1
	2223	22,068.2	22,664.2
Declambre, LA	404	4072.3	4366.7
Rogers City, MI[2]	405	4075.4	4369.8
Lorain, OH	409	4087.8	4382.2
Buffalo, NY	418	4115.7	4410.1
Buffalo, NY	826	8272.5	8796.4
Lorain, OH	826	8272.5	8796.4

[1] Provisional assignment pending allotment of frequencies to Virgin Islands in Article 16 proceeding.
[2] Provisional assignment of frequencies pending allotment to U.S. Central in Article 16 proceeding.

3. Section 83.355, including its heading, is revised to read as follows:

§ 83.355 Frequencies available for communications with public coast stations operating in the band between 1605 and 4000 kHz.

(a) The following frequencies are authorized for use by ship stations for communication with regional public coast stations, as indicated below:

Coast station located in the vicinity of	Ship carrier frequency (kHz)		Conditions of use
	Transmit	Receive	
Agana, GU	2009	2506	
Boston, MA	2386	2450	
	2406	2506	
	2390	2566	(2).
New York, NY	2382	2482	(1).
	2126	2522	
	2166	2558	
	2198	2590	
Wilmington, DL	2166	2558	
Baltimore, MD	2400	2400	
Norfolk-Quantico, VA	2366	2450	(2).
	2142	2538	
Charleston, SC-Jacksonville, FL	2390	2566	
Miami, FL	2406	2442	(2).
	2031.5	2490	
	2118	2514	
Tampa, FL	2009	2466	
	2158	2550	(3).
Mobile, AL	2430	2572	
New Orleans, LA	2382	2482	
	2166	2558	(2).
	2206	2598	
Delcambre, LA	2458	2506	(2).
Galveston, TX	2366	2450	(2 and 4).
	2134	2530	
Corpus Christi, TX	2142	2538	(5).
Ponce, PR	2086	2585	
San Juan, PR	2134	2530	
Buffalo, NY	2118	2514	
Rogers, City, MI	2158	2550	
	2206	2582	(9).
Los Angeles-San Diego, CA	2382	2466	
	2126	2522	7 a.m. to 7 p.m., P.s.t. only.
	2009	2566	
	2206	2598	7 a.m. to 7 p.m., P.s.t. only.
San Francisco-Eureka, CA	2003	2450	(7).
	2406	2506	
Astoria, OR	2009	2442	Day only.
Astoria-Portland, OR	2206	2598	

Coast station located in the vicinity of	Ship carrier frequency (kHz)		Conditions of use
	Transmit	Receive	
Coos Bay, OR	2031.5	2566	7 a.m. to 7 p.m., P.s.t. only.
Seattle, WA	2126	2522	
	2430	2482	(8).
Kahuku, HI	2134	2530	
St. Thomas Island, Vi.	2009	2506	8 a.m. to 9 p.m., A.s.t. only.

(1) Available on the condition harmful interference is not caused to the service of any coast station located in the vicinity of New Orleans, La.
(2) Day only.
(3) Unlimited hours of use from December 15, to April 1, annually, and day only for April 1 to December 15, annually, on the condition that harmful interference shall not be caused to the service of any ship station in the Great Lakes area.
(4) Available on the condition that harmful interference is not caused to the service of any coast station located in the vicinity of Boston, Mass., or San Francisco-Eureka, California.
(5) Available on the condition that harmful interference is not caused to the service of any station located in the vicinity of Norfolk-Quantico, Va.
(6) Available on the condition that harmfull interference is not caused to the service of any coast station located in the vicinity of Tampa, Fla., or any ship station located in the vicinity of New Orleans.
(7) Available on the condition that harmfull interference is not caused to any ship station located in the vicinity of Los Angeles or San Diego, Calif.
(8) Authorized for use south of 51 degrees north latitude and east of 142 degrees west longitude exclusively during the following daily periods on the condition that harmful interference is not caused to the service of any station in the Alaska area to which this carrier frequency is assigned: Annually from April 1 to September 30, inclusive, from 5 a.m. to 9 p.m., P.s.t., only; and annually from October 1 to March 31, inclusive, from 6 a.m. to 11 p.m., P.s.t. only.
(9) Not available to U.S. ship stations for transmission, except in the case of a distress.

4. A new § 83.356 is added, to read as follows:

§ 83.356 Frequencies below 27.5 MHz available for use on inland waterways.

The following frequencies are authorized for use by ship stations in a simplex mode for communication with coast stations on inland waterways, as indicated below:

Coast station location	Carrier frequency (kHz)
Jeffersonville, IN-Louisville, KY	[1] 2086.0
	2782.0
	4115.7
	6518.8
	8725.1
	13,103.9
	17,291.8
Memphis, TN	[1] 2086.0
	2782.0
	4087.8
	6209.3
	8201.2
	12333.1
	16518.9
Cincinnati, OH	[1] 2086.0
	2782.0
	4063.0
	6515.7
	8213.6
	12,333.1
	16,518.9
St. Louis, MO	[1] 2086.0
	2782.0
	4410.1
	6212.4
	8737.5
	13,103.9
	17,291.8

[1] Limited to a maximum output power of 150 watts (PEP).

5. Section 83.370, including its heading, is revised to read as follows:

§ 83.370 Frequencies below 27.5 MHz available in Alaska.

(a) The carrier frequencies set forth in the following table are authorized for use by ship stations for communications with common carrier coast stations in Alaska.

Coast station location	Carrier frequency (kHz)	
	Transmit	Receive
Cold Bay	2134	2312
Cordova	2237	2397
Juneau	2240	2400
Ketchikan	2237	2397
Kodiak	2131	2309
Nome	2240	2400
Sitka	2134	2312

(b) The carrier frequencies set forth in the following table are authorized for use by ship stations for communication with public coast stations, other than common carrier, in Alaska. Frequencies designated for use in a zone of the Alaska area are available only to coast stations located in that zone.

Alaska zone	Carrier frequency [1] (kHz)
All	1619
	1622
	2379
	2382
	4397.7
	4425.6
1	1646
	1709
	2006
	2419
	2512
	2566
	2616
	3261
	4403.9
2	1649
	2115
	2430
	2509
	2538
	4422.5
3	1705
	2422
	2450
	2479
	2512
	2535
	4369.8
4	1643
	1705
	2118
	2427
	2447
	2482
	2509
	2563
	3261
	4366.7
5	1652
	1712
	2003
	2430
	2506
	2566
	3258
	4422.5
6	1646
	2450
	2482
	2506
	4403.9

[1] Subject to the limitations of § 83.351.

§ 83.371 [Removed]

6. Section 83.371 is removed.

§ 83.372 [Removed]

7. Section 83.372 is removed.

[FR Doc. 83-13448 Filed 5-18-83; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 385

[BMCS Docket No. MC-102; Amdt. No. 81-10]

Federal Motor Carrier Safety Regulations; Motor Carrier Safety Ratings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: In response to petitions, the FHWA is amending the Federal Motor Carrier Safety Regulations (FMCSR) to eliminate the automatic elevation of a carrier's rating from "insufficient information" to "satisfactory," and to provide that the initial safety rating be made by the Chief, Operations Division, Bureau of Motor Carrier Safety. These revisions are being made in response to petitions for reconsideration filed following the issuance of the final rules that were issued by the Bureau of Motor Carrier Safety (BMCS) in Docket No. MC-102; Amdt. No. 81-4 and published in the **Federal Register** of June 17, 1982 (47 FR 26135). These revisions are primarily nonsubstantive in nature and concern practices and procedures relating to the internal organization of the FHWA. Although no comment period is required, the FHWA is providing a period of time for the submission of comments.

DATES: Effective May 19, 1983. All comments must be received on or before July 15, 1983.

ADDRESS: Submissions to Docket No. MC-102; Amdt. No. 81-10, should be addressed to the Bureau of Motor Carrier Safety, Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety (BMCS), (202) 426-9767, or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Petitions for reconsideration and stay of the effective date of the final rule on motor carrier safety ratings were filed by (1) the American Trucking Associations, Inc. (ATA) on behalf of its member State associations and its affiliated conference, the Regular Common Carrier Conference (RCCC) and (2) the National Tank Truck Carriers, Inc. (NTTC).

The ATA's particular concern was the BMCS' treatment of the "insufficient information" rating of motor carriers. Section 385.1(b)(4) currently states that, in the event the rating has not been changed to either "unsatisfactory" or "conditional" within a year of the date it is assigned, it will be automatically changed to a "satisfactory" rating.

In issuing the rule, it was felt that a "satisfactory" rating was inappropriate for new entrants because, although there was, in fact, no adverse information, there also had been no opportunity to collect or receive such information. To automatically rate such carriers as "satisfactory" after one year, would be unfair to carriers making substantial investments to maintain satisfactory compliance for appreciable periods of time prior to the new applicant's entry into the motor carrier population. Further, and "unsatisfactory" or "conditional" rating was not warranted as those terms are currently defined. Thus, the "insufficient information" rating should be continued for new entrants upon which no information as to safety compliance is available.

Upon reconsideration, it has been determined that the absence of adverse information as an indication of a satisfactory degree of compliance could result in an unsafe carrier being rated as "satisfactory." Action is being taken to change 49 CFR 385.1(b). Carriers assigned an "insufficient information" rating will retain such a rating until the BMCS receives definite positive or negative information upon which to base a rating change.

The NTTC holds that the final rules on motor carrier safety ratings are (1) procedurally deficient in comparison to the concepts outlined in the notice of proposed rulemaking (NPRM) (Docket No. MC–88; Notice No. 79–7, 44 FR 67193, November 23, 1979), in that there was no indication in the NPRM that ratings would be available to any interested party upon request (public comment to the final rules was precluded); (2) discriminatory in that they prejudice the interests of the for-hire sector versus those of the new entrant; and (3) permit unfettered discretion by the Administrator without an appropriate appeal and/or proper due process.

The issue of the availability of safety ratings was not addressed in the NPRM. It was apparent from a review of the comments to the NPRM that there was widespread misunderstanding of long-standing Bureau policies concerning the release of safety ratings to parties requesting them. In issuing the final rules, it was hoped that any misconception of these policies would be cleared up. The FHWA is providing a period of time for submission of comments to this rulemaking action.

The scope of the rulemaking was limited to the codification of the factors used when assigning a safety rating, in accordance with Section 1653(e) of the Department of Transportation (DOT) Act, to carriers seeking operating authority from the Interstate Commerce Commission (ICC). However, as a matter of practice, the rating procedure is not intended to be limited solely to the regulated for-hire segment of the motor carrier industry and ratings will be assigned to all classes of motor carriers subject to FHWA jurisdiction as resources allow.

Petitioners also asserted that if the Director continues to be both the initial and subsequent (on review) determinator of the rating assigned, the requisite degree of objectivity during the review process would be nonexistent. The petitioners' contention has merit. Accordingly, the authority for initial determination and reporting of a carrier's safety rating will lie with the Chief, Operations Division while the Director retains authority to act on appeals from the initial determination.

These rules concern practices and procedures relating to the internal organization of the FHWA, and are necessary to ensure enforcement of the FMCSR. Since the changes being adopted in this document are primarily nonsubstantive in nature, the FHWA finds good cause to make this amendment final without prior notice and opportunity for comment and without a 30-day delay in effective date required by the Administrative Procedure Act. Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information. Accordingly, the amendments are effective upon issuance. Although no comment period is required, the FHWA is providing a period of time for the submission of comments. All comments must be received on or before July 15, 1983. Submissions to Docket No. MC–102; Amdt No. 81–10, should be addressed to the Bureau of Motor Carrier Safety, Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the policies and procedures of the Department of Transportation. The economic impact, if any, anticipated as a result of this action is so minimal, a full regulatory evaluation is not required.

For the foregoing reasons, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 385

Motor carriers—safety ratings.

PART 385—[AMENDED]

In consideration of the foregoing, 49 CFR Part 385 is revised as follows.

1. 49 CFR 385.1(b)(4) is revised to read as follows:

§ 385.1 Definition of motor carrier safety rating.

* * * * *

(b) * * *

(4) Insufficient information—There is no current information available to the BMCS upon which to base a rating.

2. 49 CFR 385.5 (a) and (b) are revised to read as follows:

§ 385.5 Determination of safety ratings.

(a) Ratings will be determined by the Chief, Operations Division, Bureau of Motor Carrier Safety.

(b) In determining comparative carriers, the Chief, Operations Division will pick carriers based on one or more of the following identifiers: commodity transported, type of operation (ICC—Common, ICC—Contract, exempt, private), geographic area served, and size of carrier by number of power units operated or drivers used on regular/irregular route.

(49 U.S.C. 304, 1655; 49 CFR 1.48(b) and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: May 12, 1983.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

[FR Doc. 83-13473 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

49 CFR Parts 565 and 571

[Docket No. 1-22; Notice 12]

Federal Motor Vehicle Safety Standards; Vehicle Identification Number

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

ACTION: Final rule.

SUMMARY: This notice amends Federal Motor Vehicle Safety Standard No. 115, *Vehicle Identification Number*, by deleting portions of that standard and reissuing those portions as a general agency regulation. This is being taken in response to a petition from the Motor Vehicle Manufacturers Association (MVMA). It is intended to assure that the recall and remedy provisions of the National Traffic and Motor Vehicle Safety Act ("the Act") do not apply to certain errors in vehicle identification numbers (VIN's) which are minor and have no safety consequences. The basic substantive requirements of Standard 115 are unchanged by this action.

DATE: This action is effective on June 20, 1983.

FOR FURTHER INFORMATION CONTACT: Roger Fairchild, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2992).

SUPPLEMENTARY INFORMATION: The VIN is that unique number assigned each vehicle during production by the manufacturer for purposes of identification and inventory control. The VIN has other users. A variety of other organizations use the VIN for such purposes as vehicle registration, insurance rating, and theft investigation. NHTSA uses the VIN in its safety research and investigation activities.

In 1968, Federal Motor Vehicle Safety Standard (FMVSS) 115 was adopted, specifying that each passenger car must be assigned a unique VIN. In 1979, FMVSS 115 was extended to cover motor vehicles other than passenger cars. Also, a uniform, 17-character format for VIN's was then established, specifying coded information such as the identity of the manufacturer, vehicle, make, type of vehicle, various vehicle attributes, model year, plant of manufacture, and production sequence. The VIN also contains a check digit which aids in the detection of errors in the transcription of VIN's by the users of the numbers.

On June 13, 1980, MVMA petitioned this agency to withdraw FMVSS 115 and re-issue its provisions in the form of a general agency regulation. The significance of this change stems from section 152 of the Act (15 U.S.C. 1412), which provides that whenever the Secretary of Transportation determines that vehicle does not comply with a FMVSS, the Secretary must require the vehicle's manufacturer to notify the owners, purchasers, and dealers of the vehicle of that noncompliance and to remedy the noncompliance. However, in the case of a noncompliance with a regulation other than a FMVSS, the notification and remedy requirements of the Act do not apply. For those noncompliances, more flexible methods of enforcement are permittted.

MVMA sought to assure through its requested amendment that errors in the assignment of VIN's would not trigger the recall and remedy provisions of the Act. Requiring that errors in assigned VIN's must be physically corrected would be undesirable in most cases for two reasons. First, correcting the errors would be an expensive and burdensome process, whose possible benefits would be greatly outweighed by the costs. These burdens and costs are discussed in the NPRM. In most cases, simply providing information on the nature of the error to users of the VIN's would solve any problems caused by the incorrect VIN. Second, changing a previously assigned VIN could create anti-theft problems. Law enforcement authorities consider the presence of an altered VIN in a vehicle to be an indication that the vehicle has been stolen. If VIN's were frequently altered lawfully, it would be more difficult for the police to detect stolen vehicles. Further, if the equipment necessary to alter VIN's were widely available (such as at all auto dealers, as might be necessary to conduct a recall and remedy campaign), thieves' access to such equipment would be greatly increased. Law enforcement authorities have consistently recommended to NHTSA that VIN numbers, once assigned, should not be altered for any reason, even if the original number was incorrect.

The only exception to the recall requirement is contained in section 157 of the Act (15 U.S.C. 1417) which authorizes exemptions from these requirements based on a demonstration that the noncompliance is inconsequential as it relates to safety. This authority could be used to relieve a manufacturer of the necessity of conducting a recall and remedy campaign to correct minor VIN errors. Minor labeling errors were among the examples given in the legislative history of the provision for the sorts of errors that are inconsequential. While exemptions might well be given under section 157 for minor VIN errors, the necessity of conducting the exemption proceedings for such errors imposes an excessive administrative burden. The amendments made by this notice eliminate that burden.

MVMA suggested that one possible consequence of a change in the status of the VIN provisions might be a loss or narrowing of Federal preemption. Under section 103(d) of the Act (15 U.S.C. 1392(d)), whenever a FMVSS is in effect, no State may establish or maintain a requirement applicable to the same aspect of performance unless the State requirement is identical to the FMVSS. The removal of various VIN requirements from FMVSS 115 removes them also from the operation of section 103(d). Recognizing this and the clear undersirability of having differing VIN requirements established by the States, MVMA modified its petition on April 18, 1982. In its modified petition, MVMA requested that only certain VIN provisions be shifted from the standard to the regulation. Requirements establishing the fundamental characteristics of the VIN, such as its length, location, and readability, would remain in the standard. Under the amended petition, the content of the VIN would be specified in the VIN regulation. The combined standard/regulation scheme is intended to remove the threats of potentially costly recall campaigns to correct minor VIN errors or of inconsequentiality proceedings, while ensuring that the preemptive effect of the FMVSS is still maintained for the more significant requirements.

After reviewing the MVMA petition, the agency tentatively concluded that MVMA's suggested regulatory changes have merit, and proposed to adopt those changes. See 47 FR 42004, September 23, 1982. (The agency believes that general principles of Federal preemption are sufficient to assure that the VIN regulation will preempt any inconsistent State requirements.) Based on further review of that petition and the comments received on the September notice of proposed rulemaking (NPRM), the agency is herein adopting these changes in final form.

Comments on the NPRM

Virtually all the comments received on the September NPRM supported the proposed changes to FMVSS 115. However, several commenters suggested slight changes or clarifications to the proposed regulatory language. The most

controversial aspect of the proposal was the provision which would exempt from certain VIN requirements vehicles imported into the United States under bond, which do not meet U.S. standards, but which will subsequently be modified to meet those standards. As a practical matter, this provision applies to individuals or organizations which import small numbers of vehicles. Several commenters expressed the fear that this provision could result in the importation of large numbers of vehicles (such as by a foreign manufacturer) with nonconforming VIN's. These commenters suggested that the exemption be limited to a maximum of 5 vehicles per year per individual. While the agency agrees that the exemption should not be applied to an actual manufacturer, it cannot justify selecting any particular arbitrary limit, such as five vehicles, to exclude larger commerical organizations. However, in response to these comments, the agency is amending this provision to exclude actual manufacturers of vehicles and their subsidiaries.

Several commenters also suggested that information on VIN errors should be provided to the National Crime Information Center (NCIC, part of the Federal Bureau of Investigation) and the National Automobile Theft Bureau (NATB, a private organization affiliated with the insurance industry). These organizations could enter the information in their computer systems, thereby making it available to State motor vehicle administrations, law enforcement organizations, and other VIN users. The agency agrees that taking this step would help assure that VIN users would have complete and accurate information on the VIN's which are actually assigned by the vehicle manufacturers. Accordingly, NHTSA will establish an internal procedure for routinely transmitting VIN error information to NCIC and NATB.

Most commenters also suggested that the agency define the term "trailer kit" and specify in the regulation the agency's previously established policy, i.e., that trailer kits are subject to the same VIN requirements as trailers. The agency believes that making these changes is appropriate, and is adopting a definition of trailer kits based on language in 49 CFR 567.4(g). "Trailer kits" are defined as a trailer which is delivered in complete but unassembled form, and which can be assembled without special machinery or tools.

MVMA suggested that the "trailer kit" definition should be added to the definitions in the beginning of Part 571. Taking that action would not serve any present purpose, since the term is apparently not used in any other FMVSS. MVMA also suggested incorporating all the definitions in Part 571 into FMVSS 115. The agency sees no need for this change, and making the change could have unintended effects, such as where a term's definition in one standard is inappropriate for use in FMVSS 115. Therefore, these recommendations were not adopted.

The International Association of Chiefs of Police and the NATB also suggested that the agency define the term "glider kit" and specify that VIN requirements are applicable to glider kits. Typically, a glider kit is a new truck cab, frame rails, and front suspension without drive train (engine, transmission, and rear axle). The treatment of combinations of new and used components in a single vehicle is currently specified in 49 CFR 571.7. Under that provision, the addition of a new cab, frame rail, and front suspension is deemed to create a new vehicle subject to all applicable safety standards in effect as of the date of remanufacture, unless the engine, transmission, and drive axle (as a minimum) of the assembled vehicle are not new and at least two of those listed components were taken from the same vehicle. Thus, in many situations, the use of a new glider kit would not require that a new VIN be affixed to the assembled vehicle. Further, it would be difficult for the glider kit manufacturer to assign a VIN, as suggested by the two commenters, since a truck VIN must contain coded information regarding the engine type, and the glider kit manufacturer would not generally know what type of engine would be used with a particular kit. Therefore, the agency is not adopting the provisions suggested by these two commenters, and will instead rely on the existing regulations for dealing with glider kits.

The Iowa Department of Transportation objected to the practice of some motorcycle manufacturers of stamping a portion of the VIN on motorcycle frames. The Iowa agency points out that this practice could cause confusion as to which number is the actual VIN. NHTSA has taken the position that, so long as the vehicle manufacturer complies with all requirements in FMVSS 115 with regard to the specified 17 character number, these manufacturers may affix other numbers to the motorcycles for their own purposes. Currently, NHTSA cannot justify altering this policy. However, should we become aware of substantial numbers of incidents where the use of this supplementary number has undermined the Federal VIN system, we may consider prohibiting these supplementary numbers, requiring that supplementary numbers must be the same 17 character number as the VIN, or some clarifying labeling where other than the VIN is used. The NCIC objected to the exemption of farm equipment from VIN requirements. The VIN requirements, like all of the FMVSS, apply only to "motor vehicles", i.e., vehicles which are manufactured primarily for use on the public roads, consistent with the scope of the agency's regulatory authority under the Act. See section 102(3) of the Act. The agency lacks the authority to regulate vehicles which are principally used off the public roads, such as the vehicles cited by these two commenters. Should the States decide to apply VIN requirements to such vehicles as a matter of State law, NHTSA would have no objection.

Ford Motor Company and the MVMA pointed out that the requirement that VIN's affixed to vehicles must have a letter height of at least 4 millimeters should only apply to passenger cars and trucks with a gross vehicle weight rating of 10,000 pounds or less as the requirement has ever since it was established. In the NPRM, this requirement was inadvertently applied to all motor vehicles. The error is corrected in the final rule.

MVMA also requested that the new VIN regulation maintain the requirement that, for manufacturers of under 500 vehicles per year, the third character of the VIN must be the number 9. The agency deleted this provision, since prior to its amendment today, FMVSS 115 gave the erroneous impression that vehicle manufacturers selected the world manufacturer identifier (WMI) portion of their VIN's. In fact, the Society of Automotive Engineers assigns those characters for U.S. manufacturers. The deletion of the phrase specifying the third character of the VIN for small manufacturers in no way changes the intended numbering system—SAE will continue to assign WMI's as it has in the past.

The American Association of Motor Vehicle Administrators has requested that NHTSA re-emphasize that vehicle manufacturers must submit and update deciphering information on their VIN systems. This final rule continues to provide that at least 60 days prior to affixing any VIN, or, when information is unavailable at that time, within one week after it becomes available, each manufacturer must submit information necessary to decipher its VIN system. This requirement, which has been in

effect since January 1981, applies to both the original submission of deciphering information and to updates of that information as new products are offered by the manufacturer. It is the manufacturer's responsibility to assure that deciphering information provided to NHTSA is current.

Ford Motor Company argued that sections 108 and 152 of the Act, which the agency listed as part of the legal authority for the new VIN regulation, are not appropriate authority for this action. Section 108 was cited as authority merely to point out that, in conjunction with the reference to section 112 as authority for the action, failure to comply with the VIN regulation would be enforceable as a violation of section 108(a)(1)(E) of the Act. The reference to section 152 is included to point out that the regulation is issued to facilitate carrying out the recall provisions of section 152 of the Act. The NPRM should also have included (and this final rule includes) a reference to the safety research authority of section 106 of the Act, a major use of the VIN information.

This action is being made effective June 20, 1983. This relatively expedited effective date is in the public interest since it will quickly remove the potential problem of unwarranted VIN-related recalls.

The principal impact of this action is to remove this threat of an unduly burdensome recall requirement to correct VIN errors. The new Part 565 would not have any requirements not in FMVSS 115 prior to today. The agency anticipates that the manufacturers will continue to assign VIN's in the same manner regardless of whether VIN requirements take the form of a safety standard or a regulation. Further, the agency anticipates that the corrective action required in case of erroneous VIN's would not essentially differ as a result of this proposed change, since only in extreme cases can the agency envision having to order a vehicle recall.

This action should have a small positive impact on foreign trade, since it removes the threat to foreign manufacturers of a potentially burdensome recall campaign to correct minor VIN errors. Also, the exemption of vehicles imported under bond will have a small positive impact on foreign trade.

The agency has concluded that the environmental consequences of this action will be of such limited scope that they clearly will not have a significant effect on the quality of the human environment; that this proposal does not qualify as a "major rule" within the meaning of Executive Order 12291; and that due to its minimal cost impacts, this rule is not "significant" within the meaning of the Department's regulatory procedures. Therefore, preparation of neither a regulatory analysis nor full regulatory evaluation is necessary for this action. The agency notes this rulemaking action should have a small, positive impact on small firms—particularly small manufacturers and small importers. This regulation provides relief to small manufacturers from the generally applicable 60-day VIN prenotification requirements in the case of orders for unique vehicle configurations. The agency is also exempting small importers (principally individuals importing one vehicle for their own use) from certain VIN format and content requirements. Given the relatively minor economic consequences of these changes, I certify that this action will have no significant economic impact on a substantial number of small entities, including small organizations or governmental units. These changes should have no impact on vehicle prices. For this reason and because VIN's will continue to be assigned to new vehicles as before, the agency does not anticipate any impacts on small organizations or governmental units. Accordingly, no Regulatory Flexibility Analysis has been prepared.

Paperwork Reduction Act

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act (Pub. L. 96–511) and have been assigned OMB Control Number 2127–0051.

List of Subjects in 49 CFR Parts 565 and 571

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

Issued at May 13, 1983.

Raymond A. Peck, Jr.,

Administrator.

For the reasons stated above, the agency is amending Chapter V of Title 49 of the Code of Federal Regulations as follows:

1. A new Part 565 is added, reading as follows:

PART 565—VEHICLE IDENTIFICATION NUMBER—CONTENT REQUIREMENTS

Sec.

Authority: Secs. 106, 108, 112, 119, 152, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1395, 1397, 1401, 1407, and 1412); delegations of authority at 49 CFR 1.50 and 501.8.

§ 565.1 Purpose and scope.

This regulation specifies the format and content for a vehicle identification number (VIN) system to simplify vehicle identification information retrieval and increase the accuracy and efficiency of vehicle defect recall campaigns.

§ 565.2 Applicability.

This regulation applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers (including trailer kits), incomplete vehicles and motorcycles. Vehicles imported into the United States under 19 CFR 12.80(b)(1)(iii), other than by a corporation which was responsible for the assembly of that vehicle or a subsidiary of such a corporation, are exempt from the requirements of this Part.

§ 565.3 Definitions.

(a) Statutory Definitions: All terms used in this part that are defined in section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391) are used as defined in the Act.

(b) Motor Vehicle Safety Standard Definitions: Unless otherwise indicated, all terms used in this part that are defined in 49 CFR 571.115 are used as defined therein.

(c) "Body Type" means the general configuration or shape of a vehicle distinguished by such characteristics as the number of doors or windows, cargo-carrying features and the roofline (e.g., sedan, fastback, hatchback).

(d) "Engine Type" means a power source with defined characteristics such as fuel utilized, number of cylinders, displacement, and net brake horsepower. The specific manufacturer and make shall be represented if the engine powers a passenger car or a multipurpose passenger vehicle, or truck with a gross vehicle weight rating of 10,000 pounds or less.

(e) "Line" means a name which a manufacturer applies to a family of vehicles within a make which have a degree of commonality in construction, such as body, chassis or cab type.

(f) "Make" means a name which a manufacturer applies to a group of vehicles or engines.

(g) "Model" means a name which a manufacturer applies to a family of vehicles of the same type, make, line, series, and body type.

(h) "Model Year" means the year used to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually

produced, so long as the actual period is less than two calendar years.

(i) "Plant of manufacture" means the plant where the manufacturer affixes the VIN.

(j) "Series" means a name which a manufacturer applies to a subdivision of a "line" denoting price, size or weight identification, and which is utilized by the manufacturer for marketing purposes.

(k) "Type" means a class of vehicle distinguished by common traits, including design and purpose. Passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, incomplete vehicles, and motorcycles are separate types.

§ 565.4 General requirements.

The VIN shall consist of four sections of characters which shall be grouped accordingly:

(a) The first section shall consist of three characters which occupy positions one through three (1–3) in the VIN. This section shall uniquely identify the manufacturer, make and type of the motor vehicle if its manufacturer produces 500 or more motor vehicles of its type annually. If the manufacturer produces less than 500 motor vehicles of its type annually, those three characters along with the third, fourth and fifth characters of the fourth section shall uniquely identify the manufacturer, make and type of the motor vehicle. These characters are assigned in accordance with section 565.5(c) of this Part.

(b) The second section shall consist of five characters which occupy positions four through eight (4–8) in the VIN. This section shall uniquely identify the attributes of the vehicle as specified in Table I. For passenger cars, and for multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 10,000 pounds or less, the first and second characters shall be alphabetic and the third and fourth characters shall be numeric. The fifth character may be either alphabetic or numeric. The characters utilized and their placement within the section may be determined by the manufacturer, but the specified attributes must be decipherable with information supplied by the manufacturer in accordance with § 565.5(d) of this Part. In submitting the required information to the NHTSA relating to gross vehicle weight rating, the designations in Table II shall be utilized. The use of these designations within the VIN itself is not required.

Table I.—Type of Vehicle and Information Decipherable

Passenger car: Line, series, body type, engine type,[1] and restraint system type.
Multi-purpose passenger vehicle: Line, series, body type, engine type,[1] gross vehicle weight rating.
Truck: Model or line, series, chassis, cab type, engine type,[1] brake system and gross vehicle weight rating.
Bus: Model or line, series, body type, engine type,[1] and brake system.
Trailer, including trailer kit: Type of trailer, series, body type, length, and axle configuration.[1]
Motorcycle: Type of motorcycle, line, engine type,[1] and net brake horsepower.[1]
Incomplete vehicle: Model or line, series, cab type, engine type,[1] and brake system.

TABLE II.—GROSS VEHICLE WEIGHT RATING CLASSES

Class A	Not greater then 3,000 pounds.
Class B	3,001–4,000 pounds.
Class C	4,001–5,000 pounds.
Class D	5,001–6,000 pounds.
Class E	6,001–7,000 pounds.
Class F	7,001–8,000 pounds.
Class G	8,001–9,000 pounds.
Class H	9,001–10,000 pounds.
Class 3	10,001–14,000 pounds.
Class 4	14,001–16,000 pounds.
Class 5	16,001–19,500 pounds.
Class 6	19,501–26,000 pounds.
Class 7	26,001–33,000 pounds.
Class 8	33,001 pounds and over.

(c) The third section shall consist of one character which occupies position nine (9) in type VIN. This section shall be the check digit whose purpose is to provide a means for verifying the accuracy of any VIN transcription. After all other characters in VIN have been determined by the manufacturer, the check digit shall be calculated by carrying out the mathematical computation specified in paragraphs (c) (1) through (4) of this section.

(1) Assign to each number in the VIN its actual mathematical value and assign to each letter the value specified for it in Table III.

TABLE III.—ASSIGNED VALUES

A=1	J=1	T=3
B=2	K=2	U=4
C=3	L=3	V=5
D=4	M=4	W=6
E=5	N=5	X=7
F=6	P=7	Y=8
G=7	R=9	Z=9
H=8	S=2	

(2) Multiply the assigned value for each character in the VIN by the position weight factor specified in Table IV.

TABLE IV.—VIN POSITION AND WEIGHT FACTOR

1st	8	10th	9
2d	7	11th	8
3d	6	12th	7
4th	5	13th	6
5th	4	14th	5
6th	3	15th	4
7th	2	16th	3
8th	10	17th	2
9th (check digit)	0		

(3) Add the resulting products and divide the total by 11.

(4) The numerical remainder is the check digit. If the remainder is 10 the letter "X" shall be used to designate the check digit. The correct numerical remainder zero through nine (0–9) or the letter "X" shall appear in VIN position nine (9).

(5) A sample check digit calculation is shown in Table V.

TABLE V.—CALCULATIONS OF A CHECK DIGIT

VIN Position	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Sample VIN	1	G	4	A	H	5	9	H	.....	5	G	1	1	8	3	4	1
Assigned value	1	7	4	1	8	5	9	8	.....	5	7	1	1	8	3	4	1
Multiply by weight factor	8	7	6	5	4	3	2	10	0	9	8	7	6	5	4	3	2

Add products 8+49+24+5+32+15+18+80+0+45+56+7+6+40+12+12+2=411
Divide sum of products by 11:411/11=37⅘
Remainder is check digit #4 [insert in VIN position nine (9)]

(d) The fourth section shall consist of eight characters which occupy positions ten through seventeen (10–17) of the VIN. The last five (5) characters of this section shall be numeric for passenger cars, and for multi-purpose passenger vehicles and trucks with a gross vehicle weight rating of 10,000 pounds or less, and the last four (4) characters shall be numeric for all other vehicles.

(1) The first character of the fourth section shall represent the vehicle model

[1] Engine net brake horsepower when encoded in the VIN shall differ by no more than 10 percent from the actual net brake horsepower; shall, in the case of motorcycle with an actual net brake horsepower of 2 or less, be not more than 2; and shall, in the case of a motorcycle with an actual brake horsepower greater than 2, be greater than 2.

year. The year shall be designated as indicated in Table VI.

TABLE VI

Year	Code	Year	Code
1980	A	1997	V
1981	B	1998	W
1982	C	1999	X
1983	D	2000	Y
1984	E	2001	1
1985	F	2002	2
1986	G	2003	3
1987	H	2004	4
1988	J	2005	5
1989	K	2006	6
1990	L	2007	7
1991	M	2008	8
1992	N	2009	9
1993	P	2010	A
1994	R	2011	B
1995	S	2012	C
1996	T	2013	D

(2) The second character of the fourth section shall represent the plant of manufacture.

(3) The third through the eighth characters of the fourth section shall represent the number sequentially assigned by the manufacturer in the production process if the manufacturer produces 500 or more vehicles of its type annually. If the manufacturer produces less than 500 motor vehicles of its type annually, the third, fourth, and fifth characters of the fourth section, combined with the three characters of the first section, shall uniquely identify the manufacturer, make and type of the motor vehicle and the sixth, seventh, and eighth characters of the fourth section shall represent the number sequentially assigned by the manufacturer in the production process.

§ 565.5 Reporting requirements.

(a) Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act (Pub. L. 96–511) and have been assigned OMB Control Number 2127–0051.

(b) Manufacturers of motor vehicles subject to this regulation shall submit, either directly or through an agent, the unique identifier for each make and type of vehicle it manufactures at least 60 days before affixing the first VIN using the identifier. Manufacturers whose unique identifier appears in the fourth section of the VIN shall also submit the three characters of the first section which constitutes a part of their identifier.

(c) The NHTSA has contracted with the Society of Automotive Engineers (SAE) to coordinate the assignment of manufacturer identifiers. Manufacturer identifiers will be supplied by SAE at no charge. All requests for assignments of manufacturer identifiers should be forwarded directly to: Society of Automotive Engineers, 400 Commonwealth Avenue, Warrendale, Pennsylvania 15096, Attention: WMI Coordinator.

Any requests for identifiers submitted to NHTSA will be forwarded to SAE. Manufacturers may request a specific identifier or may request only assignment of an identifier(s). SAE will review requests for specific identifiers to determine that they do not conflict with an identifier already assigned or block of identifiers already reserved. SAE will confirm the assignments in writing to the requester. Once confirmed by SAE, the identifier need not be resubmitted to the NHTSA.

(d) Manufacturers of motor vehicles subject to the requirements of this regulation shall submit to the NHTSA the information necessary to decipher the characters contained in its VIN's. Amendments to this information shall be submitted to the agency for VIN's containing an amended coding. The agency will not routinely provide written approvals of these submissions, but will contact the manufacturer should any corrections to these submissions be necessary.

(e) The information required under paragraph (d) of this section shall be submitted at least 60 days prior to offering for sale the first vehicle identified by a VIN containing that information, or if information concerning vehicle characteristics sufficient to specify the VIN Code is unavailable to the manufacturer by that date, then within one week after that information first becomes available. The information shall be addressed to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, Attention: VIN Coordinator.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARD

2. Section 571.115 would be revised to read as follows:

Authority: Sec. 103, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392); delegation of authority at 49 CFR 1.50.

§ 571.115 Standard No. 115; Vehicle identification number—basic requirements.

S1. *Purpose and Scope.*

This standard specifies general physical requirements for a vehicle identification number (VIN) and its installation to simplify vehicle information retrieval and to reduce the incidence of accidents by increasing the accuracy and efficiency of vehicle recall campaigns. Vehicles imported into the United States under 19 CFR 12.80(b)(1)(iii) are exempt from the requirements of sections 4.1, 4.2, and 4.7 of this standard.

S2. *Application.*

This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers (including trailer kits), incomplete vehicles and motorcycles.

S3. *Definitions.*

"Check digit" means a single number or the letter X used to verify the accuracy of the transcription of the vehicle identification number.

"Incomplete vehicle" means an assemblage consisting, as a minimum, of frame and chassis structure, power train, steering system, suspension system, and braking system, to the extent that those systems are to be part of the completed vehicle, that requires further manufacturing operations, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, to become a completed vehicle.

"Trailer kit" means a trailer which is fabricated and delivered in complete but unassembled form and which is designed to be assembled without special mahinery or tools.

"Vehicle identification number" means a series of arabic numbers and roman letters which is assigned to a motor vehicle for identification purposes.

S4. *Requirements.*

S4.1 Each vehicle manufactured in one stage shall have a VIN that is assigned by the manufacturer. Each vehicle manufactured in more than one stage shall have a VIN assigned by the incomplete vehicle manufacturer. Vehicle alterers, as specified in 49 CFR 567.7, shall utilize the VIN assigned by the original manufacturer of the vehicle.

S4.2 Each VIN shall consist of seventeen (17) characters.

S4.3 A check digit shall be part of each VIN. The check digit shall appear in position nine (9) of the VIN on the vehicle and on any transfer documents containing the VIN and prepared by the manufacturer to be given to the first owner for purposes other than resale.

S4.4 The VIN's of any two vehicles manufactured within a 30-year period shall not be identical.

S4.5 The VIN of each vehicle shall appear clearly and indelibly upon either a part of the vehicle other than the glazing that is not designed to be removed except for repair or upon a separate plate or label which is permanently affixed to such a part.

S4.6 The VIN for passenger cars, multipurpose passenger vehicles, and trucks of 10,000 pounds or less GVWR shall be located inside the passenger compartment. It shall be readable, without moving any part of the vehicle, through the vehicle glazing under daylight lighting conditions by an observer having 20/20 vision (Snellen) whose eye-point is located outside the vehicle adjacent to the left windshield pillar. Each character in the VIN subject to this paragraph shall have a minimum height of 4 mm.

S4.7 Each character in each VIN shall be one of the Arabic or Roman letters set forth in Table 1.

TABLE 1

Numbers:	
	1234567890
Letters:	
	ABCDEFGHJKLMNPRSTUVWXYZ

All spaces provided for in the VIN must be occupied by a character specified in Table 1.

S4.8 The type face utilized for each VIN shall consist of capital, sanserif characters.

[FR Doc. 83-13516 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 574

[Docket No. 70-12; Notice 24]

Tire Identification and Recordkeeping; Interim Final Rule and Request for Comments

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

ACTION: Interim final rule and request for comments.

SUMMARY: In October 1982, Congress adopted an amendment to the National Traffic and Motor Vehicle Safety Act of 1966 (the Safety Act) regarding tire registration requirements of 49 CFR Part 574, *Tire identification and recordkeeping.* Those requirements are intended to provide tire manufacturers and brand name owners with the names of tire purchasers so that the purchasers can be notified in the event that their tires are determined to contain a safety defect or to fail to comply with a safety standard.

The amendment prohibits this agency from requiring independent tire dealers and distributors (i.e., those whose business is not owned or controlled by a tire manufacturer or brand name owner) to comply with the existing tire registration requirements in Part 574. All other tire dealers and distributors must continue to comply with those requirements.

The prohibition regarding independent dealers and distributors is self-executing and became effective on the date of enactment, October 15, 1982. In place of the existing requirements, the amendment directed the Secretary of Transportation to require each of those dealers and distributors to furnish a registration form to each tire purchaser after the dealer or distributor has first filled in the tire identification number(s) of the tire(s) sold on the form. Purchasers wishing to register their tires may then do so by filling in their name on the form and mailing the completed form to the tire manufacturer or brand name owner. Because the new statutory requirements regarding registration of tires sold by independent dealers and distributors are not self-executing, they do not affect those dealers and distributors until this agency has issued and put into effect a rule adopting those requirements. This rule accomplishes that result.

The Safety Act amendment also requires that the agency specify the format and content of the forms to be used in complying with the new requirements. This rule sets forth those specifications.

DATES: This rule is effective beginning June 20, 1983. Comments on this rule must be received by NHTSA on or before July 5, 1983.

ADDRESS: All comments on this notice should refer to Docket No. 70-12, Notice 24, and be submitted to Docket Section, Room 5109, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. (The Docket Section is open to the public from 8:00 AM to 4:00 PM, Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Arturo Casanova, Office of Vehicle Safety Standards, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1715).

SUPPLEMENTARY INFORMATION: Prior to the enactment of the Motor Vehicle Safety and Cost Savings Authorization Act of 1982 (hereinafter referred to as the Authorization Act) (Pub. L. 97-311), all tire dealers and distributors were required by 49 CFR Part 574, *Tire identification and recordkeeping*, to register all sales of new tires. Under that regulation, NHTSA required dealers and distributors to write specified information (i.e., the purchaser's name and address, the dealer's name and address, and the identification numbers of the tires) on a registration form and send the completed form to the tire manufacturer, brand name owner (hereinafter referred to as "tire manufacturer") or its designee.

Tire registration provisions of the Authorization Act. Compliance with the requirement for mandatory registration was uneven. While virtually all tires on new vehicles were registered, slightly less than half of all replacement tires were registered. In its report on the Authorization Act, the House Committee on Energy and Commerce found that dealers and distributors whose business was owned or controlled [1] by a tire manufacturer registered between 80 and 90 percent of the replacement tires they sold. However, dealers and distributors whose businesses were not owned or controlled by a tire manufacturer (hereinafter collectively referred to as "independent dealers") registered only 20 percent of the replacement tires that they sold. (*Id.* at 8).

In an effort to improve the registration rate for the tires sold by independent dealers, Congress included a tire registration provision in the Authorization Act. That provision amended section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1966 (hereinafter referred to as "Safety Act") (15 U.S.C. 1381 *et seq.*) to prohibit the Secretary of Transportation from requiring independent dealers to comply with the Part 574 requirements for mandatory registration. (The Secretary's authority under the Safety Act has been delegated to the NHTSA Administrator, 49 CFR 1.50.) Dealers and distributors other than independent dealers (hereinafter collectively referred to as "non-independent dealers") remain subject to these requirements.

The prohibition concerning independent dealers was self-executing (i.e., its effectiveness was not conditioned on prior action by this agency) and became effective on the date of enactment of the Authorization Act, October 15, 1982. Thus, even without any amendment by the agency to Part 574, its requirements for mandatory registration ceased on October 15 to have any effect insofar as they apply on their face to independent dealers.

In place of the mandatory registration process, Congress directed that a voluntary process be established for

[1] As explained in the House Report on the Authorization Act, " 'company owned and controlled' means a significant component of direct equity ownership of the dealer or distributor which gives that party, as a factual matter, effective control of the business. Thus, it would not encompass buy-sell agreements, mortgages, notes, franchise agreements or similar financial arrangements which a tire company may have with a dealer or distributor." H.R. Rep. No. 576, 97th Cong. 2d Sess. 8-9 (1982).

independent dealers. Section 158(b)(2)(B) provides

> The Secretary shall require each dealer and distributor whose business is not owned or controlled by a manufacturer of tires to furnish the first purchaser of a tire with a registration form (containing the tire identification number of the tire) which the purchaser may complete and return directly to the manufacturer of the tire. The contents and format of such forms shall be established by the Secretary and shall be standardized for all tires. Sufficient copies of such forms shall be furnished to such dealers and distributors by manufacturers of tires.

Under the voluntary process, the primary responsibility for registering tires sold by independent dealers is shifted from the dealer to the purchaser. NHTSA is mandated by section 158(b)(2)(B) to require the independent dealer to (1) fill in the identification number(s) of the tire(s) sold to a purchaser on a registration form and then (2) hand the form to the purchaser. If the purchaser wishes to register the tires, he or she may do so by filling in his or her name and address, adding postage and sending the completed form to the tire manufacturer or its designee.

In addition, NHTSA is required by section 158(b)(3) to evaluate the effect of the switch to voluntary tire registration on the registration rate for tires sold by independent dealers. That evaluation must be conducted at the end of the two year period following the effective date of the Authorization Act, i.e., October 15, 1984. In the evaluation, the agency is required to assess the efforts of the independent dealers to encourage consumers to register their tires and the extent of the dealers' compliance with the voluntary registration procedures established by this notice. NHTSA is required also to determine whether to impose any additional requirements on dealers for the purpose of promoting higher registration levels.

The agency has received several telephone inquiries from independent dealers as to whether, notwithstanding the amendments to section 158(b), they could elect to continue following the requirements for mandatory registration. It does not appear that the independent dealers have this option. Section 158(b)(2)(B) specifies that the agency "shall require *each* . . . (independent dealer) to furnish the first purchaser of a tire with a registration form (containing the tire identification number of the tire) which the purchaser may complete and return directly to the manufacturer of the tire." However, nothing in the section appears to preclude the purchaser from voluntarily giving the form back to the dealer for transmission to the manufacturer or his designee. Comments are requested on the issues raised by these independent dealers as well as on the reasons why some independent dealers desire the opportunity to continue mandatory registration.

Congress made no provision for immediate replacement of mandatory registration by voluntary registration. Unlike the amendment prohibiting the agency from requiring independent dealers to follow the mandatory registration process, the amendment concerning voluntary registration is not self-executing. Before voluntary registration can be initiated, the agency must first issue a rule requiring participation by the independent dealers in the voluntary registration process and put that rule into effect.

New standardized registration forms. In addition to setting forth such a requirement, this rule also specifies the content, format and size of the registration forms to be used by the independent dealers. This aspect of the rule responds to the directive in section 158(b)(2)(B) for the standardization of such forms. NHTSA wishes to emphasize that this rule does not require standardization of the forms used by nonindependent dealers. Tire manufacturers need not make any change in the forms which they have been providing those dealers.

In selecting interim requirements standardizing the content, format and size of registration forms to be provided to or used by independent dealers, NHTSA has made the minimum changes to Part 574 necessary to comply with section 158(b)(2). This approach will minimize both the burdens of this rulemaking and the period during which independent dealers are not subject to any registration requirements.

The new standardized forms would be very similar to the forms which the manufacturers have been providing dealers over the last eight years. Since 1974, Part 574 has specified the type of information for which blanks and titles are to appear on registration forms. (§ 574.7(a)(1)–(3)). This information includes the name and address of the tire purchaser, the tire identification number, and the name and address of the dealer or other means by which the manufacturer could identify the dealer. This rule would require the new registration forms for independent dealers to have blanks and titles for the same information.

This rule also adopts as mandatory the format specifications which have appeared as a suggested guide in Part 574. Those specifications have been generally followed since 1974 without any complaints from either manufacturers or dealers.

In recognition of the shift of primary responsibility for registering tires from the independent dealer to the purchaser, this rule substitutes a new reminder on the form. The old reminder warned the dealer that registration of tires was required by Federal law. The new reminder informs the purchaser that completing and mailing the form will enable the tire manufacturer to contact him or her directly in the event that the tire is recalled for safety reasons, i.e., if the tire is determined to contain a safety defect or to fail to comply with an applicable safety standard.

Both a mailing address and a statement about appropriate postage must be printed on each form. The House report states that the form is to be presented to the purchaser in a manner suitable for mailing. (H.R. Rep. No. 576, 97th Cong. 2d Sess. 8 (1982)). Thus, the form itself must be mailable without the necessity of the purchaser's providing an envelope. Forms provided by the manufacturers must be pre-addressed to either the manufacturer or its designee. As to postage, the form must bear the statement that first class postage is required. This notation will ensure that the purchaser realizes that post card postage is not sufficient. If insufficient postage were placed on the form, it would not be delivered and the tire would not be registered. The need for first class postage is explained below.

This rule standardizes the size of the form so that all forms will be mailable using a single stamp of the same class of postage. The suggested guide in Part 574 specifies dimensions of 3¼ inches in width and 7⅜ inches in length. This rule does not adopt those dimensions because, under existing postal regulations, a form 3¼ inches by 7⅜ inches is too small to be mailed unless enclosed in an envelope. Since NHTSA does not wish to require manufacturers to provide self-addressed envelopes, the agency has adopted the dimensions in the postal regulations for cards mailable without envelopes under first class postage as the dimensions for the registration forms. Thus, the forms must be rectangular; not less than .007 inches thick; more than 3½ inches, but not more than 6⅛ inches wide; more than 5 inches, but not more than 11½ inches long. If any of those maxima were exceeded, a single, first class stamp would not be sufficient postage. The agency has not adopted a postcard-sized form due to uncertainty whether such a form would be large enough to permit

the easy, legible recording of all of the necessary information.

Finally, the mandatory format requirements include a requirement that the form must show the manufacturer's name to prevent confusion of dealers and purchasers. This will enable the independent dealer to determine the brand of tire for which a particular form is to be used for registration purposes. This requirement is necessary since independent dealers often sell several different brands of tires. Since the dealer will have as many different types of registration forms as it has different brands of tires for sale, the dealer must have some way of identifying the appropriate form. The name may appear either in the mailing address or anywhere else on the form.

Continued use of old registration forms. During the limited period that this interim rule is in effect, the agency will provide the option of using existing forms instead of the new standardized ones. Election of that option is conditioned upon the tire purchaser's being provided not only with a form bearing the tire identification numbers and the dealer's name and address, but also with an envelope that is suitable for mailing the form, bears the same reminder to consumers required on the new forms, and is addressed to the tire manufacturer or its designee.

Source of registration forms. Under the requirments for mandatory registration requirements which previously applied to independent dealers, those dealers were permitted to use either the registration forms provided by the tire manufacturers or use forms obtained from other sources. The latter type of form was typically one purchased from a clearing house. The clearing house forms were not manufacturer specific (i.e., did not bear any mark or information identifying a particular tire manufacturer or brand name) and thus could be used to register any manufacturer's tires. When the forms of a clearing house were completed, they were returned to the clearing house. The clearing house would then forward them to appropriate manufacturers.

Except under the circumstances described above in the discussion of the temporary continued use of existing forms, the amendments to section 158(b) and their legislative history compel an end to the practice of using forms which are not addressed to the manufacturer or its designee. Forms may continue to be addressed to an intermediary such as a clearing house if that intermediary has been designated by a tire manufacturer to serve as an initial recipient or as an ultimate repository for registration forms. Further, the amendments require standardization of the forms to be used by independent dealers. Hence, while independent dealers are still permitted to obtain registration forms from a source other than the tire manufacturers, those forms must comply with all of the requirements applicable to forms provided by manufacturers.

Responsibility for filling out and mailing registration form. The responsibility for completing the registration forms would be divided between independent tire dealers and purchasers. The tire dealer would be required to fill in the identification number of each tire sold and his name and address or some other unique identifier like a code number. The necessity for having the dealer's name and address arises from the statutorily-required evaluation of the voluntary registration requirements. In order to conduct that evaluation, the agency will need information on the registration rates for tires sold by individual independent dealers. This information will aid NHTSA in identifying different levels of registration among dealers and evaluate the reasons underlying those differences. The simplest and most effective way of ensuring the recording of the dealer's names and addresses is to require the recording of the information by the party who can most accurately provide it. A dealer's proper name and address are obviously better known to that dealer than to his customers. Further, through the use of an inexpensive rubber stamp, the dealer can record that information on a form much more easily and quickly than a tire purchaser can.

After the dealer has filled on this information and handed the card (and envelope under the option for using existing forms) to the tire purchaser, it is the purchaser's responsibility to complete the registration process. If a purchaser wishes to register his new tire, he must fill in his name and address, place the appropriate postage on the form (or envelope) and mail it.

Other issues. Any questions concerning the classification of a particular dealer as independent or otherwise should be addressed in writing to the Chief Counsel, NHTSA, at the street address given above. The legislative history cited early in this notice provides some guidance on this point. NHTSA notes that it is possible for motor vehicle dealers to be considered tire dealers in certain situations, as specified in 49 CFR 574.9. Whether a new motor vehicle dealer is required to follow the procedures for mandatory or voluntary registration depends on whether the dealer is owned or controlled by a tire manufacturer. The agency believes that most motor vehicle dealers would be considered independent dealers for the purposes of Part 574. These motor vehicle dealers are reminded that they should provide the motor vehicle purchaser with a voluntary tire registration form at the time they deliver the new vehicle to the purchaser, and with the identification number(s) of all of the vehicle's tires and the dealer's name and address entered on the form.

Enforcement of the new provisions of Part 574 would be carried out under sections 108–110 of the Safety Act. Failure to comply with the new provisions would be a violation of section 108(a)(2)(D) which prohibits failure to comply with any order or other requirement applicable to any manufacturer, distributor or dealer pursuant to Part B of the Safety Act. Section 109(a) provides that a civil penalty of $1,000 may be assessed for each violation of section 108. Under section 110(a), the agency could seek an injunction against a violator of section 108 to prevent further violations.

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for its approval, pursuant to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). A notice will be published in the **Federal Register** when OMB approves this information collection.

As noted above, this rule is being issued as an interim final rule, without prior notice and opportunity for comment. NHTSA believes that there is good cause for finding that notice and comment rulemaking is impracticable and contrary to the public interest in this instance. The absence of any tire registration requirements for independent dealers has created an emergency necessitating immediate action.

The agency is concerned that, until a rule regarding voluntary registration can be implemented, registration of tires sold by independent dealers may fall well below the 20 percent rate which existed prior to the enactment of the Authorization Act on October 15. As long as this situation lasts, substantial numbers of tire purchasers may be unable to register their tires. Although some efforts are being made by independent dealers to continue to follow the mandatory registration process, the agency does not have any indication how widespread or successful those efforts are. Purchasers whose tires are unregistered will not receive direct

notification from the manufacturers of those tires in the event that the tires are found to contain a safety defect or to fail to comply with an applicable standard. Ignorant of the safety problem, the purchasers will continue to drive on tires presenting a threat to their safety and that of other motorists.

Providing opportunity for comment is also unnecessary to a substantial extent. Many of the new provisions of Part 574 were expressly mandated by Congress.

Nevertheless, this agency is providing an opportunity to comment on this notice during the 45 days following its publication in the **Federal Register**. Those comments will be carefully considered since the agency does not intend to maintain this rule as the permanent final rule on voluntary registration. A permanent final rule will be issued not later than October 14, 1983.

NHTSA seeks comments from all interested parties on what requirements should be included in the permanent final rule. Pursuant to a contract with the agency, American Institutes for Research in the Behavioral Sciences has explored ways of more effectively structuring and wording the voluntary registration forms to induce as many purchasers as possible to complete their forms and send then to the manufacturers. Copies of the results of the Institute's work have been placed in the docket. Comments are requested on that work. Comments are also requested on the feasibility of using postcard sized forms. The agency is uncertain whether those forms would provide sufficient space to permit the easy, legible recording of the requisite information. If so, then this alternative appears attractive since the lower postal rate for such cards could induce a higher rate of registration by purchasers.

The results of the contract study on registration forms and all comments submitted in response to this notice will be considered by the agency in selecting the provisions to include in the permanent final rule. If, after examining the study, the agency determines that the registration forms for independent dealers should be significantly altered, a notice of proposed rulemaking will be issued to ensure full comment on those changes.

The requirements of this rule become effective 30 days after the date on which it is published in the **Federal Register**. The 30-day period provides adequate time for tire manufacturers to print and distribute the new voluntary registration forms (or envelopes, under the option for using existing forms) to the independent dealers. Since this rule requires no change to the forms provided to or used by nonindependent dealers, manufacturers and nonindependent dealers may continue to use their current forms.

NHTSA has analyzed the impacts of this action and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. The requirements concerning the registration forms for independent dealers will impose minimally higher costs on tire manufacturers. Compared to the costs and administrative burdens to independent dealers of complying with the Part 574 requirements for mandatory registration, independent dealers should achieve slight savings under this rule. Requirements for nonindependent dealers are not changed by this rule. Consumers purchasing tires from independent dealers will now have to pay 20 cents for postage if they wish to register those tires. The bearing of this cost by consumers has been mandated by Congress. For these reasons, a full regulatory evaluation has not been prepared.

The agency has also considered the impacts of this action on small entities, and determined that this rule will not have a significant economic impact on a substantial number of those small entities. The agency belives that few if any of the tire manufacturers are small entities. Although many dealers are considered to be small entities, this rule will not have a significant impact on them. The requirements for tire manufacturers are unchanged except that the size, content and cost of the registration forms they supply to independent dealers would be slightly different. No change at all is made in the requirements for nonindependent dealers. Independent dealers will realize minimal savings from this rule. Small organizations and governmental units which purchase tires from independent dealers will have to pay postage to register those tires. However, those costs will not be significant.

All interested persons are invited to comment on this interim final rule. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR 574

Consumer protection, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 574—[AMENDED]

In consideration of the foregoing, the following amendments are made to Part 574, Tire Identification and Recordkeeping, of Title 49 of the Code of Federal Regulations:

1. Section 574.1 is revised to read as follows:

§ 574.1 Scope.

This part sets forth the method by which new tire manufacturers and new tire brand name owners shall identify tires for use on motor vehicles and maintain records of tire purchasers, and the method by which retreaders and retreaded tire brand name owners shall identify tires for use on motor vehicles. This part also sets forth the methods by which independent tire dealers and distributors shall record, on registration forms, their names and addresses and

the identification number of the tires sold to tire purchasers and provide the forms to the purchasers, so that the purchasers may report their names to the new tire manufacturers and new tire brand name owners, and by which other tire dealers and distributors shall record and report the names of tire purchasers to the new tire manufacturers and new tire brand name owners.

2. Section 574.3 is amended by adding a new paragraph (c)(1) immediately after *"Definitions used in this part."* and redesignating existing paragraphs (c)(1) through (c)(4) as paragraphs (c)(2) through (c)(5):

§ 574.3 Definitions.

* * * * *

(c) * * *

(1) "Independent" means, with respect to a tire distributor or dealer, one whose business is not owned or controlled by a tire manufacturer or brand name owner.

* * * * *

3. Section 574.7 is revised to read as follows:

§ 574.7 Information requirements—new tire manufacturers, new tire brand name owners.

(a)(1) Each new tire manufacturer and each new tire brand name owner (hereinafter referred to in this section and § 574.8 as "tire manufacturer") or its designee, shall provide tire registration forms to every distributor and dealer of its tires which offers new tires for sale or lease to tire purchasers.

(2) Each tire registration form provided to independent distributors and dealers pursuant to paragraph (a)(1) of this section shall comply with either paragraph (a)(2) (A) or (B) of this section.

(A) Each form shall contain space for recording the information specified in paragraphs (a)(5)(A) through (a)(5)(C) of this section and shall conform in content and format to Figures 3a and 3b. Each form shall be:

(i) Rectangular;

(ii) Not less than .007 inches thick;

(iii) Greater than 3½ inches, but not greater than 6⅛ inches wide; and

(iv) Greater than 5 inches, but not greater than 11½ inches long.

(B) Each form shall comply with the same requirements specified in paragraph (a)(4) of this section for forms provided to distributors and dealers other than independent distributors and dealers.

(3) Each tire manufacturer or designee which does not give an independent distributor or dealer forms complying with paragraph (a)(2)(A) of this section shall give that distributor or dealer envelopes for mailing forms complying with paragraph (a)(2)(B) of this section. Each envelope shall bear the name and address of the tire manufacturer or its designee and the reminder set forth in Figure 3a.

(4) Each tire registration form provided to distributors and dealers, other than independent distributors and dealers, pursuant to paragraph (a)(1) of this section shall be similar in format and size to Figure 4 and shall contain space for recording the information specified in paragraphs (a)(5)(A) through (a)(5)(C) of this section.

(5)(A) Name and address of the tire purchaser.

(B) Tire identification number.

(C) Name and address of the tire seller or other means by which the tire manufacturer can identify the tire seller.

(b) Each tire manufacturer shall record and maintain, or have recorded and maintained for it by a designee, the information from registration forms which are submitted to it or its designee. No tire manufacturer shall use the information on the registration forms for any commercial purpose detrimental to tire distributors and dealers. Any tire manufacturer to which registration forms are mistakenly sent shall forward those registration forms to the proper tire manufacturer within 90 days of the receipt of the forms.

(c) Each tire manufacturer shall maintain, or have maintained for it by a designee, a record of each tire distributor and dealer that purchases tires directly from the manufacturer and sells them to tire purchasers, the number of tires purchased by each such distributor or dealer, the number of tires for which reports have been received from each such distributor or dealer other than an independent distributor or dealer, the number of tires for which reports have been received from each such independent distributor or dealer, the total number of tires for which registration forms have been submitted to the manufacturer or its designee, and the total number of tires sold by the manufacturer.

(d) The information that is specified in paragraph (a)(5) of this section and recorded on registration forms submitted to a tire manufacturer or its designee shall be maintained for a period of not less than three years from the date on which the information is recorded by the manufacturer or its designee.

4. Section 574.8 is revised to read as follows:

§ 574.8 Information requirements—tire distributors and dealers.

(a) *Independent distributors and dealers.* (1) Each independent distributor and each independent dealer selling or leasing new tires to tire purchasers or lessors (hereinafter referred to in this section as "tire purchasers") shall provide each tire purchaser at the time of sale or lease of the tire(s) with a tire registration form.

(2) The distributor or dealer may use either the registration forms provided by the tire manufacturers pursuant to § 574.7(a) or registration forms obtained from another source. Forms obtained from other sources shall comply with the requirements specified in § 574.7(a) for forms provided by tire manufacturers to independent distributors and dealers.

(3) Before giving the registration form to the tire purchaser, the distributor or dealer shall record in the appropriate spaces provided on that form:

(A) The entire tire identification number of the tire(s) sold or leased to the tire purchaser; and

(B) The distributor's or dealer's name and address or other means of identification known to the tire manufacturer.

(4) Multiple tire purchases or leases by the same tire purchaser may be recorded on a single registration form.

(b) *Other distributors and dealers.* (1) Each distributor and each dealer, other than an independent distributor or dealer, selling new tires to tire purchasers shall submit the information specified in § 574.7(a)(5) to the manufacturer of the tires sold, or to its designee.

(2) Each tire distributor and each dealer, other than an independent distributor or dealer, shall submit registration forms containing the information specified in § 574.7(a)(5) to the tire manufacturer, or person maintaining the information, not less often than every 30 days. However, a distributor or dealer which sells less than 40 tires, of all makes, types and sizes during a 30-day period may wait until he or she sells a total of 40 new tires, but in no event longer than six months, before forwarding the tire information to the respective tire manufacturers or their designees.

(c) Each distributor and each dealer selling new tires to other tire distributors or dealers shall supply to the distributor or dealer a means to record the information specified in § 574.7(a)(5), unless such a means has been provided to that distributor or

dealer by another person or by a manufacturer.

(d) Each distributor and each dealer shall immediately stop selling any group of tires when so directed by a notification issued pursuant to sections 151 and 152 of the Act (15 U.S.C. 1411 and 1412).

Authority: Secs. 108, 119, and 201, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, and 1421); sec. 4, Pub. L. 97-311, 96 Stat. 1619 (15 U.S.C. 1418); delegation of authority at 49 CFR 1.50.

Issued on April 21, 1983.

Raymond A. Peck, Jr.,

Administrator.

BILLING CODE 4910-59-M

TIRE PURCHASER: Completing and mailing this card will enable the manufacturer to contact you directly if your tire is recalled for safety reasons.

A

CUSTOMER'S NAME

CUSTOMER'S ADDRESS

CITY STATE ZIP CODE

NAME OF DEALER WHICH SOLD TIRE

DEALER'S ADDRESS

CITY STATE ZIP CODE

QTY	TIRE IDENTIFICATION NUMBER										
	1	2	3	4	5	6	7	8	9	10	11

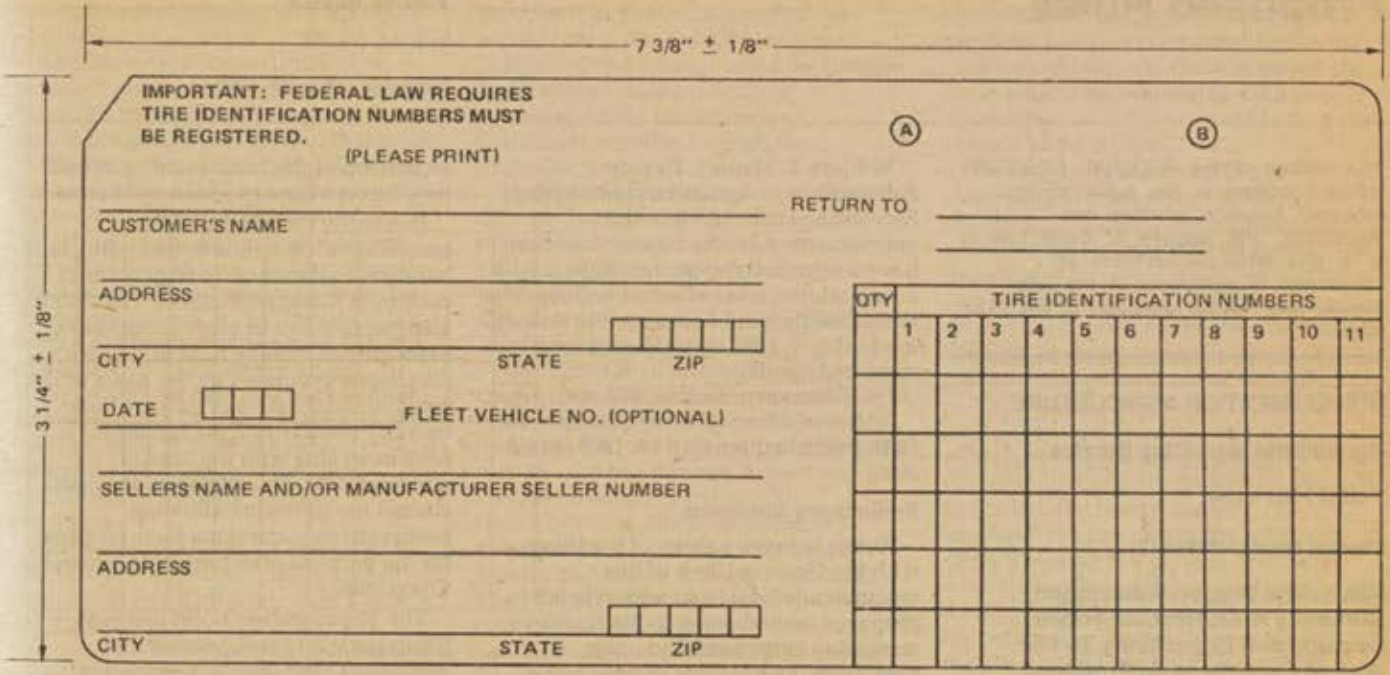
A Preprinted tire manufacturer's name — unless the manufacturer's name appears on reverse side of the form.

Fig. 3a — Registration form for independent distributors and dealers — tire identification number side

First class postage required

Name and address of tire manufacturer or its designee (Preprinted)

Fig. 3b — Registration form for independent distributors and dealers — address side



(A) PREPRINTED TIRE MANUFACTURERS' LOGO OR OTHER IDENTIFICATION AND MAILING ADDRESS

(B) MICROFILM NUMBER LOCATION IF NECESSARY

A–B AREAS TO SUIT TIRE MANUFACTURERS REQUIREMENTS

FIG. 4 - UNIVERSAL FORMAT

[FR Doc. 83-13318 Filed 5-17-83; 3:03 pm]
BILLING CODE 4910-59-C

Proposed Rules

Federal Register
Vol. 48, No. 98
Thursday, May 19, 1983

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 1124

[Docket No. AO-368-A12]

Milk In The Oregon-Washington Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and To Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends increasing the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. It also recommends changing the method used to calculate the daily base and the base milk production of a producer under the base-excess plan of the order. The proposed amendment, which are based on industry proposals considered at a public hearing held February 15, 1983, are necessary to reflect current marketing conditions and to assure orderly marketing in the Oregon-Washington marketing area.

DATE: Comments are due on or before June 3, 1983.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

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

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that the amendments adopted herein would not have a significant economic impact on a substantial number of small entities. The amendments would promote the orderly marketing of milk by producers and regulated handlers.

Prior document in this proceedings: Notice of Hearing: Issued January 25, 1983; published January 28, 1983 (48 FR 3995).

Preliminary statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Oregon-Washington marketing area. This notice is issued 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 governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this decision in the **Federal Register.** The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Portland, Oregon, on February 15, 1983, pursuant to the notice thereof issued January 25, 1983 (48 FR 3995).

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

1. Diversion provisions.
2. Base-excess plan.

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. *Diversion provisions.* The diversion provisions should be revised to permit cooperative associations and pool plant handlers to divert to nonpool plant up to 60 percent of the total quantity of milk they receive from products each month.

Presently, the order permits cooperative associations and pool plant handlers to divert up to 50 percent of such milk to nonpool plants. The order also permtis two or more cooperative associations to have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if an agreement is filed in writing with the market administrator. This decision does not change the provision allowing cooperatives to combine their receipts for the purpose of determining allowable diversions.

The 10 percentage point increase in diversion limits was proposed by Northwest Dairymen's Association (NDA). The association's witness testified that the higher diversion limit is necessary due to a substantial increase in milk production for the market in recent years. Further, the witness said, the increased milk production has necessitated the suspension of diversion limits of the order on occasion over the past few years.

Another reason cited by proponent for increasing the diversion limits were changes it has made in the disposal of excess milk since NDA merged with Mayflower Farms in September 1981. To obtain greater operating efficiency, producer milk which previously was received and manufactured into Class III products at proponent's Portland, Oregon, pool plant now is diverted to its nonpool manufacturing plants at Chehalis, Issaquah and Lynden, Washington. Proponent's witness said that all of the milk which had been used to manfacture cheese in the Portland plant now is diverted to its nonpool plant at Chehalis, where it is manufactured into cheese. The witness said that skim milk drying has been discontinued at the Portland plant except for periods when other NDA manufacturing plants are operating at capacity. He said these changes have resulted in a 15 million pound per month reduction in milk receipts at the Portland pool plant and a corresponding increase in the quantity of milk diverted to nonpool plants. He said, that while these changes have not increased the total quantity of reserve milk used for manufacturing, they have increased the quantity subject to the diversion

limitations and decreased the quantity received at pool plants.

Another who witness testified on behalf of proponent said that he was the President of Mayflower Farms at the time it merged with NDA and that prior to the merger the Portland pool plant was owned by Mayflower. He said that the reduction in manufacturing operations at the Portland pool plant was necessary to achieve operating efficiencies. The witness said that the cheese operations at the Portland plant is very costly due to the age of the equipment, the problem of when disposal and the high sewage charges imposed by the City of Portland. He said that the dryer at Portland is very inefficient and loses a significant percentage of the milk solids it processes.

The witness said that a reason that Mayflower merged with NDA was to replace the Portland plant with a larger, more efficient plant by pooling the resources of the respective cooperatives. He said that efficiencies at the new operation can be fully achieved only if the diversion limits are raised 10 percentage points. Otherwise, he claimed, at certain times of the year the cooperative will have to operate the inefficient dryer at Portland to keep producers pooled while running the more efficient Chehalis plant at less than optimum capacity.

Four other cooperative associations whose members supply milk to the Oregon-Washington market supported the proposal. Two of these cooperative associations have an agreement with proponent to combine their receipts for the purpose of computing the diversion percentage. The witnesses representing these four associations testified that the diversion limits should be increased to accommodate the orderly disposition of the increasing supplies of reserve milk that are being associated with the market. One of them said that these supplies will be associated with the pool in one way or another and if the diversion limits are set too low uneconomic movements of milk could result.

Increasing the diversion limits from 50 to 60 percent should allow cooperative associations and handlers to dispose of the increasing quantities of reserve milk that are associated with the market in an orderly and efficient manner without the need for uneconomic deliveries of milk to pool plants merely for the purpose of pooling the milk. The hearing record indicates that there has been no increase in the number of producers associated with the market during those months in recent years when the diversion limits were suspended. Further, it indicates that with a 60 percent diversion limit the reserve supplies of the market could be handled in an efficent manner without encouraging the association of additional supplies through the diversion process.

During the three-year period of 1980 through 1982 receipts from producers increased 7 percent while producer milk utilized in Class I outlets decreased 2 percent. The record evidence indicates also that milk supplies during 1983 may increase 8 percent over 1982.

The increase in producer receipts and decrease in Class I sales caused NDA to obtain a suspension of the 50 percent diversion limit in 1980 and 1982 for the months of April through August and October through December. In December 1982, the suspension was extended to include the additional months of January through April 1983. The hearing record indicates that these suspensions allowed the cooperative associations that combine their receipts for the purpose of determining allowable diversions to save on extra hauling and handling of milk merely for the purpose of maintaining the producer status of their members who supply the market. Proponent's witness said that the diversion limit was not suspended for the month of September 1982. As a consequence, it was necessary for NDA to receive 5 million pounds of milk at pool plants and then transfer it to nonpool manufacturing plants solely for the purpose of keeping their combined diversions within the 50 percent limit. If this milk had been diverted to nonpool plants, he said, the combined diversions of the 3 cooperatives would have represented about 55 percent of their total producer milk receipts. He estimated it cost at least $30,000 to deliver this milk to pool plants and then transfer it to the nonpool plants. He and the other witnesses who supported the proposal indicated that a 60 percent diversion limit would be sufficient to accommodate both present supply conditions and some anticipated increased milk production.

From the evidence it is apparent that the 3 cooperatives that combine their receipts and diversions cannot meet the order's present diversion limits during most months. Accordingly, relaxing the limits by 10 percentage points, as herein provided, is necessary and appropriate to allow the cooperatives to keep their available milk supplies pooled in an orderly manner without causing a needless expenditure of money for the extra transportation of that milk solely to keep it pooled.

A producer who is a director of a Oregon dairy organization testified in opposition to the proposal. He said his concern was that raising the diversion limits would merely allow more out-of-state milk to be associated with the market which, in turn, would reduce the order's blend prices.

The opposing argument is not overriding in this matter. Relaxing diversion limits as adopted herein will provide greater flexibility in the handling of the increase in the market's reserve milk supplies and thus prevent uneconomic movements of some milk through pool plants merely for the purpose of pooling it under the order.

Also, it is not likely that blend prices under the order would be materially enhanced if the order's present diversion limits were continued. As indicated, the record shows cooperatives could take the necessary steps to assure the pooling of their available milk supplies even though hauling inefficiences would be involved. Moreover, the buildup in reserve milk supplies on the market is a result of increased milk production of producers who are already associated with the market.

2. *Base-excess plan.* The base-excess plan provisions of the order should be revised to have the computation of daily base for each producer determined by dividing the producer's total pounds of milk delivered during the four-month base earning period by the number of days in such period. If a producer delivers only part of such time but on not less than 90 days during such period, then his total pounds of producer milk should be divided by the number of days in such period on which he delivered producer milk. Also, in determining the amount of base milk delivered by a producer during each month, the provisions should be revised to have his daily base multiplied by the number of days in the month, or if the producer delivers only part of a month then his daily base should be multiplied by the number of days in the month on which he delivers producer milk.

The order provides that a daily base shall be computed for each producer who delivers milk on not less than 90 days during the 4 months in each January–December period in which the average daily receipts of total producer milk are lowest. Presently, this daily base is computed for each producer by dividing such producer's total pounds of milk delivered during such base-earning period by the number of days of production represented by his deliveries. The daily base is used in the following year, beginning February 1 and continuing through the next 12 months, to determine the quantity of base milk

delivered by a producer during each such month. Presently, the quantity of base-milk delivered is computed by multiplying the producer's daily base by the number of days of delivery in such month.

To illustrate how the change to calendar days could affect the quantity of daily base computed for a producer, an example using the month of January is set forth below. It should be noted that although the example uses just the month of January in actually computing a producer's daily base, his deliveries of milk in the 4 months of lowest total production during the year are used. Most producers on the market have their milk delivered on an every-other-day basis. A producer on every-other-day delivery who had his milk delivered on January 1 and on each of the other odd numbered days in that month would have 32 days' production delivered during the month. Under the present order provisions, in computing the producer's daily base, his total deliveries in January would be divided by 32, the days of production those deliveries represent. Under the provisions adopted herein, his total deliveries would be divided by 31, the number of days in the month. Conversely, a producer on every-other-day delivery who had his milk delivered on the even numbered days in January would have 30 days' production delivered during that month. Presently, this producer's January deliveries would be divided by 30, the days of production they represent, while under the provisions adopted herein his January deliveries still would be divided by 31.

The example cited in the previous paragraph also illustates how the change to calendar days could affect the quantity of base milk delivered by a producer each month. A producer on every-other-day delivery who had his milk delivered on the odd numbered days during January would, under the present order provisions, have his daily base multiplied by 32 (his production days) to determine his quantity of base milk for January. Under the provisions adopted herein, his daily base would be multiplied by 31 (calendar days in the month). Conversely, a producer who had his milk delivered on the even numbered days in January would, under the present provisions, have his daily base multiplied by 30 while under the provisions adopted herein his daily base would be multiplied by 31. The impact these changes would have had on the amount of daily base computed for producers in 1980 and 1981 and on the amount of base milk delivered by producers in 1981 and 1982 is described later in this decision.

These revisions in the order's base-excess plan were proposed by NDA. Its witness said the changes are needed to simplify the method of calculating a producer's daily base and of determining the quantity of base milk delivered by a producer each month. Proponent's witness testified that under the present order provisions the computations cannot be automated because the number of days' production associated with deliveries during a specific month will vary from producer to producer.

The positions taken at the hearing by other witnesses concerning the proposed changes in the base-excess plan provisions varied considerably. The witness representing a cooperative association which has its headquarters in Idaho supported the proposed changes even though the cooperative basically is opposed to the use of base-excess plans in milk orders. The representative of one of the cooperative associations that combined producer receipts with proponent for the purpose of computing allowable diversions stated that his cooperative association supported using calendar days in computing the quantity of base milk delivered by a producer each month but that the cooperative took no position with respect to using calendar days in computing a producer's daily base. Witnesses for the two other cooperative associations that presented testimony said that they took no position with respect to either of the proposed changes in the base-excess plan provisions.

The proposed changes to use calendar days in computing a producer's daily base and the quantity of base milk delivered by a producer each month should be adopted. These changes would significantly reduce the costs associated with making these computations without appreciably affecting either the quantity of daily base or the quantity of base milk delivered.

Testimony in the record indicates that substantial savings could be realized by adoption of the calendar day method for computing daily base and base milk production. Presently, cooperative associations, handlers and the market administrator must compute the daily base and base milk production for each producer manually because the days of production associated with the delivery of milk during a specified period do not necessarily coincide with the number of days in that period. Consequently, the delivery pattern of each producer must be examined individually to determine the production days associated with his deliveries during the period. Proponent's witness said that it is very time-consuming for the cooperative to compute the quantity of base milk manually each month for each of its 325 Oregon-Washington producers. He said that adoption of the proposals would amount to a savings of two days' labor each month to the cooperative. The representative of another cooperative association testified that adoption of the proposals would save them a day's labor each month. The market administrator's representative testified that about 10 percent of the cost of administering the Oregon-Washington order involves the manual computation of each producer's daily base and verifying each producer's monthly base milk production. He indicated that administrative expenses would be reduced by this 10 percent if these computations were automated.

A witness who formerly was the President of Mayflower Farms and a producer who is a director of an Oregon dairy organization testified in opposition to the proposal that would use calendar days in computing a producer's daily base. Opponents said that producers want their daily base computed on their actual days of production rather than on calendar days because individual producers could gain or lose a day's production when the computation is based on calendar days. The former President of Mayflower Farms said that for a base-making period of October through January (123 days) and assuming an average producer delivers 5,000 pounds per day, gaining or losing one day's production would raise or lower a producer's daily base by 41 pounds. He said that the difference between the base and excess prices averages about $1.10 per hundredweight. Thus, he said, the 41-pound gain or loss would amount to about 45 cents per day or $164 per year. The difference between the gain and loss would amount to $328 per year. The opponent said that producers do not want to gamble on gaining or losing this much money each year depending on which procurement route they are on.

In a post-hearing brief, NDA deferred to the producer witnesses who testified against the proposal and withdrew its support for the proposal it had submitted for hearing. The withdrawal, however, does not change the strong evidence in the record for adopting the proposal.

The arguments of opponents are not persuasive concerning the revisions adopted herein. A representative of the

market administrator's office presented the results of a study that compared the use of calendar days to counting the days of production when calculating the producer's daily base and base milk production. He said that a random sample of 47 producers was selected from all the producers delivering milk to the Oregon-Washington market who were issued a daily base in February 1981 and 1982. The results of the study showed that for 1981 the differences in the daily base calculation for the 47 producers ranged from an increase of 56 pounds to a decrease of 86 pounds and averaged 4.26 pounds less per producer using the calendar day method. The 4.26-pound decrease in the average daily base represented 0.1 percent of the 4,379-pound average daily base issued for the entire market.

For 1982, the differences in the daily base calculation for the 47 producers ranged from an increase of 181 pounds to a decrease of 124 pounds and averaged 3.74-pounds more per producer using the calendar day method. The 3.74 pound increase in the average daily base represented 0.06 percent of the 4,667-pound average daily base issued for the entire market.

The study also showed that for 22 producers who would have had an increase in their daily base for 1982 using the calendar day method 18 of them would have had a decrease for 1981. Likewise, for the 15 producers whose daily base would have decreased for 1982, eleven would have had an increase for 1981.

The results of an additional study showing the relationship between 5 producers' 1982 daily base and their total base deliveries for the eleven months of February through December 1982 calculated by the calendar days and production days method also was presented by the market administrator's witness. He said that this study was done to show the impact on individual producers of using calendar days under various circumstances. Three of these five producers delivered throughout the entire base making and base paying periods but on different days. One producer's daily base remained the same under both methods and even though his deliveries of base milk varied from month to month his total base milk deliveries for the entire eleven months also were the same under both methods. Another producer's daily base would have increased 23 pounds and his total base milk deliveries would have increased 7,682 pounds (0.8 percent of his 940,544 pounds base milk production) for the eleven months if the calendar month method had been used. During those eleven months in 1982 the base price exceeded the excess price by an average of $1.06 per hundredweight. Thus, this producer for the entire 11-month period would have gained a total of $81. The third producer's daily base would have decreased 21 pounds, his total base milk deliveries would have decreased 7,014 pounds (0.8 percent of his 846,690 pounds base milk production) and he would have lost a total of $74 during the eleven months if the calendar day method had been used.

One of the remaining two producers in the study had his milk degraded one day during the base-earning period and on three separate occasions during the eleven-month base paying period. During the base-earning period this producer had 2 more delivery days using the calendar day method as compared to the days of production method. This would have caused his daily base to decrease by 46 pounds and his total base milk deliveries would have decreased 15,134 pounds (1.6 percent of his 917,581 pounds base milk production). This producer would have lost $160 for the eleven month period.

The fifth producer in the study was associated with more than one Federal order during both the base making and the eleven month base paying period. In the computation, the producer's days of production that were regulated under the other order were subtracted from the total days in the month. During the base-earning period his deliveries to the other order and his scheduled deliveries to the Oregon-Washington market resulted in his having one less delivery day using the calendar day method. This would have caused his daily base to increase by 24 pounds and his total base milk deliveries to increase 15,267 pounds (1.9 percent of his 800,223 pounds base milk production). This producer would have gained $162 for the eleven month period.

Each of the four producers in this study who would have gained or lost total base milk production because of the change to calendar days delivered more than 800,000 pounds of base milk during the eleven months. The average base price for those eleven months was $13.54. The 800,000 pounds of base milk multiplied by the $13.54 average price would have resulted in the total value of base milk for each producer exceeding $108,000. Thus, a gain or loss of up to $162 would have represented less than two-tenths of 1 percent of their total value of base milk. Therefore, the impact this change would have on individual producers would be very minimal and would not outweigh the savings described previously that could be realized by computing daily base and base milk production using automated machines.

Rulings on Proposed Findings and Conclusions

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 requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations herein after 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) 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.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this

decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Oregon-Washington marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out.

PART 1124—[AMENDED]

1. In § 1124.11, paragraphs (a) and (b) are revised to read as follows:

§ 1124.11 Producer.

* * * * *

(a) A cooperative association may divert for its account to a nonpool plant the milk of any producer whose milk has been received previously at a pool plant and from whom at least one delivery per month during each of the months of September, October and November is received at a pool plant, except that in the case of any producer whose milk has not been received at a pool plant for at least one day during each of the preceding months of September-November such producer shall be required to have at least one delivery of his milk received at a pool plant in any month to qualify his milk for diversion during such month. This delivery requirement for diversion purposes shall continue until such producer's milk has been received at a pool plant for three consecutive months beginning, during, or after the September-November period. The aggregate quantity diverted may not exceed 60 percent of the producer milk which the association or its agent causes to be delivered to pool plants, or diverted therefrom. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the first day of the month such agreement is effective. This request shall specify the basis for assigning any over-diverted mik to the producer members of each cooperative association according to a method approved by the market administrator.

(b) A handler in his capacity as the operator of a pool plant may divert for his account to a nonpool plant the milk of any producer whose milk has been received previously at a pool plant and from whom at least one delivery per month during each of the months of September, October and November is received at his pool plant(s) and who is not a member of a cooperative association which is diverting milk pursuant to paragraph (a) of this section during the month, except that in the case of any producer whose milk has not been received at a pool plant for at least one day during each of the preceding months of September–November such producer shall be required to have at least one delivery of his milk received at a pool plant in any month to qualify his milk for diversion during such month. This delivery requirement for diversion purposes shall continue until such producer's milk has been received at a pool plant for three consecutive months beginning during or after the September–November period. The aggregate quantity diverted may not exceed 60 percent of the producer milk received at or diverted from such handler's pool plant(s) and for which the operator of such plant(s) is the handler during the month;

* * * * *

2. In § 1124.19 paragraph (b) is revised to read as follows:

§ 1124.19 Base, base milk, and excess milk.

* * * * *

(b) "Base milk" means milk delivered by a producer during the month which is not in excess of:

(1) His daily base computed pursuant to § 1124.65(a) multiplied by the number of days in the month except that if milk is received from a producer for only part of a month, base milk shall be milk received from such producer which is not in excess of the amount computed by multiplying his daily base times the number of days in the month less the number of days for which no producer milk is delivered; or

(2) His monthly base computed pursuant to § 1124.65(b).

* * * * *

3. In § 1124.65 paragraph (a) is revised to read as follows:

§ 1124.65 Computation of producer bases.

* * * * *

(a) The daily base of each producer whose milk was received at a pool plant(s) or diverted as producer milk from a pool plant during the four months in each January–December period in which the average daily receipts of total producer milk are lowest shall be an amount computed by dividing such producer's total pounds of milk delivered in such base-earning period by the number of days in such period: *Provided*, that a producer who delivers producers milk for only part of such period, but not less than 90 days, shall have a daily base computed by dividing such producer's total deliveries of producer milk by the number of days in the four-month period less the number of days for which no producer milk is delivered. The base so computed shall be recomputed each year, shall become effective on the first day of February next following, and shall remain in effect through January of the next succeeding year:

(1) Any dairy farmer for whom information concerning deliveries during the base-earning period is available to the market administrator and who becomes a producer as a result of the plant to which his milk was delivered during the base-earning period subsequently being qualified as a pool plant, a daily base shall be computed pursuant to this paragraph; and

(2) A dairy farmer who qualified as a producer-handler pursuant to § 1124.12 for not less than 90 days during the period specified in paragraph (a) of this section shall upon becoming a producer have a base computed as if he had been a producer during such period.

* * * * *

List of Subjects in 7 CFR Part 1124

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on: May 16, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-13520 Filed 5-18-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Related Group Election With Respect to Qualified Investments in Foreign Base Company Shipping Operations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In the Rules and Regulations portion of this **Federal Register** the Internal Revenue Service is issuing a Treasury decision to conform to changes made by the Tax Reduction Act of 1975 and the Tax Reform Act of 1976 relating to foreign base company shipping income. These proposed regulations deal with the election made by a related group to determine foreign base company shipping income and qualified investments in foreign base company shipping operations on a related group basis.

DATE: Written comments and requests for a public hearing must be delivered or mailed before July 18, 1983.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–58–83), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (LR–58–83), 202–566–3289.

SUPPLEMENTARY INFORMATION: A Treasury decision dealing with amendments under sections 951, 954, and 955 of the Internal Revenue Code of 1954 appears in the Rules and Regulations portion of this **Federal Register**. The Treasury decision deals with changes made by the Tax Reduction Act of 1975 and the Tax Reform Act of 1976 relating to foreign base company shipping income and qualified investments in foreign base company shipping operations. The changes which would be made by these proposed regulations under section 955 relate to those provisions of the above Treasury decision which permit taxpayers to elect to determine foreign base company shipping income and qualified investments in foreign base company shipping operations on a related group basis. The election may be made under that Treasury decision on a year-by-year basis. This proposed amendment would change this rule so that once the election is made, it cannot be changed, and shall apply for the taxable year for which it is made and for all subsequent years unless the election is revoked. A revocation will require the approval of the Commissioner. An application to revoke the election with respect to any member of the related group of controlled foreign corporations will be treated as an application to revoke the election with respect to all members and requires consent of the Commissioner. The addition of additional members to election coverage will be treated as a new election and does not require consent. If an election has been revoked, a new election may be made without consent, notwithstanding that a greater or lesser number of members of the group were covered by the previous election. The change would be effective for taxable years of controlled foreign corporations beginning after December 31, 1983, with respect to elections made for taxable years beginning after that date, and for taxable years of U.S. shareholders within which, or with which, the taxable years of such controlled foreign corporations end.

Comments and Requests for a Public Hearing

Before adopting the proposed regulations referred to in this document as final regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Regulatory Flexibility Act and Executive Order 12291

The Secretary of the Treasury has certified that the regulations proposed herein will not have a significant economic impact on a substantial number of small entities. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory flexibility Act (5 U.S.C. Chapter 6), and a Regulatory Flexibility Analysis is not required. The Commissioner of Internal Revenue has determined that this proposed rule is not a major regulation as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

Drafting Information

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

List of Subjects in 26 CFR 1.861–1 Through 1.997–1

Income taxes, Aliens, Exports, Domestic International Sales Corporation (DISC), Foreign investments in U.S., Foreign tax credit, Source of income, United States investments abroad.

Proposed Amendments to the Regulations

PART 1—[AMENDED]

The proposed amendments to 26 CFR Part 1 are as follows:

§ 1.955a–3 [Amended]

Paragraph 1. § 1.955A–3 is amended by revising paragraphs (a), (b) (1)(iii), (c)(5) and (d) to read as follows:

(a) *In general.* If a United States shareholder elects the benefits of section 955(b)(2) with respect to a related group (as defined in paragraph (b)(1) of this section) of controlled foreign corporations, then an investment in foreign base company shipping operation made by one member of such group will be treated as having been made by another member to the extent provided in paragraph (c)(4) of this section, and each member will be subject to the other provisions of paragraph (c) of this section. An election once made shall apply for the taxable year for which it is made and for all subsequent years unless the election is revoked or a new election is made to add one or more controlled foreign corporations to election coverage. For the manner of making an election under section 955(b)(2), and for rules relating to the revocation of such an election, see paragraph (d) of this section. For rules relating to the coordination of sections 955(b)(2) and 955(b)(3), see paragraph (e) of this section.

(b) *Related group.*—(1) *Related group defined.* * * *

(iii) Such United States shareholder elects to treat such corporation as a related group.

* * * * *

(c) *Effect of election.* * * *

(5) *Collateral effect.* (i) An election under this section by a United States shareholder to treat two or more controlled foreign corporations as a related group for a group taxable year shall have no effect on—

(A) Any other United States shareholder (including a minority shareholder or a member of such related group),

(B) Any other controlled foreign corporation, and

(c) The foreign personal holding company, foreign base company sales income, and foreign base company services income, and the deductions allocable under § 1.954–1(c) thereto, of any member of such related group.

(ii) See § 1.952–1(c)(2)(ii) for the effect of an election under this section on the computation of earnings and profits and deficits in earnings and profits under section 952 (c) and (d).

(iii) The application of this subparagraph may be illustrated by the following example:

Example. United States shareholder A owns 80 percent of the only class of stock of controlled foreign corporations X and Y. United States shareholder B owns the other 20 percent of the stock of X and Y. X and Y both use the calendar year as the taxable year. A elects to treat X and Y as a related group for 1977. For purposes of determining

the amounts includible in B's gross income under section 951(a) in respect of X and Y, the election made by A shall be disregarded and all of B's computations shall be made without regard to this section, as illustrated in § 1.952-3 (d).

(d) *Procedure.*—(1) *Time and manner of making election.* A United States shareholder shall make an election under this section to treat two or more controlled foreign corporations as a related group for a group taxable year and subsequent years by filing a statement to such effect with the return for the taxable year within which or with which such group taxable year ends. The statement shall include the following information:

(i) The name, address, taxpayer identification number, and taxable year of the United States shareholder;

(ii) The name, address, and taxable year of each controlled foreign corporation which is a member of the related group and is to be subject to the election; and

(iii) A schedule showing the calculations by which the amounts described in this section have been determined for the taxable year for which the election is first effective. With respect to each subsequent taxable year to which the election applies, a new schedule showing calculations of such amounts for that taxable year must be filed with the return for that taxable year. A consent to an election required by paragraph (b)(1)(v) of this section shall include the same information required for the election statement.

(2) *Revocation.* (i) Except as provided in subdivision (ii) of this subparagraph, an election under this section by a United States shareholder shall be binding for the group taxable year for which it is made and for subsequent years.

(ii) Upon application by the United States shareholder (and any other United States shareholder controlled by such shareholder which consented under paragraph (b)(1)(v) of this section to the election), an election made under this section may, subject to the approval of the Commissioner, be revoked. An application to revoke the election, as of a specified group taxable year, with respect to one or more (but not all) controlled foreign corporations, subject to an election shall be deemed to be an application to revoke the election. Approval will not be granted unless a material and substantial change in circumstances occurs which could not have been anticipated when the election was made. The application for consent to revocation shall be made by mailing a letter for such purpose to Commissioner of Internal Revenue, Attention: T:C:C, Washington, D.C. 20224, containing a statement of the facts which justify such consent.

* * * * *

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 83-12816 Filed 5-11-83; 2:04 pm]
BILLING CODE 4830-01-M

---

26 CFR Part 1

Substantiation of Charitable Contributions

Correction

In FR Doc. 83-9011 beginning on page 17616 in the issue of Monday, April 25, 1983, make the following correction:

In § 1.170A-1(a), ten lines from the top of the first column of page 17619, "section 179(g)" should have read "section 170(g)".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

Public Comment Period and Opportunity for Public Hearing on Modified Portions of West Virginia Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and hearing on the substantive adequacy of certain program amendments submitted by the State of West Virginia as modifications to its permanent regulatory program which was conditionally approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The West Virginia submission contains modifications to satisfy sixteen conditions regarding the definitions of adequate treatment and disturbed area, mandatory civil penalties, abatement of cessation orders, measures, to be taken to abate a violation when a cessation order has been issued, prohibition of mining in areas declared unsuitable for mining by Congress, appellant costs and conflict of interest, small operator assistance funding, coal refuse areas, time requirement for backfilling and grading, transfer of wells, auger mining of preexisting highwalls, windrowing of timber on the downslope, incidental mining permits and operator liability during citizen inspections. The State also submitted a request to extend the deadline to July 1, 1983, for meeting the remaining eleven conditions.

This notice sets forth the times and locations that the West Virginia program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing.

DATES: Written comments not received on or before 4:00 p.m. May 19, 1983, will not necessarily be considered. A public hearing on the proposal will be held from 7:00 p.m. to 9:00 p.m. on June 13, 1983, at the OSM Charleston Field Office listed below under **ADDRESSES.** Any person interested in making an oral or written presentation at the hearing should contact Mr. David H. Halsey at the OSM Charleston Field Office by the close of business on June 8, 1983. If no one has contacted Mr. Halsey to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Halsey, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, Attention: West Virginia Administrative Record, 603 Morris Street, Charleston, West Virginia 25301, Telephone (304) 347-7158.

See **SUPPLEMENTARY INFORMATION** for addresses where copies of the West Virginia program, the amendments and the administrative record on the West Virginia program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendments by contacting the OSM Charleston Field Office listed above.

FOR FURTHER INFORMATION CONTACT: David H. Helsey, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone (304) 347-7158.

SUPPLEMENTARY INFORMATION: Copies of the proposed modifications to the program, the West Virginia program, and the administrative record on the West Virginia program are available for public review and copying at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, 603 Morris Street, Charleston,

West Virginia 25301, Telephone (304) 347–7158

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, N.W., Room 5315, Washington, D.C. 20240, Telephone (202) 343–7896

West Virginia Department of Natural Resources, Room 630, Building 3, 1800 Washington Street, East, Charleston, West Virginia 25305, Telephone (304) 348–9160

In addition, copies of the proposed amendments are available for inspection and copying during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, Post Office Box 886, Morgantown, WV 26505, Telephone (304) 291–5821

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 119 Appalachian Drive, Beckley, WV 25801, Telephone (304) 255–5265

On March 3, 1980, the Secretary of the Interior received a proposed regulatory program from the State of West Virginia. On October 22, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 69249–69271). West Virginia resubmitted its proposed program on December 19, 1980, and after a subsequent review the Secretary approved the program conditioned on the correction of thirty-five minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981, **Federal Register** (46 FR 5915–5956).

Information pertinent to the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and explanations of the conditions of approval of the West Virginia program can be found in the January 21, 1981, **Federal Register** (46 FR 5915–5956).

At the request of West Virginia, on October 31, 1981 (46 FR 54070–54071), the Secretary extended the deadline for meeting certain conditions of its approved program to November 1, 1982. Also, on May 27, 1982, the Secretary extended West Virginia's deadlines for meeting the conditions requiring legislative approval to May 1, 1983, and the remaining conditions requiring regulatory change to November 1, 1982 (47 FR 23156–23157).

On September 14, 1982, and October 29, 1982, West Virginia submitted modifications to satisfy certain conditions of its program. On March 1, 1983, the Secretary announced in the **Federal Register** (48 FR 8447–8451) that the modifications submitted by West Virginia satisfied eight of the conditions of approval and the deadline for meeting all of the remaining conditions requiring regulatory reform was extended to May 1, 1983.

Submission of Program Amendments

By letter dated April 27, 1983, OSM received from West Virginia, pursuant to 30 CFR 732.17, certain revisions to its conditionally approved program. The modifications include: statutory amendments to the West Virginia Surface Coal Mining and Reclamation Act to satisfy conditions at 30 CFR 948.11(a) 4, 5, 27, 28, 29, 31, 32 and 33 regarding the definitions of adequate treatment and disturbed area, mandatory civil penalties, abatement of cessation orders, measures to be taken to abate a violation when a cessation order has been issued, prohibition of mining in areas declared unsuitable for mining by Congress, appellant costs and conflict of interest; resolution of condition 34 regarding small operator assistance funding due to federal regulatory revisions; resolution of conditions 8, 11 and 16 pertaining to coal refuse areas, time requirement for backfilling and grading and transfer of wells due to proposed federal regulatory revisions; resolution of conditions 2, 3, 9, 18, 19, 21, 23 and 30 concerning excess spoil, prohibition of gravity discharge of water from a mine, variance for alternative land use, valley fills, previous record of mining by permit applicants, public notification of permit decisions, map and narrative of coal prospecting area and show cause orders due to State regulatory revisions, which are still under review by OSM (48 FR 9308–9309); and request for reconsideration by OSM of conditions 1, 13, 20, and 24 regarding auger mining of preexisting highwalls, windrowing of timber on the downslope, incidental mining permits and operator liability during citizen inspections. Also, West Virginia requested an additional sixty days to satisty conditions 7, 14, and 26 concerning maximization of mineral recovery during auger mining, peak particle velocity and a civil penalty system and conditions 2, 3, 9, 18, 19, 21, 23, and 30, as previously discussed. Additional time is needed by the State to draft regulations due to recent statutory amendments and to finalize revisions to its existing proposed regulations prior to promulgating them under emergency provisions.

Therefore, the Secretary proposes to allow West Virginia until July 1, 1983, to meet conditions 2, 3, 7, 9, 14, 18, 19, 21, 23, 26, and 30. Also, the Secretary is seeking public comment on all the proposed modifications to the West Virginia program. If the modifications discussed herein are approved, they will become part of the West Virginia program.

Additional Information

1. Compliance with the National Environmental Policy Act: The Secretary has determined that, pursuant to the Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act: On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 948

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Therefore, Part 946 of 30 CFR Chapter VII is proposed for amendment as set forth herein.

Dated: May 16, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining.

PART 948—[AMENDED]

Part 948 of Title 30 is proposed to be amended by amending §948.11 as follows:

§948.11 [Amended]

30 CFR 948.11(a), (2), (3), (7), (9), (14), (18), (19), (21), (23), (26), and (30) are proposed to be amended by substituting "July 1, 1983," for May 1, 1983, each time it appears.

[FR Doc. 83-13522 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD13 83-10]

Regatta, Columbia Cup Unlimited Hydroplane Race; Proposed Establishment of Controlled Navigation Area

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is considering a proposal that would establish special local regulations for the Columbia Cup Unlimited Hydroplane Races on the Columbia River at Kennewick, Washington. The regulation establishes an area of controlled navigation from July 26, 1983, until July 31, 1983. This regulation is considered necessary due to the unlimited hydroplane races scheduled for this time period as part of the Tri-Cities Water Follies. The Coast Guard through this action intends to restrict the general navigation in the area for the safety of spectators and participants in this event.

DATE: Comments concerning this proposal must be received on or before June 15, 1983.

ADDRESSES: Comments should be mailed to Commander, U.S. Coast Guard Group, 6767 N. Basin Ave., Portland, Oregon 97217. The comments will be available for inspection and copying at this address during normal business hours, 8:00 a.m. to 4:00 p.m., Monday through Friday, except federal holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lt. John E. Veentjer, Chief, Port Operations Department, 6767 N. Basin Ave., Portland, Oregon, 97217, (503) 240-9317.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD13 83-10) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rule making process.

Drafting Information

The principal persons involved in the drafting of this notice are Lt. John E. Veentjer, USCG, Project Officer, Coast Guard Group Portland, and Lt. James R. Woeppel, USCG, Project Attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Proposed Regulation

Each year, the Tri-Cities Water Follies Association sponsors an unlimited hydroplane race on the Columbia River near Kennewick, Washington. The event draws a large number of spectators to the beaches and waters surrounding the race course. A sizeable portion of the spectators watch the event from a significant number of pleasure craft anchored near the race course. To ensure the safety of both the spectators and the participants, a special navigational regulation providing the Coast Guard personnel with the authority to control and coordinate general navigation in the waters surrounding the race course during the event is required.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5). An economic evaluation of this notice has not been conducted since its impact is expected to be minimal. This regulation affects a short section of the Columbia River with only light commercial traffic and will be in effect for only five (5) days, two of those being Saturday and Sunday. On the days of time trials, 26 July to 30 July 1983, the Patrol Commander will allow commercial traffic to transit the area between time trials. On race day, Sunday, 31 July 1983, all traffic will be excluded. The limited, if any, impact on commercial marine traffic that has occurred in the past is not expected to adversely affect any economic entities in the area during this year's event. Based upon this assessment, it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulations

PART 100—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of title 33, Code of Federal Regulations, by adding § 100.35-1310 to read as follows:

§ 100.35-1310 Columbia River/1983 Columbia Cup Unlimited Hydroplane Race.

(a) From July 26, 1983 to July 30, 1983, this regulation will be in effect from 0830 until 1900 Pacific Daylight Time. On July 31, 1983, this regulation will be in effect from 0830 until one hour after the conclusion of the last race.

(b) The area where the Coast Guard will restrict general navigation and anchorage by this regulation during the hours it is in effect is the waters of the Columbia River from the western end of Hydro Island to the western end of Clover Island at Kennewich, Washington.

(c) The Coast Guard patrol of the area described in paragraph (b) of this section is under the direction of the Coast Guard Patrol Commander. He is empowered to control the movement of vessels in the area described in paragraph (b) of this section.

(d) The Patrol Commander may authorize vessels to be underway in the area described in paragraph (b) of this section during the hours this regulation is in effect. All vessels permitted to be under way in this area shall do so only at speeds which will create minimum wake, seven (7) miles per hour or less. This maximum speed may be reduced at the discretion of the Patrol Commander.

(e) A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the patrol vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(46 U.S.C. 454; 49 U.S.C. 1655 (b); 49 CFR 1.46(b); 33 CFR 100.35)

Dated: May 6, 1983.

R. J. Copin,

Captain, U.S. Coast Guard, Commander, 13th Coast Guard District Acting.

[FR Doc. 83-13508 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 254

Conveyance of Small Tracts

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: These regulations establish standards for implementing the Act of January 12, 1983 (96 Stat. 2535), commonly known as the Small Tracts Act, which enables the Secretary of Agriculture to sell, exchange, or interchange certain limited and specific categories of National Forest System lands. The proposed regulations help resolve title conflicts for small parcels of land, facilitate the rapid solution of certain encroachment problems, reduce the number of decisionmaking levels previously involved in resolving title claims problems, and provide for more efficient management of the National Forests. In addition the regulation provides for disposal of narrow strips of land held for right-of-way purposes, but no longer needed, and of small, odd-shaped parcels of National Forest System lands intermingled with patented mining claims.

DATE: Comments must be received by July 18, 1983.

ADDRESS: Comments should be sent to: R. Max Peterson (5450), Chief, Forest Service, U.S. Department of Agriculture, P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: George Liddicoatt, Paul Haarala, or Jerry Sutherland, Forest Service, Lands Staff, (703) 235-8188.

SUPPLEMENTARY INFORMATION: There are estimated to be over 200,000 very small tracts of Federal land with specific problems relating to management; many of these are occupied in trespass.

These tracts can generally be grouped into one of three categories:

(a) Numerous tracts of 10 acres or less encroached upon by private parties because of erroneous surveys or land descriptions.

(b) Irregularly shaped tracts of 40 acres or less that are interspersed with or adjacent to mining claims created by the unorthodox system for survey, entry, and patent of minining claims under the 1872 General Mining Law. These obscure, fractional parcels generally developed as hiatuses within and between patented mineral surveys and are referred to as "mineral survey fractions".

(c) Road rights-of-way of varying widths retained or acquired by the United States as access ways for the Government and general public, the width, location, and alignment of which make them unsuitable for development as roadways or other uses. Examples of these access ways include:

(1) Wagon roads which were excepted as tracts in Homestead Entry Surveys,

(2) Road rights-of-way reserved by the United States in patents or other conveyance documents, and

(3) Road rights-of-way acquired in fee title or lesser interest.

These three types of small, irregularly shaped tracts of National Forest System land create problems for both Federal land managers and adjacent private party owners.

Existing administrative remedies include issuance of special use permits and land exchange procedures. Special use permits recognize the problem; however, they do not provide long term solutions. Land exchange procedures for the small tracts being considered are simply not time or cost effective. Private legislation has also been an often used alternative to resolve these problems but is also a time consuming, costly process with uncertain results.

The Small Tracts Act of January 12, 1983 (96 Stat. 2535), provides an efficient and flexible means of resolving these small tract landownership problems by sale, exchange, or interchange of lands and directs the Secretary of Agriculture to issue regulations to carry out the act including specifications of:

(a) Criteria to be used in the determination of what constitutes public interest;

(b) The definition of and the procedure for determining "approximately equal value"; and

(c) Factors relating to location or size which shall be considered in connection with determining mineral survey fractions to be sold, exchanged, or interchanged under the Act.

The proposed rules set forth regulations to carry out the provisions of the Act. They define new or unfamiliar terms and set forth the process of transferring title and resolving encroachment cases.

Two terms, "interchange" and "approximate equal value" are unique to this authority and are defined as follows:

(a) Interchange is a land transfer in which the Secretary and another person exchange title to lands or interests in land of approximate equal value where the Secretary finds that such a value determination can be made without a formal appraisal.

(b) Approximate equal value as used in these regulations is limited to the comparative value of lands involved in an interchange, the amenities of which are readily apparent.

Conveyance of title under these regulations must be in the public interest. The regulations set forth criteria for determining public interest that include protection of, access to, and utility of adjacent public land, environmental factors, cost of administration, location, size, and shape of other National Forest System land and private land and a determination that resolution of the problem is impractical under other authorities.

The proposed rule sets forth general procedures for transfers of small fractional parcels and narrow strips of National Forest System land and for resolving encroachment cases. These procedures are intended to be handled at the field levels of the Forest Service organization to facilitate timely and efficient actions.

This proposed rule has been reviewed under USDA procedures and Executive Order 12291, and it has been determined that this rule is not a major rule. Little or no effect on the economy will result from this regulation. Since the proposed procedures provide a streamlined, simplified mechanism of resolving small claims and disputes on small parcels of land, time and costs to Federal Government and private parties in resolving these cases should be significantly reduced. There are no alternatives to issuance of these regulations which are required by the Small Tracts Act.

The Assistant Secretary of Agriculture for Natural Resources and Environment has determined that this action will not have a significant economic impact on a substantial number of small entities. Furthermore, it does not directly result in additional procedures or paperwork not already required by the National Environmental Policy Act or other provisions of law.

The regulation does not significantly affect the environment; therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969. Individual environmental assessment reports will be made on a case-by-case basis.

List of Subjects in 36 CFR Part 254

National forests, Public lands—acquisitions and exchanges, permits, sales.

Therefore, for the reasons set forth in the preamble, Part 254 of Title 36 of the Code of Federal Regulations is proposed to be amended as follows:

(1) Change the title of Part 254 from "LANDOWNERSHIP" to "LANDOWNERSHIP ADJUSTMENTS";

(2) Add a new Subpart C to read as follows:

PART 254—LANDOWNERSHIP ADJUSTMENTS

* * * * *

Subpart C—Conveyance of Small Tracts

Sec.

Authority: Pub. L. 97–465; 96 Stat. 2535.

§ 254.30 Purpose.

These regulations set forth efficient and uniform procedures in which the Secretary of Agriculture may resolve land dispute and management problems pursuant to Pub. L. 97–465, commonly called the Small Tracts Act, by conveying, through sale, exchange, or interchange, three categories of tracts of land: (a) Parcels encroached on, (b) road rights-of-way, and (c) mineral survey fractions.

§ 254.31 Definitions.

For the purpose of this subpart—

(a) "Applicant" is a landowner who has improvements held under claim or color-of-title encroaching on National Forest System land, or who has property abutting or underlying road rights-of-way, or abutting mineral survey fractions.

(b) "Approximate Equal Value" is limited to the comparative estimate of value of adjacent lands involved in interchange where the elements of value, such as physical characteristics and other amenities, are readily apparent and very similar.

(c) "Claim of Title" is a claim of land as one's own under color of title.

(d) "Color of Title" is an instrument purporting to convey title to a tract of land.

(e) "Encroachments" as used in this subpart are improvements made on or to National Forest System land under claim or color of title by private parties.

(f) "Exchange" is a discretionary, voluntary real estate transaction involving transfer of land or interest in land between the Secretary of Agriculture acting by and through the Forest Service and a nonfederal entity.

(g) "Good Faith" is honesty of intention and freedom from knowledge of circumstances which ought to put the holder upon inquiry.

(h) "Improvements" mean a valuable addition to property costing labor or capital which enhances its value and generally includes permanent fixtures, such as homes, structures and attendant facilities, and buildings.

(i) "Interchange" is a land transfer in which the Secretary and a nonfederal entity exchange titles to lands or interests in lands of approximately equal value without formal appraisal.

(j) "Lands" include all National Forest lands reserved or withdrawn from the public domain of the United States, all National Forest lands acquired through purchase, exchange, donation, or other means, the National Grasslands and land utilization projects administered under Title III of the Bankhead-Jones Farm Tenant Act, and other lands, waters, or interests therein, including minerals.

(k) "Mineral Fractions" or "mineral survey fractions" are small, odd-shaped parcels of National Forest System lands interspersed with lands surveyed and transferred out of Federal ownership under the mining laws.

(l) "Person" includes any nonfederal entity such as a State or any political subdivision as well as any individual.

(m) "Secretary" refers to the Secretary of the United States Department of Agriculture.

§ 254.32 Encroachments.

(a) These parcels are limited to tracts 10 acres or less encroached upon by improvements which are occupied or used under claim or color-of-title by persons: (1) To whom no advance notice was given that the improvements encroached or would encroach, and

(2) Who in good faith relied on an erroneous survey, title search, or other land description which did not reveal such an encroachment.

(b) Forest Service officials shall consider the following factors when determining whether or not to convey encroached upon lands: (1) The location of the property boundaries based on historical location and continued acceptance and maintenance,

(2) Factual evidence of claim or color-of-title,

(3) Actual or constructive notice given to persons encroaching on National Forest System lands, and

(4) Degree of development within a subdivision, and creation of uneconomic remnants.

§ 254.33 Road rights-of-way.

(a) Reserved or acquired road rights-of-way parcels are limited to those which are substantially surrounded by lands not owned by the United States.

(b) Forest Service officials shall consider public road system right-of-way needs based on National Forest transportation planning and State and local law before any conveyance of rights-of-way tracts.

(c) Reimbursement will be made for the value of any improvements made by the United States or other highway authorities, unless waived by the Chief of the Forest Service.

§ 254.34 Mineral survey fractions.

(a) Mineral survey fractions are limited to those tracts which: (1) Are surrounded by or adjacent to lands surveyed and patented under the mining laws, and

(2) Are occupied or there is evidence they could be occupied or used by adjoining owners, and

(3) When sold separately or aggregated in any transaction, do not exceed 40 acres.

(b) Forest Service officials shall consider the following factors in determining whether or not to convey mineral survey fractions: (1) The fractional tracts are interspersed in and are an integral part of private land holdings,

(2) The feasibility and cost of surveying these parcels in order to effectively manage them,

(3) relationship of size, shape, and location of the parcels as they affect: Management, utility, access, occupancy and use of Federal and private lands, and

(4) Relative accessibility and wildland characteristics of the lands.

§ 254.35 Limitations.

(a) Lands within the National Wilderness Preservation System, the National Wild and Scenic Rivers System, the National Trails System, and National Monuments are exluded from any conveyance under the provisions.

(b) Lands within National Recreation Areas may not be conveyed by sale under this subpart.

(c) Lands conveyed in any transaction shall not exceed $150,000.

(d) Compensation for lands conveyed must be at least equal or in the case of interchange, of approximate equal value and may be in the form of land, interest in land, including minerals, or cash or any combination thereof.

(e) The sale, exchange, or interchange of lands or interest in lands, including minerals, under these rules are discretionary and shall be made only if in the public interest.

(f) The abutting landowner(s) shall have the first right of acquisition.

(g) The area of land conveyed is limited to the minimum necessary to resolve encroachment or land management problems.

§ 254.36 Public interest criteria to be considered.

(a) The need to resolve specific problems which are impracticable to resolve under any other authority of the Secretary;

(b) The effect on administration and management of National Forest System lands such as improved utilization and management efficiency;

(c) The need for continued access to and continued use and enjoyment of National Forest System lands by the general public;

(d) Avoiding the establishment of new, or extensive, inholdings which would present management problems;

(e) Susceptibility to environmental damage and the need for protection of scenic, environmental, and other resources pursuant to other laws;

(f) Occupancy and use of the parcels such as: (1) The type, permanence, and location of structures occupied or used,

(2) Physical attributes as they affect utility of the tract for public or private purposes, and

(3) Existence of structures authorized under a special use permit or easement, and

(g) Adherence to Federal, State, and local survey and realty laws, rules, regulations, and zoning ordinances.

§ 254.40 Applications.

(a) An applicant must request the transfer of National Forest System land by letter, or other suitable written form, filed with the District Ranger or the Forest Supervisor who has administrative jurisdiction over the lands being requested.

(b) The applicant shall bear all reasonable costs of administration, survey, and appraisal incidental to the conveyance.

(c) Costs may be waived at the discretion of the Chief of the Forest Service.

(d) If the application qualifies, the applicant will be furnished instructions for completing the transaction.

§ 254.41 Sale or exchange in absence of application.

(a) Mineral survey fractions or road rights-of-way which have not been applied for by an abutting landowner may be offered for sale or exchange.

(b) Reasonable notice of sales shall be published.

§ 254.42 Valuation.

(a) Approximate equal value is restricted to interchange where it is readily apparent that the elements of value are approximately equal. Approximate equal value shall be determined by comparing and evaluating the elements of value on the lands or interest to be interchanged. Elements of value to be considered include such items as similarity of size, shape, location, physical attributes, functional utility, proximity of other similar sites, and other amenities in the immediate environs of the parcel. The findings verifying that the tracts have amenities which make them approximately equal in value shall be documented. The applicant will signify acceptance of the value determination by signing the documented findings.

(b) Equal value in sale or exchange transactions will be developed by the allocation method following Forest Service appraisal procedures.

(c) Improvements to Government land made by persons other than the Government will be excluded from any value determinations.

§ 254.43 Survey.

All necessary tract surveys of National Forest System land shall be conducted by the Forest Service or under Forest Service direction. All abutting property boundaries resulting from a conveyance shall be marked and posted by the Forest Service or the landowner under Forest Service guidance.

§ 254.44 Conveyance document.

(a) Title to and from the United States may be conveyed by quitclaim deed.

(b) Deeds shall be free of terms and convenants except those determined to be necessary to ensure protection of the public interest, the scenic, wildlife, and recreation values and provisions for public access.

(c) A copy of all recorded conveyance document(s) shall be transmitted to the applicable State Office of the Bureau of Land Management for their records.

Dated: May 9, 1983.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

[FR Doc. 83-13523 Filed 5-18-83; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

[CGD 82-085]

Documentation of Vessels

Correction

In FR Doc. 83-12086 beginning on page 20249 in the issue of Thursday, May 5, 1983, "Federal Aviation Administration" inadvertently appeared in the heading. "Coast Guard" should have appeared.

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 13, 21, 23, 73, 74, 78, 81, 83, 87, 90, 94, and 95

[General Docket No. 83-322; RM-3292; RM-2643; FCC 83-113]

Requirements for Licensed Operators in Various Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In order to create, to the maximum extent possible, an unregulated, competitive marketplace environment for the development of communication and to eliminate unnecessary regulations, the Commission is proposing to remove rules which permit only persons who hold a commercial radio operator license to perform certain operating, maintenance, and repair duties in several radio services. To the extent permitted by international agreement, the Commission proposes to allow radio station licensees to determine the qualifications of the operators of their stations, instead of the FCC continuing to do so through operator testing and licensing. Under the Commission's proposal, there would no longer be any requirement for the General Radiotelephone Operator License in the broadcast and private land radio services. However, the Commission would continue to verify the qualifications of operators in the maritime, aviation, and International

Public Fixed radio services. The Commission believes that if the proposed rules are adopted, consequent reduction in demand for radio operator examinations will provide significant resource savings.

DATES: Comments are due by June 20, 1983. Reply comments are due by July 20, 1983.

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

FOR FURTHER INFORMATION CONTACT:

Impact on broadcast services: Bill Hassinger, Mass Media Bureau, FCC, Washington, D.C. 20554, (202) 632-6460

Impact on private land mobile services: Jack Richards, Private Radio Bureau, FCC, Washington, D.C. 20554, (202) 643-2443

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 13

Commercial radio operators.

47 CFR Part 21

Licensed operator requirements, Communications common carriers.

47 CFR Part 23

Licensed operator requirements, Communications common carriers.

47 CFR Part 73

Licensed operator requirements, Radio broadcasting.

47 CFR Part 74

Licensed operator requirements, Radio broadcasting.

47 CFR Part 78

Licensed operator requirements, Radio broadcasting.

47 CFR Part 81

Licensed operator requirements, Radio.

47 CFR Part 83

Licensed operator requirements, Radio.

47 CFR Part 87

Licensed operator requirements, Radio.

47 CFR Part 90

Licensed operator requirements, Radio.

47 CFR Part 94

Licensed operator requirements, Radio.

47 CFR Part 95

Licensed operator requirements, Radio.

Notice of Proposed Rule Making

In the matter of requirements for licensed operators in various radio services; RM-3292, RM-2643, General Docket 83-322.

Adopted: March 31, 1983.
Released: April 20, 1983.

By the Commission.

1. In accordance with the Administrative Procedure Act, 5 U.S.C. 553, and § 1.412 of the Commission's Rules, 47 CFR 1.412, the Commission hereby gives Notice of Proposed Rule Making in the above-captioned matter.

Background

2. As we have elsewhere stated, it is our intent to take actions which create, to the maximum extent possible, an unregulated, competitive marketplace environment for the development of telecommunications. With this goal in mind, we are continuing to review all of our rules and regulations with the objective of eliminating those which are no longer necessary.

3. Historically, we have required that the operation, adjustment, repair, or maintenance of most radio transmitters be performed only by persons who hold commercial radio operator licenses. In consideration of the varied duties to be performed and the consequent levels of skill and knowledge needed, we administer a program consisting of several operator license classifications and a series of written and Morse telegraphy examinations to verify the qualifications of applicants for these licenses.[1] Our requirements and procedures in this regard stem from Article 23 of the Radio Regulations of the International Telecommunications Union (Geneva, 1959),[2] as well as Sections 303(1) and 318 of the Communications Act of 1934, as amended.

4. In Docket 20817,[3] we decided that it is no longer necessary to require that broadcast stations be operated and maintained only by persons who hold operator licenses having examination prerequisites. Finding no significant correlation between the requirement for licensed operators at broadcast stations and signal quality or interference control, we concluded that we could reduce costs associated with the commercial radio operator licensing program by abolishing the Broadcast Endorsement, the Radiotelephone Third Class Operator Permit, and the Radiotelephone First Class Operator License.

Proposed Rule Changes

5. We now turn our attention to the rules which require licensed commercial radio operators in the Experimental Broadcast, International Broadcast, and Auxiliary Broadcast Services. In addition, we have under consideration our rules which permit only licensed commercial radio operators to perform certain duties in the Private Land Mobile and Fixed, Personal, Domestic Public Fixed, and Cable Television Relay Services. We are proposing to eliminate these rules.

6. We believe that the requirements we are proposing to delete are unncessary, and that there will be no significant adverse impact on the quality or efficiency of communications in the radio services involved. Nevertheless, we invite comments on this subject in order to develop a complete record, which will assist us in making a final decision.

Broadcast Services

7. Our current requirements for licensed operators in the broadcast-related services can be summarized as follows:

(a) For AM Broadcast Stations, FM Broadcast Stations, Noncommercial Educational FM Broadcast Stations, Television Broadcast Stations:

(i) *Operation:* Transmitter may be operated only by a person who holds a commercial radio operator license. Any class of license, except for the Marine Radio Operator Permit, is sufficient to meet this requirement.

(ii) *Maintenance:* Transmitter maintenance duties may be performed only by (or under the supervision of) a person holding a commercial radio operator license. Any class of license, except for the Marine Radio Operator Permit is sufficient to meet this requirement.

(b) For International Broadcast Stations:

(i) *Operation:* Transmitter may be operated only by a person who holds a General Radiotelephone Operator License.

(ii) *Maintenance:* It is implied, but not explicitly stated, that maintenance duties may be performed only by (or under the supervision of) a person who holds a General Radiotelephone Operator License.

(c) For Low Power TV Stations, TV Translator Stations, FM Broadcast Translator Stations, FM Broadcast Booster Stations:

---

[1] We currently issue the following classes of commercial radio operator licenses (permits are considered to be licenses): Radiotelegraph—First, Second, and Third Class. Radiotelephone—General, Marine Radio, and Restricted.

[2] Redesignated Article 55 by WARC, Geneva, 1979.

[3] See 44 FR 1733, 44 FR 66616, 45 FR 52154, 46 FR 35450.

(i) *Operation:* During all periods of program origination, a licensed operator must be on duty in charge of the transmitting apparatus of a Low Power TV station. Any class of license, except for the Marine Radio Operator Permit, is sufficient to meet this requirement. In all other situations, these stations are not required to have licensed operators. (Some of these stations are normally operated unattended, and consequently, don't need operators.)

(ii) *Maintenance:* Anyone may install type-accepted transmitting equipment. However, adjustments which require the radiation of signals, or which, if incorrectly done, could result in improper operation of the transmitter, may be made only by (or under the supervision of) an operator holding a General Radiotelephone Operator License.

(d) For Special Field Test Authorizations, Experimental TV Broadcast Stations, Experimental Facsimile Broadcast Stations, Developmental Broadcast Stations:

(i) *Operation:* Transmitter may be operated only by a person who holds a General Radiotelephone Operator License.

(ii) *Maintenance:* No licensed operators are required, although the applicant for an experimental or developmental authorization must show that the program of research and experimentation will be conducted by qualified personnel.

(e) For the Instructional TV Fixed Service:

(i) *Operation:* Transmitter may be operated only by a person who holds a commercial operator license. Any class of license, except for the Marine Radio Operator Permit, is sufficient to meet this requirement. (Unattended operation is permitted under certain conditions.)

(ii) *Maintenance:* Transmitter maintenance may be done only by (or under the supervision of) a person holding a commercial radio operator license. Installations and maintenance which could affect proper operation of the transmitter may be made only by (or under the supervision of) a person holding a General Radiotelephone Operator License. Otherwise, any class of license, except for the Marine Radio Operator Permit, is sufficient to meet this requirement.

(f) For Broadcast Remote Pickup Stations, Aural Broadcast STL and Intercity Relay Stations, Television Broadcast Auxiliary Stations, Low Power Auxiliary Stations:

(i) *Operation:* Certain TV Broadcast Auxiliary Stations may be operated only by a person who holds a General Radiotelephone Operator License. Otherwise, no licensed operators are required.

(ii) *Maintenance:* Transmitter installations or maintenance which may affect the proper operation of the station may be made only by (or under the supervision of) a person holding a General Radiotelephone Operator License.[4]

8. It is easy to see how these rules can give rise to apparently inconsistent situations. For example, a TV transmitter may be maintained by a person holding a Restricted Radiotelephone Operator Permit, but the station used to transmit program material from the studio to the main TV transmitter may be maintained only by (or under the supervision of) a person holding a General Radiotelephone Operator License. Requiring that the lesser part of the system be maintained by a person who has demonstrated technical qualifications to the Commission by obtaining the higher class of license, while allowing the greater part to be maintained by a person who has not made such a demonstration, seems contradictory. Since we fully expect each broadcast station licensee to be diligent in employing qualified persons to maintain the main transmitter, it is reasonable for us to further rely on each station licensee to employ qualified persons to maintain the studio-transmitter link. A rulemaking petition, RM-3292, filed by Board of Trustees, California State University and Colleges, for San Diego State University, on December 7, 1978, requests that the Commission remove licensed operator requirements for stations in the Instructional Television Fixed Service.

9. We propose to modify our operator requirements for stations licensed under Parts 73 and 74 of the rules as follows: First, in any case where a licensed operator is statutorily required for operating a station licensed under Part 73 or Part 74 of our rules and regulations,[5] that requirement will be satisfied by a person who holds any class of commercial radio operator license or permit, unless that license or permit is otherwise endorsed.[6] Second, a licensed operator will *not* be required for either the Second, a licensed operator will *not* be required for either the operation or maintenance of Instructional Television Fixed Service Stations, Broadcast Remote Pickup Stations, Aural Broadcast STL or Intercity Relay Stations, TV Broadcast Auxiliary Stations, or Low Power Auxiliary Stations. These are not used to broadcast directly to the public and do not, for the most part, operate in the broadcast frequency bands. We see no need in these services to retain that additional margin of control represented by a commercial radio operator license.

Private Radio Services

10. It is with some reluctance that we propose to delete requirements for licensed commercial radio operators in the Private Land Mobile Radio Services, the Private Operational-Fixed Microwave Service, and the Personal Radio Services. Currently, with a few exceptions, only persons who hold a valid General Radiotelephone Operator License [7] may take responsibility for the installation, service, or maintenance of transmitters in these services.[8] Additionally, we currently require higher-class operator licenses for certain operating duties.[9]

11. We are aware that the land mobile community is generally opposed to the removal of our licensed commercial radio operator requirements.[10] Furthermore, in view of the fact that much of our contact with station licensees in these services is indirect—through licensee associations, equipment vendors, and other third parties—we realize that knowledgeable

---

[4] This summary is intended only to illustrate the scope of licensed operator requirements in the Broadcast services, and should not be relied upon in lieu of the pertinent sections in Parts 73 and 74 of the Commission's Rules.

[5] Section 318 of the Communications Act of 1934, as amended, prevents us from dispensing with operator licenses altogether for "stations engaged in broadcasting (other than those engaged primarily in the function of rebroadcasting the signals of broadcast stations) . . ."

[6] Marine Radio Operator Permits and *new* General Radiotelephone Operator Licenses will be so endorsed in order to discourage broadcast personnel from applying for these licenses unless they are otherwise required to hold them. Restricted permits issued to those *not* legally eligible for employment in the United States are also excluded. Renewal General Radiotelephone Operator Licenses will not be so endorsed, however, to permit broadcast station personnel who already hold a General Radiotelephone Operator License (or a first or second class radiotelephone operator license) to continue to use that license in the broadcast services.

[7] Or a valid Radiotelephone First or Second Class Operator License.

[8] Installation, in some services, particularly the CB and R/C radio services, may be done without an operator license. However, internal adjustments which, if improperly done, could result in improper transmitter operation, must be made only by or under the supervision of a person holding a General (or first or second class) Radiotelephone Operator License.

[9] See 47 CFR 90.433(b) and 47 CFR 90.433(c).

[10] A number of land mobile associations and licensees submitted comments in opposition to our proposals in Docket 20817 (see *Further Notice* 45 FR 54778, August 18, 1980, and *Fourth Report and Order*, 46 FR 35450, July 8, 1981, para 22.), even though those proposals related solely to the Broadcast services.

service and installation technicians are often relied upon by our licensees in the Private Land Mobile Radio Services to advise them about our technical and administrative requirements.

12. Nevertheless, it is the station licensees themselves who are ultimately responsible for the control and proper operation of their stations. It appears to us that these station licensees should and can have the freedom to utilize whatever measures they deem appropriate to insure that their stations are operated, serviced, and maintained in accordance with the Commission's technical rules and type-acceptance standards.

13. Therefore, we are proposing to abolish all rules requiring that transmitter maintenance, adjustment, and servicing in the Private Land Mobile, Private Operational-Fixed Microwave, and Personal Radio Services, be performed only by persons holding a commercial radio operator license.

Other Services

14. We have already proposed to abolish requirements for licensed operators in the Experimental Radio Service and the Public Mobile Radio Service as a part of other proceedings involving updating and revisions to Parts 5 and 22 of our rules.[11]

15. For similar reasons, we are proposing to delete the requirements for licensed commercial radio operators from Part 78 of our rules and regulations, governing the Cable Television Relay Service, and from Part 21 of our rules and regulations governing the Domestic Public Fixed Service.

16. We are not proposing to change our licensed operator requirements in the Maritime, Aviation, or International Public Fixed Radio Services at this time. We note that these are international radio services,[12] and we believe that, at a minimum, certain implicit operator licensing obligations do exist. However, we are further investigating the question of licensed operator requirements in these services and, if appropriate, will initiate a separate proceeding to address those requirements.

Operator Licensing Procedures

17. We have before us a rule making petition, RM-2643, filed by Raphael Soifer, on November 28, 1975. Mr. Soifer requests that we amend Part 13 of the rules to extend the terms of all commercial radio operator licenses to encompass the lifetime of the holder. Currently, all commercial radio operator licenses, except the Restricted Radiotelephone Operator Permit, are normally issued for a five-year renewable term.[13]

18. In support of this request, the petitioner states that no substantial verification of an operator's continued qualificatons to hold the subject licenses is made during the renewal process, and that periodic license renewal is burdensome for licensees and creates unnecessary paper work for our staff. The petitioner concludes that the current renewal process for commercial radio operator licenses serves no useful purpose, and that extending the license term to encompass the lifetime of the operator would save Commission resources while eliminating the burden of filing for license renewal every five years for commercial radio operators.

19. The Radio Regulations of the International Telecommunication Union provide that administrations "should take whatever steps they consider necessary to ensure the continued proficiency of (commercial radio) operators."[14] Prior to World War II, the Commission required a showing of satisfactory service or a renewal examination for commercial operator license renewals. However, effective December 7, 1940, the Commission temporarily suspended this requirement in order to allow license renewals for operators who, because of military service, were unable to make the specified showing. This suspension order was extended several times for one year periods. In April 1951, the Commission suspended the requirement until further notice. In October 1980, we deleted all renewal service and examination requirements.[15]

20. We therefore agree with the petitioner that the renewal process does not verify the original qualifications of the licensed commercial operator. However, any improper conduct, as may be evidenced by an outstanding Offical Notice of Violation, or by other information brought to our attention is considered during the renewal process. When routine renewal is denied, an operator may request that the application be dismissed or designated for hearing. In cases of lesser infractions, a short-term license can be issued, affording the operator a "second chance" to demonstrate willingness to comply with FCC rules. The renewal process has thus been used to "weed out" operators having unsatisfactory records of compliance with the Commission's Rules.

21. Currently, commercial radio operators are not required to advise us of changes in their permanent mailing address. The renewal process serves to update our records in this regard.

22. The Radio Regulations of the International Telecommunication Union require that operator licenses used in the Maritime Mobile service bear the photograph of the licensee.[16] Consequently, we issue Radiotelegraph First, Second, and Third Class Operator Licenses with the operator's photograph attached. Upon each renewal, new, recent, photographs are required to ensure that licenses so issued accurately reflect the physical appearance of the licensee. Without renewal, these photograph operator licenses would not show changes in appearance of the operator, negating their usefulness for identification purposes.

23. We are not insensitive, however, to the burden on our licensees caused by the necessity to renew operator licenses. We also realize the importance of effecting changes in our licensing systems which will reduce future administrative costs.

24. Therefore, we are proposing to issue General Radiotelephone Operator Licenses for a license term concurrent with the lifetime of the holder. We believe that the international requirements for photographs to ensure positive operator identification are intended to facilitate such identification in foreign ports. The vast majority of General Radiotelephone Operator Licenses are currently used in the United States, rather than on the high seas or abroad.[17] Consequently, we believe that it is unnecessary to require updated operator identification data on General Radiotelephone Operator Licenses. Furthermore, we find that the enforcement and record updating functions of the renewal process are not worth the cost associated with processing renewal applications.

25. We are also proposing to lengthen the renewal grace period for commercial radio operator licenses from one year to

[11] See 47 FR 35535 and 47 FR 43842.

[12] See Radio Regulations of the ITU, Article 23, Section 11A, paragraphs 866D, 866E (redesignated Article 44, Section II, paragraphs 3407 through 3410 and Article 55, Section II, paragraphs 3885 and 3886 by WARC, 1979 Geneva).

[13] Restricted Radiotelephone Operator Permits issued to persons legally eligible for employment in the United States are normally valid for the lifetime of the operator.

[14] Radio Regulations of the ITU, Art. 23, Sec. III, Para. 870, 870A redesignated Art. 55, Sec. III, Para. 3896, 3896 by WARC, Geneva, 1979.

[15] See 45 FR 52154, August 6, 1980, with respect to amendment of 47 CFR 13.28.

[16] Radio Regulations of the ITU, Art. 23, Sec. I, para. 856A; redesignated Art. 55, Sec. I, para. 2870 by WARC, Geneva, 1979.

[17] By contrast, the majority of commercial radiotelegraph operator licensees are used by ship radio officers who embark on international voyages frequently.

five years. Our Field Operations Bureau currently receives about 25 requests for waiver of the grace period each year. We see no reason to deny these requests in view of our previous deletion of renewal service requirements. However, rather than process these waiver requests, we would prefer to eliminate the necessity for filing them by lengthening the grace period.

26. We are proposing to abolish the restrictive endorsement which we have placed on commercial radio operator licenses held by blind persons. By our recent actions in Docket 20817, we have shifted the burden of evaluating the qualifications of broadcast station operators from the Commission to broadcast station licensees. We believe station licensees can best determine whether blindness would be an impediment to performing the duties of a transmitter duty or chief operator in any particular case. We suspect that, in many instances, it would not cause any serious difficulty. With the endorsement removed, a blind operator seeking employment in the broadcast industry will no longer be compelled to limit his or her search to stations which are "adapted for operation by blind persons." [18] We are, however, retaining the restrictive endorsement relating to uncorrected physical handicaps, which invalidated the license for use on compulsorily-equipped vessel. We will continue to verify the qualifications of radio operators in the Maritime Mobile Services.

27. We are proposing to delete the rule provision which requires the holder of a third class radiotelegraph operator permit to repeat the Morse code tests when applying for a second-class radiotelegraph operator license after one year has elapsed. We believe that there is no significant public benefit from this requirement.

28. We are proposing to abolish the aircraft radiotelegraph endorsement. We are not aware of any stations still in operation which would require an operator holding this endorsement.

29. Finally, we are proposing a number of minor editoral changes to Part 13 to improve its readability and accuracy.

Initial Regulatory Flexibility Analysis

30. In accordance with 5 U.S.C. 603, the following initial regulatory flexibility analysis applies to this Notice of Proposed Rule Making.

31. *Reason for Action.* The Commission is proposing changes to its commercial radio operator requirements and licensing procedures. The Commission believes that the operator license requirements which it is proposing to eliminate are unnecessary.

32. *Statement of Objectives.* The Commission's objectives in this proposal are to create, to the maximum extent possible, an unregulated, competitive, marketplace environment for the development of telecommunications, and to eliminate unnecessary regulations and policies.

33. *Legal Basis.* The action proposed in authorized by Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

34. *Small Entities Affected and Potential Impact.* Small entities which could be affected if the proposed rules were adopted include: small publishers producing examination study guides, FCC examination preparation schools, and small businesses which use two-way radio. The potential impact of the rules proposed, if adopted, falls into two areas. First, because the proposal, if adopted, might reduce the demand for FCC operator licenses, and, consequently, the number of FCC examinations conducted, it can be assumed that the market for examination study materials and examination preparation schools might also be reduced. Some publishers and schools might find it unprofitable to produce material for a decreased number of examinations. Second, small businesses could suffer some slight economic impact as a result of a possible increase in interference to their two-way radio systems. Such an increase in interference would occur only if these small businesses did not continue to have their radio systems repaired and maintained by qualified personnel, in the absence of the current FCC licensed operator requirement. The Commission believes that any impact in the latter two areas would be very slight.

35. *Relevant Federal Rules Which Overlap, Duplicate, or Conflict with this Action.* The proposed action is unregulatory in nature, and there are no federal rules which overlap, duplicate, or conflict with it. There are, however, in the Commission's assessment, a number of other FCC regulatory systems [19] and marketplace incentives, which seek to achieve the same objectives as those of the operator rules. The Commission believes that, in the absence of the subject licensed operator requirements, these partially overlapping systems and incentives would preserve the basic quality of communications in the affected radio services.

36. *Specific Alternaitves which could Accomplish the Same Objectives.* There are no feasible alternatives to the instant proposal which could accomplish the same objectives without impacting the small entities previously identified.

37. *Reporting, Recordkeeping, and Compliance Requirements.* The proposed action would impose no new reporting or recordkeeping requirements. It would relieve the burden of license renewal for holders of the General Radiotelephone Operator License, and could reduce the station maintenance recordkeeping requirements in some radio services.

38. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contracts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's Rules, 47 CFR 1.1231.

39. Authority for issuance of this Notice is contained in Sections 4(i) and 303(r) of the Communications Act of

[18] See 47 CFR 13.5(c)(2).

[19] For examples, the Commission provides the following regulatory systems: station licensing, technical regulations, equipment type acceptance, on-site and fixed monitoring for compliance, sanctions against station licensees, and, in the case of broadcast stations, periodic inspection by Commission personnel.

1934, as amended. Pursuant to procedures set out in § 1.415 of the Rules, interested persons may file comments on or before June 20, 1983, and reply comments on or before July 20, 1983. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of the information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. In accordance with the provisions of § 1.419 of the Rules, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given equal consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

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

Federal Communications Commission.

William Tricarico,

Secretary.

Appendix

It is proposed to amend 47 CFR Chapter I as follows:

PART 13—[AMENDED]

A. Part 13 of Title 47 of the Code of Federal Regulations, Commercial Radio Operators, is amended as follows:

1. Section 13.1 is revised to read as follows, and the two Notes following it are removed:

§ 13.1 Basis and purposes.

(a) *Basis.* The basis for the rules contained in this part is the Communications Act of 1934, as amended, and applicable treaties and agreements to which the United States is a party.

(b) *Purpose.* The purpose of the rules in this part is to prescribe the manner and conditions under which commercial radio operators are licensed by the Commission.

2. Section 13.2 is revised to read as follows:

§ 13.2 Classification of operator licenses and endorsements.

(a) Commercial radio operator licenses issued by the Commission are classified in accordance with the Radio regulations of the International Telecommunications Union.

(b) The following licenses are issued by the Commission. International classification, if different from the license name, is given in parenthesis.

(1) First Class Radiotelegraph Operator's Certificate.

(2) Second Class Radiotelegraph Opertor's Certificate.

(3) Third Class Radiotelegraph Operator's Certificate (radiotelegraph operator's special certificate).

(4) General Radiotelephone Operator License (radiotelephone operator's general certificate).

(5) Marine Radio Operator Permit (radiotelephone operator's restricted certificate).

(6) Restricted Radiotelephone Operator Permit (radiotelephone operator's restricted certificate).

(c) The following license endorsements are affixed by the Commission, to provide special authorizations or restrictions. Applicable licenses are given in parenthesis.

(1) Ship Radar endorsement (First and Second Class Radiotelegraph Operator's Certificates, General Radiotelephone Operator License).

(2) Six Months Service endorsement (First and Second Class Radiotelegraph Operator's Certificates).

(3) Restrictive endorsements; relating to physical handicaps, English language or literacy waivers, or other matters (all licenses).

(d) The following former licenses and endorsements are no longer issued; however, those outstanding are valid until expiration. Upon renewal, holders of these former licenses may be issued one or more of the licenses listed in paragraph (a) of this section, in accordance with § 13.28.

(1) Radiotelephone First Class Operator License—last issued December 1981.

(2) Radiotelephone Second Class Operator License—last issued December 1981.

(3) Radiotelephone Third Class Operator Permit—last issued October 1980.

(4) Broadcast endorsement—last issued February 1979.

3. In § 13.3, paragraph (c) is revised to read as follows:

§ 13.3 Holding of more than one commercial radio operator license.

* * * * *

(c) Each person who is legally eligible for employment in the United States may, if necessary, simultaneously hold:

(1) One General Radiotelephone Operator License and one Restricted Radiotelephone Operator Permit; or,

(2) One Marine Radio Operator Permit and one Restricted Radiotelephone Operator Permit.

* * * * *

4. Section 13.4 is revised to read as follows:

§ 13.4 Term of licenses.

(a) Commercial radio operator licenses are normally valid for a term of five years from the date of issuance, except as provided in paragraph (b) of this section.

(b) General Radiotelephone Operator Licenses and Restricted Radiotelephone Operator Permits are normally valid for the lifetime of the holder. The terms of all Restricted Radiotelephone Operator Permits issued prior to November 15, 1953, and valid on that date, were extended to encompass the lifetime of such operators.

§ 13.5 [Amended]

5. In § 13.5, paragraph (c)(2) and the note following is removed.

6. In § 13.12, the introductory text of paragraph (a) and paragraphs (b)(i), (b)(2)(ii) and (b)(2)(iii) are revised to read as follows:

§ 13.12 Additional requirements for First Class Radiotelegraph Operator's Certificate and Six Months Service Endorsement.

(a) First Class Radiotelegraph Operator's Certificate.

* * * * *

(b) * * *

(1) An endorsement may be placed on a First or Second Class Radiotelegraph Operator's Certificate attesting that the holder has had at least six months satisfactory service in the aggregate as a radio officer in a station on board a ship or ships of the United States.

(2) * * *

(ii) Under the authority of a First or Second Class Radiotelegraph Operator's Certificate prescribed and issued by the Federal Communications Commission; and

(iii) While licensed as a radio officer by the U.S. Coast Guard in accordance with the Act of May 12, 1948 (46 U.S.C. 229 a-h).

* * * * *

§ 13.21 [Amended]

7. Section 13.21 is amended by removing and reserving paragraph (a)(7).

8. Section 13.22 is revised to read as follows:

§ 13.22 Required qualifications.

Commercial radio operator licenses are issued only to eligible applicants found qualified by the Commission, as follows:

(a) To be qualified to hold any commercial radio operator license, an applicant must have the ability to transmit correctly and receive correctly spoken messages in the English language.

(b) To qualify for a new commercial radio operator license other than the Restricted Radiotelephone Operator Permit, an applicant must demonstrate Morse code skill, if required, and a satisfactory knowledge of the material in one or more of the elements listed in § 13.21, by passing all examinations required for the class of license to be issued:

(1) First Class Radiotelegraph Operator's Certificate.

(i) Transmitting and receiving Morse code tests 3 and 4.

(ii) Written examinations covering elements 1 and 2, 5 and 6.

(2) Second Class Radiotelegraph Operator's Certificate.

(i) Transmitting and receiving Morse code tests 1 and 2.

(ii) Written examinations covering elements 1 and 2, 5 and 6.

(3) Third Class Radiotelegraph Operator's Certificate.

(i) Transmitting and receiving Morse code tests 1 and 2.

(ii) Written examinations covering elements 1 and 2, and 5.

(4) General Radiotelephone Operator License.

(i) Written examination covering element 3.

(5) Marine Radio Operator Permit.

(i) Written examination covering elements 1 and 2.

(c) No examination is required for the Restricted Radiotelephone Operator Permit. Instead, an applicant must certify that he or she:

(1) Is legally eligible for employment in the United States; or, if not so eligible, holds an aircraft pilot certificate valid in the United States or an FCC radio station license in his or her name;

(2) Can speak and hear;

(3) Can keep, at least, a rough written log; and

(4) Is familiar with provisions of applicable treaties, laws, rules and regulations which govern the radio station he or she will operate.

9. Section 13.24 is revised to read as follows:

§ 13.24 Passing score.

To pass a written examination, an applicant must answer at least 75 percent of the questions correctly.

10. Section 13.25 is amended by revising paragraph (a) as follows:

§ 13.25 Examination credit for licenses held.

(a) The holder of a valid commerical radio operator license (or a license which could be renewed under the provisions of § 13.28) who applies for another class of commercial radio operator license will not be required to retake the written examinations or telegraphy tests which were required to obtain the license held.

* * * * *

11. Section 13.26 is amended by revising the heading and the chart as follows:

§ 13.26 Cancellation of superfluous licenses.

* * * * *

License issued	License(s) cancelled
First Class Radiotelegraph Operator's Certificate	Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, Radiotelephone Third Class Operator Permit, Marine Radio Operator Permit, Restricted Radiotelephone Operator Permit.
Second Class Radiotelegraph Operator's Certificate	Third Class Radiotelegraph Operator's Certificate, Radiotelephone Third Class Operator Permit, Marine Radio Operator Permit, Restricted Radiotelephone Operator Permit.
Third Class Radiotelegraph Operator's Certificate	Radiotelephone Third Class Operator Permit, Marine Radio Operator Permit, Restricted Radiotelephone Operator Permit.
General Radiotelephone Operator License	Radiotelephone First Class Operator License, Radiotelephone Second Class Operator License, Radiotelephone Third Class Operator Permit, Marine Radio Operator Permit.
Marine Radio Operator Permit	Radiotelephone Third Class Operator Permit.

12. Section 13.27 is revised, and the note after it is removed:

§ 13.27 Re-examination waiting period.

An applicant who fails a written examination or code test required for a commercial radio operator license shall not apply for any class of license requiring that examination or test until 60 days after the date the examination or test was failed.

13. In § 13.28, paragraph (a) is revised to read as follows:

§ 13.28 License renewals.

(a) Commercial radio operator licenses issued for five year terms may be renewed, by proper application, at any time during the last year of the license term or during a five year grace period following expiration. Expired licenses are not valid during the grace period.

* * * * *

14. Section 13.61 is revised, and the four "Notes" currently associated with it are removed, as follows:

§ 13.61 Need for licensed commercial radio operators.

Rules which require Commission station licensees to employ licensed commercial radio operators to perform certain transmitter operating, maintenance, or repair duties are contained in Parts 21, 73, 74, 81, 83 and 87 of the chapter.

15. A new § 13.77 is added, as follows:

§ 13.77 Required endorsements.

(a) All Marine Radio Operator Permits shall bear the following endorsement:

This permit does not authorize the operation of AM, FM or TV broadcast stations.

(b) General Radiotelephone Operator Licenses issued to persons who first qualify for that classification of license (see § 13.22) on or after shall bear the following endorsement:

This license is valid for operation, maintenance, and repair of stations in the Aviation, Maritime, and International Public Fixed Radio Services only.

PART 21—[AMENDED]

B. Part 21 of Title 47 of the Code of Federal Regulations, Domestic Public Fixed Radio Service, is amended as follows:

§ 21.203 [Removed]

1. Section 21.203 is removed.

§ 21.205 [Removed]

2. Section 21.205 is removed.

§ 21.207 [Amended]

3. Section 21.207 is amended by removing paragraph (e).

4. Section 21.208 is amended by revising paragraph (e)(1) as set forth below, and removing and reserving paragraphs (e)(2), (g), and (h):

§ 21.208 Station records.

* * * * *

(e) * * *

(1) The results and dates of the transmitter measurements required by § 21.207.

* * * * *

PART 73—[AMENDED]

C. Part 73 of Title 47 of the Code of Federal Regulations, Radio Broadcast Services, is amended as follows:

1. Section 73.764 is amended by revising paragraph (a), and removing the note following the section:

§ 73.764 International broadcast station operator requirements.

(a) One or more operators holding a commercial radio operator license (any class, unless otherwise endorsed) must be on duty where the transmitting apparatus of each station is located and in actual charge thereof whenever it is being operated.

* * * * *

2. Section 73.1515 is amended by revising paragraph (c)(6) and removing the note which follows paragraph (c)(6):

§ 73.1515 Special field test authorizations.

* * * * *

(c) * * *

(6) Test transmitters must be operated by or under the immediate direction of an operator holding a commercial radio operator license (any class, unless otherwise endorsed).

* * * * *

3. In § 73.1860, paragraph (a) is revised to read as follows:

§ 73.1860 Transmitter duty operators.

(a) Each AM, FM or TV broadcast station must have at least one person holding a commercial radio operator license (any class, unless otherwise endorsed) on duty in charge of the transmitter during all periods of broadcast operation. The operator must be on duty at the transmitter location, a remote control point, an ATS monitor and alarm point, or a position where extension meters are installed under the provisions of § 73.1550.

* * * * *

4. In § 73.1870, paragraph (a) is revised to read as follows:

§73.1870 Chief operators.

(a) The licensee of each AM, FM, or TV broadcast station must designate a person holding a commercial radio operator license (any class, unless otherwise endorsed) to serve as the station's chief operator. At times when the chief operator is unavailable or unable to act (e.g., vacations, sickness), the licensee shall designate another licensed operator as the acting chief operator on a temporary basis.

* * * * *

PART 74—[AMENDED]

D. Part 74 of the Title 47 of the Code of Federal Regulations, Experimental, Auxiliary, and Special Broadcast, and Other Program Distributional Services, is amended as follows:

1. Section 74.18 is amended by revising paragraph (b), removing the Note following paragraph (c) and adding new paragraphs (d) and (e) to read as follows:

§ 74.18 General operator requirements.

* * * * *

(b) Except as noted in paragraph (e) of this section, stations authorized under the provisions of this Part may be operated by any person designated by the station licensee.

(c) * * *

(d) Except as noted in paragraph (e) of this section, the installation, adjustment, and maintenance of any transmitter licensed under the provisions of this Part may be performed by any person deemed qualified to perform such duties by the licensee.

(e) Persons who perform any operating or transmitter technical duties licensed under Subparts A, B, C, G and I, must hold a commercial radio operator license (any class, unless otherwise endorsed).

§ 74.166 [Removed]

2. Section 74.166 is removed.

§ 74.266 [Removed]

3. Section 74.266 is removed.

§ 74.366 [Removed]

4. Section 74.366 is removed.

§ 74.468 [Removed]

5. Section 74.468 is removed.

§ 74.565 [Removed]

6. Section 74.565 is removed.

§ 74.665 [Removed]

7. Section 74.665 is removed.

8. Section 74.750 is amended by revising paragraph (g) to read as follows:

§ 74.750 Transmission system facilities.

* * * * *

(g) Low power TV or TV translator stations installing new type accepted transmitting apparatus incorporating modulating equipment need not make equipment performance measurements and shall so indicate on the station license application. Stations adding new or replacing modulating equipment to existing low power TV or TV translator transmitting apparatus must have a qualified operator (§ 73.18) examine the transmitting system after installation. This operator must certify in the application for the station license that the transmitting equipment meets the requirement of paragraph (d)(1) of this section. A report of the methods, measurements, and results must be kept in the station records. However, stations installing modulating equipment solely for the limited local origination of signals permitted by § 74.731 need not comply with the requirements of this paragraph.

§ 74.766 [Removed]

9. Section 74.766 is removed.

§ 74.868 [Removed]

10. Section 74.868 is removed.

§ 74.966 [Removed]

11. Section 74.966 is removed.

§ 74.1266 [Removed]

12. Section 74.1266 is removed.

PART 78—[AMENDED]

E. Part 78 of Title 47 of the Code of Federal Regulations, Cable Television Relay Services is amended as follows:

1. Section 78.51 paragraph (a)(2) is revised as follows:

§ 78.51 Remote control operation.

(a) * * *

(2) An operator shall be on duty at the remote control position and in actual charge thereof at all times when the station is in operation.

* * * * *

2. Section 78.53 paragraphs (a)(4) and (a)(5) are revised as follows:

§ 78.53 Unattended operation.

(a) * * *

(4) Personnel responsible for the maintenance of the station shall be available on call at a location which will assure expenditious performance of such technical servicing and maintenance as may be necessary whenever the station is operating. In lieu thereof, arrangements may be made to have a person or persons available at all times when the transmitter is operating, to turn the transmitter off in the event that it is operating improperly. The transmitter may not be restored to operation until the malfunction has been corrected by a technically qualified person.

(5) The station licensee shall be responsible for the proper operation of the station at all times and is expected to provide for observations, servicing

and maintenance as often as may be necessary to ensure proper operation. All adjustments or tests during or coincident with the installation, servicing, or maintenance of the station which may affect its operation shall be performed by or under the immediate supervision of a technically qualified person.

* * * * *

§ 78.59 [Amended]

3. Section 78.59 is amended by removing paragraph (d).

4. Section 78.61 is amended by revising paragraphs (a), (c), (d) and (f) as set forth below, and by removing and reserving paragraph (b):

§ 78.61 Operator requirements.

(a) Except in cases where a CARS station is operated unattended in accordance with § 78.53 or except as provided in other paragraphs of this section, a person shall be on duty at the place where the transmitting apparatus is located, in plain view and in actual charge of its operation or at a remote control point established pursuant to the provision of § 78.51, at all times when the station is in operation. Control and monitoring equipment at a remote control point shall be readily accessible and clearly visible to the operator at that position.

(b) [Reserved]

(c) Any transmitter tests, adjustments, or repairs during or coincident with the installation, servicing, operation or maintenance of a CARS station which may affect the proper operation of such station shall be made by or under the immediate supervision and responsibility of a person responsible for proper functioning of the station equipment.

(d) The operator on duty and in charge of a CARS station may, at the discretion of the licensee, be employed for other duties or for the operation of another station or stations in accordance with the rules governing such stations. However, such duties shall in no way impair or impede the required supervision of the CARS station.

* * * * *

(f) Mobile CARS stations operating with nominal transmitter power in excess of 250 milliwatts may be operated by any person whom the licensee shall designate: Provided that a person is on duty at a receiving end of the circuit to supervise operation and to immediately institute measures sufficient to assure prompt correction of any condition of improper operation that may be observed.

§ 78.69 [Amended]

5. Section 78.69 is amended by removing and reserving paragraph (d)(2).

6. In § 78.107 paragraph (d) is revised as follows:

§ 78.107 Equipment and installation.

* * * * *

(d) The installation of a CARS station shall be made by or under the immediate supervision of a qualified engineer. Any tests or adjustments requiring the radiation of signals and which could result in improper operation shall be conducted by or under the immediate supervision of a person with required knowledge and skill to perform such tasks.

* * * * *

PART 90—[AMENDED]

F. Part 90 of Title 47 of the Code of Federal Regulations, Private Land Mobile Radio Services, is amended, as follows:

1. Section 90.433 is revised to read as follows:

§ 90.433 Operator requirements.

(a) No operator license or permit is required for the operation of stations licensed under this part.

(b) Any person, with the consent or authorization of the licensee, may employ stations in this service for the purpose of telecommunications.

(c) The provisions of paragraph (b) of this section shall not be construed to change or diminish in any respect the responsibility of station licensees to have and to maintain control over the stations licensed to them (including all transmitter units thereof), or for the proper functioning and operation of those stations (including all transmitter units thereof), in accordance with the terms of the licenses of those stations.

§ 90.435 [Reserved]

2. Section 90.435 is removed and reserved.

PART 94—[AMENDED]

G. Part 94 of Title 47 of the Code of Federal Regulations, Private Operational-Fixed Microwave Service, is amended as follows:

1. Section 94.103 is amended to revise paragraph (a) and to remove paragraphs (d) and (e) as follows:

§ 94.103 Operator requirements.

(a) No operator license is required for the operation of stations licensed under this part.

* * * * *

PART 95—[AMENDED]

H. Part 95 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In Subpart A—General Mobile Radio Service, § 95.111 is revised to read as follows:

§ 95.111 Transmitter service and maintenance.

All transmitter adjustments or tests while radiating energy during or coincident with the construction, installation, servicing or maintenance of a radio station in this service, which may affect the proper operation of such station, must be made in accord with the Technical Regulations (see Subpart E).

2. In Subpart C—Radio Control (R/C) Radio Service, paragraph (b) of § 95.237 (R/C Rule 37) is amended to read as follows:

§ 95.237 (R/C Rule 37) How do I have my transmitter serviced?

* * * * *

(b) Each internal repair and each internal adjustment to a FCC type accepted R/C transmitter (see R/C Rule 18) must be made in accord with the Technical Regulations (see Subpart E).

* * * * *

3. In Subpart D—Citizens Band (CB) Radio Service, paragraph (c) of CB Rule 19, paragraph (f) of CB Rule 38, and paragraph (b) of CB Rule 41 of Section 95.401 are revised to read as follows:

§ 95.401 Citizens Band (CB) Radio Service Rules.

CB Rule 19 What equipment may I use at my CB station?

* * * * *

(c) You must have all internal repairs or internal adjustments to your CB transmitter made in accord with the Technical Regulations (see Subpart E).

* * * * *

CB Rule 38 How do I answer violation notices?

* * * * *

(f) If the violation notice covers a violation related to transmitter technical regulations, you must stop operating that transmitter immediately, except for necessary tests and adjustments; and you must not resume operating it until all technical problems have been corrected. The FCC may require you to have tests conducted and to report the results of those tests. (See CB Rule 41 for the rules about tests and adjustments.)

* * * * *

CB Rule 41 How do I have my CB transmitter serviced?

* * * * *

(b) Each internal repair and each internal adjustment to your CB transmitter must be made in accord with the Technical Regulations (see Subpart E).

* * * * *

4. In Subpart E—Technical Regulations, paragraph (c) of § 95.621, and paragraph (e)(2) of § 95.645 are revised to read as follows:

§ 95.621 Compliance with technical requirements.

* * * * *

(c) In each case, the report which is submitted must describe the results of the tests and adjustments and the test equipment and procedures used. A copy of this report must also be kept in the station records.

* * * * *

§ 95.645 Additional requirements for type acceptance.

* * * * *

(e) * * *

(1) * * *

(2) Warnings concerning any adjustments which could result in improper technical performance.

* * * * *

[FR Doc. 83-13450 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 81-491; RM-3835]

TV Broadcast Stations in Tulsa, Oklahoma; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: This action dismisses a petition filed by Oklahoma Educational Authority requesting an exchange of the educational reservation from Channel *11 to Channel 2 at Tulsa, Oklahoma, and modification of the licenses of television Stations KOED-TV and KJRH to specify operation on Channels *2 and 11, respectively.

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

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 643-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of an amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Tulsa, Oklahoma); BC Docket No. 81-491, RM-3835.

Adopted: April 21, 1983.
Released: May 9, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making* (46 FR. 40776, published August 11, 1981) proposing to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, by exchanging the noncommercial educational reservation from Channel *11 to Channel 2 at Tulsa, Oklahoma, in response to a petition filed by the Oklahoma Educational Television Authority ("OETA"). OETA, licensee of noncommercial educational Station KOED-TV, Channel *11, also requested that its license be modified to specify operation on Channel *2 and that the license of Scripps-Howard Broadcasting Company ("Scripps-Howard") for Station KJRH, Channel 2, be modified to specify operation on Channel 11. Scripps-Howard consented to the proposed modification. Tulsa 23, licensee of Station KOKI-TV, Channel 23, Tulsa, filed comments in opposition to the modifications expressing its own interest in applying for Channel 11, if it becomes available for commercial use. In response OETA and Scripps-Howard filed comments requesting dismissal of the petition and termination of the rule making proceeding.

2. OETA is also the licensee of noncommercial educational Television Station KOET, Channel *3, in Eufaula, Oklahoma. KOET Broadcasts essentially the same programming as nearby KOED in Tulsa. KOET's viewers in the area between Tulsa and Eufaula initially experienced adjacent channel interference with KJRH. To alleviate this problem, OETA installed traps at affected receivers. However, KJRH has recently been authorized to relocate its transmitter to a site closer to KOET [1] a move which OETA claims may aggravate the adjacent channel interference between Channel 2 in Tulsa and Channel *3 in Eufaula. This potential problem may be minimized, according to OETA, by switching KOED to Channel 2. Should this occur, both Channel *2 and Channel *3 would be carrying identical OETA programming, allowing viewers in the affected area to select the stronger of the two signals without undue interference. On the other hand, leaving KJRH on Channel 2 would mean that these viewers may be deprived of the noncommercial programming on Channel *3 or the commercial network programming on Channel 2. OETA further points out that, if the shift is approved, Scripps-Howard will provide OETA in excess of a million dollars worth of equipment and services.

3. The *Notice* proposed to shift the noncommercial educational reservation from Channel *11 to Channel 2. However, the Commission indicated that, in light of the expressed interest of Tulsa 23 in applying for Channel 11, as a commercial channel, it would not be appropriate to modify the licenses as requested. According to the *Notice*, the Commission's policy regarding modification of existing licenses, as expressed in *Cheyenne, Wyoming* [2] and subsequent cases, was developed consistent with the principles espoused in *Ashbacker* [3]. That is, mutually exclusive applications must be given comparative consideration, a requirement which is specious in the face of denial of the opportunity to file such applications. The *Notice* indicated that since the Commission adopted its *Cheyenne* policy, it has consistently held that newly available assignments to a community are open to application by all interested parties. The *Notice* pointed out that the shift of the reservation here would mean that Channel 11 would be available to commercial applicants for the first time. Nevertheless, the Commission proposed to shift the noncommercial education reservation as requested, stating that perpetuation of the existing situation would benefit no one and that, therefore, the parties should negotiate further to reach some conciliatory agreement.

4. OETA states that it requests dismissal and termination because the Commission staff "erroneously and inappropriately" applied the *Cheyenne* doctrine to the instant situation. OETA also asserts that the *Notice* mistakenly indicated that it is OETA's position that its proposal is the only solution to the interference problem. According to OETA, its proposal is the "most efficient and permanent solution." However, OETA is prepared to continue "trapping-out." OETA indicates that application of the *Cheyenne* doctrine would, in effect, reduce its status from licensee to applicant, citing *Bonitia Springs*.[4]

---

[1] BC Docket No. 79-255, issued July 21, 1982.

[2] 62 FCC 2d 63 (1976).

[3] *Ashbacker Radio Corporation v. FCC*, 326 U.S. 327 (1945).

[4] *Bonita Springs and Homestead, Florida*, 45 R.R. 2d 1585 (1979).

According to OETA, for it to engage in a comparative hearing for a VHF channel against other qualified applicants could result in a financial disaster for the State and could lead to a loss of a key link in the State's educational broadcast network.

5. Tulsa 23 reiterates its intention to apply for a new commercial station on Channel *11 should that channel become available for such a facility. It states that it is prepared to offer OETA benefits commensurate with those proferred by Scripps-Howard so that Station KOED could still switch to the proposed Channel *2. Tulsa 23 asserts that the *Notice* accurately applied the *Cheyenne* doctrine to the instant situation. It also asserts that it does not intent to jeopardize either OETA's position in Tulsa nor the Oklahoma educational network. According to Tulsa 23, however, it competes with KJRH and, therefore, intends to preserve its *Cheyenne* rights vis-a-vis Scripps-Howard should a new VHF channel become available for commercial operation.

6. Tulsa 23 argues that, aside from the applicability of the *Cheyenne* doctrine, the public interest standard of section 303(r) of the Communications Act of 1934, as amended, imposes upon the Commission the obligation to conduct rule makings in the public interest and this obligation overrides the interests of existing licensees. Tulsa 23 also argues that although section 316(a) gives the Commission the power to modify the licenses of KOED and KJRH, the exercise of this power rests upon the public interest and not that of licensees.

7. Tulsa 23 claims that the Commission, in *Cheyenne*, recognized its authority and obligation to make channel assignments aside from the interests of licensees and that the broadcast Bureau made this finding in *Bonita Springs*. According to Tulsa 23, although the Bureau allowed withdrawal of the petitioner's proposal in *Bonita Springs*, that case differs from the one at hand in that here, unlike *Bonita Springs*, it would not be beneficial to retain the existing situation. Tulsa 23 seeks to further distinguish *Bonita Springs* by pointing to substantial opposition to the assignment of a new channel there, including opposition by one of the parties. In addition, Tulsa 23 indicates that, unlike the present situation, *Bonita Springs* did not involve interference to the public's reception or a reduction in the overall available broadcast service. In this regard, Tulsa 23 questions the efficacy of "trapping-out."

8. Finally, Tulsa 23 questions OETA's expressed concern regarding the potential loss of its license. According to Tulsa 23, this concern is premature in that no party has so far expressed an intention to contest OETS's use of Channel 2 should that channel be reserved.

9. Replying to Tulsa 23, Scripps-Howard states that, in light of the *Notice's* application of *Cheyenne*, it withdraws its consent to the proposed exchange of channels, saying that the withdrawals by it and OETA should terminate this proceeding. Scripps-Howard claims that, in *San Francisco-San Mateo, California*,[5] the Commission spoke regarding the consequences arising out of a lack of consent by affected parties. According to Scripps-Howard, the Commission there indicated that the educational licensee in San Mateo would have to agree to relinquish the channel before it could be reassigned to San Francisco. It asserts that, in *Bonita Springs*, the Broadcast Bureau stated that, where (as here) a petitioner could lose its license, it should be able to withdraw the proposal in the face of an expression of other interest. Scripps-Howard also cites *Arroyo Grande and Pismo Beach, California*[6] and *Greenfield and Springfield, Missouri*[7].

10. Scripps-Howard claims that Tulsa 23's arguments regarding adjacent channel interference are exaggerated. According to Scripps-Howard, there is no present interference problem warranting the "drastic" action sought by Tulsa 23. Scripps-Howard also argues that potential interference resulting from its (then) pending site change application is no reason to change its status from licensee to applicant in a comparative hearing.[8] Further, Scripps-Howard asserts that although a grant of its application to relocate its transmitter could potentially increase interference between Channels 2 and *3, OETA has been granted a construction permit to move Channel *11's transmitter to KJRH's new tower and, since Channel *11 would provide the same programming service as Channel *3, the joint relocation would result in Channel *11's signal being available in substantially all of the interference area. According to Scripps-Howard, OETA could easily eliminate the majority of interference by means of receiver and antenna adjustments and by "trapping-out" Channel *3, with any of the audience still suffering interference being able to receive educational programming on Channel *11. Scripps-Howard asserts, therefore, that the inability of it and OETA to exchange channels should not result in a problem to the public and does not warrant a continuation of this proceeding over the objections of the parties.

11. Scripps-Howard asserts that the Commission (as opposed to delegated) precedent cited in the *Notice* for applying *Cheyenne* policy in this case are *Cheyenne* and *San Francisco-San Mateo* and that both cases are distinguishable. It is said that *Cheyenne* involved a request to modify a license to specify operation on a newly assigned frequency of a superior class in the same community where the existing licensee's channel was not to be deleted. Scripps-Howard states that in *San Francisco-San Mateo*, the Commission did not actually rule on the question of whether other expressions of interest requried consideration, as none were received and, further, that that case involved assignments between two different communities.

12. Scripps-Howard argues that the Commission has never applied the *Cheyenne* policy to a situation involving an exchange of existing VHF channels in the same community effectuated by transferring an educational reservation. Thus, it is concluded that if the *Cheyenne* policy is applied so as to make Channels 2 and 11 available for application, then the case should be referred to the Commission as required by § 0.281(b)(6) of the Rules.

13. Initially, we note that the *Notice* took the position that the existing situation of adjacent channel interference made the proposed channel exchange necessary. The modification question posed a separate problem. However, according to the comments of OETA and Scripps-Howard, it now appears that the proposed switch of the educational reservation is not the only satisfactory solution. Specifically, OETA states that it is prepared to continue trapping-out, and Scripps-Howard asserts that most interference could be eliminated by means of receiver and antenna adjustments as well as "trapping-out," with the remainder of the affected audience being able to

[5] 67 FCC 2d 241 (1977).
[6] BC Docket No. 81-192 (1981).
[7] BC Docket No. 81-503 (1981).
[8] Scripps-Howard describes the grant as a "possibility" and "not a near term probability." However, this application has since been approved. See paragraph 3, *supra*.

receive educational programming from the newly relocated Channel *11 transmitter. These assertions have not been shown to be invalid.* Therefore, this case does not warrant the exercise of the authority to modify pursuant to §§ 307(b) and 316(a) of the Act. In such cases, where channel changes are made for reasons other than to correct a technical problem, the Commission has consistently applied the *Ashbacker* and *Cheyenne* precedents. In this regard, we note that Tulsa 23 persuasively argued that it should be given the opportunity to make an attractive offer to OETA based on it being able to obtain unreserved Channel 11.

14. Since there appears to be an alternative solution to the interference problem and since the parties proposing the action under consideration have expressed their desire to terminate this proceeding, we believe it is appropriate to allow these parties to withdraw. As noted, the interference problem can apparently be alleviated by procedures less drastic than originally proposed in the petition. Commission policy has been to allow withdrawal of petitions where, as here, there is another expression of interest and where a petitioner could lose its license.[10] While the parties have argued strenuously and intelligently on the applicability of the *Ashbacker* and *Cheyenne* decisions, we do not believe it necessary to rule on this issue since the channel substitutions were not made. We believe the alternative solution suggested by Scripps-Howard, which leaves the TV Table intact at Tulsa, is in the public interest and should be pursued.

15. Accordingly, *it is hereby ordered*, That the petition is dismissed.

16. *It is further ordered*, That this proceeding is terminated.

17. For further information, contact: Joel Rosenberg, Mass Media Bureau, (202) 634–6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-13477 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

* Tulsa 23 has only questioned the efficacy of "trapping-out" and has alleged that the transmitter relocations of KJRH and KOED–TV have the *potential* to aggregate interference.

[10] See *Bonita Springs*, 45 R.R. 2d at 1586 and *Statesboro, Georgia*, F.C.C. Mimeo No. F–2040, released May 17, 1977.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

[BMCS Docket No. MC–103; Notice No. 82–13]

Exemption; Driver Qualification Files; Correction

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document corrects the preamble of a notice of proposed rulemaking (NPRM) relating to exemtions from the driver qualification rules regarding certain paperwork and administrative requirements for drivers of motor vehicles having a gross vehicle weight rating between 10,001 and 15,000 pounds because of inadvertent omissions.

DATE: Comments must be received on or before July 5, 1983.

ADDRESS: Submit comments, preferably in triplicate, to BMCS Docket No. MC–103; Notice No. 82–13, Room 3404, Bureau of Motor Carrier Safety (BMCS), 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426–9767, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: In the preamble of the NPRM published on April 4, 1983 (48 FR 14413), The following change should be made:

On page 14416, the last paragraph before the heading, "**List of Subjects in 49 CFR Part 391**" Beginning with the words "A draft regulatory evaluation * * *" is revised to read as follows:

"Regulatory Flexibility Act

"A draft regulatory evaluation/initial regulatory flexibility analysis has been prepared and is available for review in the public docket. A copy may be obtained by contacting Mr. Neill L. Thomas at the address provided above under the heading "For Further Information Contact."

"The need, objectives, and legal basis for the proposed action have been explained previously in this document. Any impact on small entities would be positive in that administrative and economic burdens would be relieved for small businesses that utilize vehicles having a gross vehicle weight rating between 10,001 and 15,000 pounds. By being relieved of certain paperwork requirements, these small businesses will be able to redirect resources toward increased productivity. This proposed action would not impact any additional reporting, recordkeeping or compliance requirements for small entities. There are no other Federal rules that conflict with this proposal. The FHWA specifically requests further information upon which to determine whether such action would have a significant economic impact on a substantial number of small entities."

This revision is necessitated by the inadvertent omission of the summary of the initial regulatory flexibility analysis from the preamble as required by the Regulatory Flexibility Act. The entire initial regulatory flexibility analysis, which is a part of the draft regulatory evaluation, has been since April 4, 1983, and remains available for review in the public docket.

(49 U.S.C. 304, 1655; 49 CFR 1.48 and 301.60)

Issued on: May 10, 1983.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

[FR Doc. 83-13440 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

Tanner Crab off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of fishery management plan amendment and request for comments.

SUMMARY: NOAA issues this notice that the North Pacific Fishery Management Council has submitted an amendment (Amendment 8) to the fishery management plan for the Commercial Tanner Crab Fishery off the Coast of Alaska for review by the Secretary of Commerce and is requesting comments from the public. Copies of the amendment may be obtained from the address below.

DATE: Comments on the amendment should be received on or before July 29, 1983.

ADDRESSES: All comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service (NMFS), P.O. Box 1668, Juneau, Alaska 99802. Copies of the amendment are available upon request from the North Pacific Fishery Management Council, P.O. 3136DT, Anchorage, Alaska 99510.

FOR FURTHER INFORMATION CONTACT: Raymond E. Baglin (Fishery Biologist, NMFS, Kodiak Field Office), 907–486–4791.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) requires that each Regional Fishery Management Council submit any fishery management plan or amendment it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. This act also requires that the Secretary, upon receiving the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments in determining whether or not to approve the amendment.

This amendment proposed measures for managing the Commercial Tanner Crab Fishery off the coast of Alaska. Regulations proposed by the Council and based on this amendment are scheduled to be published within 30 days.

(16 U.S.C. 1801 *et seq.*)

Dated: May 16, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-13503 Filed 5-18-83; 4:47 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 98
Thursday, May 19, 1983

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

Foreign-Trade Zones Board

[Docket No. 16-83]

Foreign-Trade Zone 27; Boston, Massachusetts; Application for Subzone at General Dynamics Shipbuilding Facility in Quincy

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Massachusetts Port Authority, grantee of Foreign-Trade Zone 27 in Boston, for a special-purpose subzone at General Dynamics Corporation's shipbuilding facility in Quincy, within the Boston Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 12, 1983. The applicant is authorized to make this proposal under Chapter 771 of the Acts of the Commonwealth of Massachusetts, 1971.

The subzone involves the shipyard of the Quincy Shipbuilding Division of General Dynamics Corporation, located on the west bank of the Weymouth Fore River in Quincy. The facility covers 158 acres, including 27 acres on the water. It is capable of producing a variety of ocean-going vessels, employing up to 5000 persons. Subzone procedures would be initially used for a project involving the production of 5 Maritime Prepositioning (TAKX) vessels that would be leased to the Navy. The ships will be constructed from domestically produced steel. Some of the components for this project might be imported, including diesel engines, generators, coolers, gears, winches, cranes, valves, lifeboats, anchors, chain, deck fittings, hatch covers, hawse pipe, ladders and switchboards.

Zone procedures will help General Dynamics reduce costs on the TAKX project and to compete internationally on bids for other projects. The benefits are related to the fact that most of the components are subject to significant Customs duties and the finished product, as a seagoing vessel, is duty-free.

In accordance with the Board's regulations an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02210; and Colonel Carl B. Sciple, Division Engineer, U.S. Army Engineer Division New England, 424 Trapelo Road, Waltham, MA 02254.

Comments concerning the proposed subzone expansion are invited in writing from interested persons and organizations. They should be sent to the Board's Executive Secretary at the address below and postmarked on or before June 20, 1983.

A copy of the application is available for public inspection at each of the following locations:

District Directors Office, U.S. Dept. of Commerce District Office, 441 Stuart Street, 10th Floor, Boston, Massachusetts

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania Avenue, NW., Washington, D.C. 20230.

Dated: May 16, 1983.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 83-13485 Filed 5-18-83; 8:45 am]
BILING CODE 3510-25-M

[Docket No. 15-83]

Foreign-Trade Zone 43, Battle Creek, MI and Foreign-Trade Zone 29, Louisville, KY; Joint Application for Subzone Status for Clark Equipment Company

An application has been jointly submitted to the Foreign-Trade Zones Board (the Board) by the BC/CAL/KAL Inland Port Authority of South Central Michigan Development Corporation, on behalf of the City of Battle Creek, grantee of Foreign-Trade Zone 43, and the Louisville and Jefferson County Port Authority, grantee of Foreign-Trade Zone 29, requesting special-purpose subzone status for the forklift truck manufacturing and distribution facilities of Clark Equipment Company in Springfield and Oshtemo, Michigan, adjacent toi the Battle Creek Customs port of entry, and in Georgetown, Kentucky, some 65 miles from the Louisville Customs port of entry.

The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 12, 1983. The applicants are authorized to make this proposal under Act 154 of the Public Acts of 1963, State of Michigan, and Chapter 65.530(b) of the Kentucky Revised Statutes, respectively.

The project involves Clark's three U.S. facilities engaged in the manufacture and distribution of industrial forklift trucks under 5 tons. The Battle Creek plant covers 194 acres at 525 N. 24th Street, Springfield, Michigan, and produces lift-mast assemblies. Finished products are prepared for export at the 23-acre Oshtemo facility at 6677 Beatrice Drive, Oshtemo, Michigan. The Georgetown plant, which covers 97 acres at Delaplain Road and I–75, Georgetown, Kentucky, is Clark's forklift truck production and final assemble operation.

The three plants are part of an integrated production and distribution process. A variety of components, such as engines, tires, pumps, valves, controls, and steel are purchased for the plants from foreign and domestic sources.

Zone procedures will exempt Clark from Customs duties on foreign parts it uses in its exports, which could account for up to 75 percent of production by 1986. On its domestic sales, the company would be able to take advantage of the same duty rates that are available to importers of finished forklifts. The duty rates on most forklift components range from 2.0 to 7.5 percent, whereas the rate for complete forklifts is 2.3 percent. These savings are an important element in Clark's recent decision, following a corporate study, to inprove the cost-effectiveness of its domestic facilities so that they regain their competitive relationship to the company's overseas manufacturing

operations. By continuing production in the U.S., Clark could save some 3,700 job.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Richard D. Rudin, Program Analyst (Inspection & Control), U.S. Customs Service, North Central Region, 55 E. Monroe Street, Chicago, IL 60603; Colonel Raymond T. Beurket, Jr., District Engineer, U.S. Army Engineer District Detroit, P.O. Box 1027, Detroit, MI 48231; and Colonel Charles E. Eastburn, District Engineer, U.S. Army Engineer District Louisville, P.O. Box 59, Louisville, KY 40201.

Comments concerning proposed subzone status for the Clark plants are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before June 20, 1983.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U. S. Customs Service, 4950 W. Dickman Road, Battle Creek, MI 49016

U.S. Dept. of Commerce District Office, Room 636 B, Post Office and Court House Building, Louisville, KY 40202

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Avenue NW., Room 1872, Washington, D.C. 20230.

Dated: May 16, 1983.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-13486 Filed 5-18-83; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

National Cancer Institute; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 82-00090. Applicant: National Cancer Institute, Drug Design and Chemistry Section, LMCB, DTP, DCT, NCI, NIH, Bethesda, MD 20205. Instrument: Mass Spectrometer, Model MM7070E. Manufacturer: VG Analytical, Ltd., United Kingdom. Intended use of instrument: See notice on page 6681 in the **Federal Register** of February 16, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (September 22, 1981).

Reasons: The foreign instrument provides high resolution mass spectra and liquid chromatography/mass spectrometry operation. The National Bureau of Standards advises in its memorandum dated May 3, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use which was being manufactured in the United States at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument in intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-13431 Filed 5-18-83; 8:45 am]

BILLING CODE 3510-25-M

Texas A&M University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 83-55. Applicant: Texas A&M University, Department of Chemistry, College Station, TX 77843. Instrument: High Resolution Mass Spectrometer, MS-50. Manufacturer: Kratos Scientific Instruments, United Kingdom. Intended use of instrument: See notice on page 56533 in the **Federal Register** of December 17, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (March 5, 1982).

Reasons: The foreign instrument has a guaranteed static mass resolution of 150,000 (10% valley definition). The Department of Health and Human Services advises in its memorandum dated April 4, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use which was being manufactured in the United States at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-13432 Filed 5-18-83; 8:45 am]

BILLING CODE 3510-25-M

University of Alabama in Birmingham; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of

1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 82–00002R. Applicant: University of Alabama in Birmingham, Comprehensive Cancer Center, NMR Core Facility, CHSB B–31, University Station, Birmingham, AL 35294. Instrument: 1 NMR Spectrometer, Model CXP 200/300. Original notice of this resubmitted application was published in the **Federal Register** of November 18, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (September 28, 1978).

Reasons: The foreign instrument can monitor up to a 500 kilohertz spectral width. The Department of Health and Human Services advises in its memorandum dated April 28, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use which was being manufactured in the United States, at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Education and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–13430 Filed 5–18–83; 8:45 am]

BILLING CODE 3510–25–M

Portland Hydraulic Cement and Cement Clinker From Mexico; Postponement of Preliminary Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of preliminary countervailing duty determination.

SUMMARY: The preliminary countervailing duty determination involving portland hydraulic cement and cement clinker from Mexico is being postponed because the investigation has been determined to be extraordinarily complicated. We intend to issue the preliminary determination not later than July 1, 1983.

EFFECTIVE DATE: May 19, 1983.

FOR FURTHER INFORMATION CONTACT: Mary J. Jenkins, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 377–4136.

SUPPLEMENTARY INFORMATION: On March 28, 1983, we initiated a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Mexico of portland hydraulic cement and cement clinker received any benefits that constitute bounties or grants (48 FR 14019). The notice stated that we would issue a preliminary determination by June 1, 1983.

The product covered by this investigation is portland hydraulic cement and cement clinker from Mexico. The imported merchandise is currently provided for in items 511.1440 and 511.1420 of the *Tariff Schedules of the United States Annotated.*

As detailed in the notice of initiation of the countervailing duty investigation, the petition alleges that the government of Mexico provides various programs which constitute bounties or grants to producers, manufacturers, or exporters in Mexico of portland hydraulic cement and cement clinker. There are a large number of firms whose activities must be investigated, it is difficult to determine the extent to which particular subsidies are used by individual manufacturers, producers and exporters, and there are novel issues presented. We have been informed by the Mexican government that there are 29 cement plants in Mexico, owned by 6 groups of firms, consisting of approximately 18 companies and that the corporate relationships involved are intricate. The extent of utilization of the alleged subsidies is difficult to determine. In addition, the case also presents certain novel issues, such as preferential prices on petroleum products and electricity used as a fuel to manufacture cement and an allegation that the tax exempt status of workers' cooperatives is countervailable.

We have determined that the government of Mexico and the other parties concerned are cooperating and that additional time is necessary to make the preliminary countervailing duty determination. For these reasons we determine that this case is extraordinarily complicated in accordance with section 703(c)(1)(B)(i) of the Tariff Act of 1930, as amended (the Act), and that additional time is necessary to make the preliminary determination in accordance with section 703(c)(1)(B)(ii) of the Act. We intend to issue the preliminary determination not later than July 1, 1983.

This notice is published pursuant to section 703(c)(2) of the Act

May 12, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83–13433 Filed 5–18–83; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Pacific Coast Groundfish Fishery, Experimental Fishing Permit

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of experimental fishing permit.

SUMMARY: This notice announces the issance of three experimental fishing permits to delay sorting mid-water trawl catches of Pacific whiting and disposing of prohibited species in trawl catches, until the catches are landed. An experimental fishing permit allows a fishing practice which otherwise would be prohibited by Federal regulation.

EFFECTIVE DATE: May 18, 1983.

ADDRESS: Floyd S. Anders, Jr., Acting Director, Southwest Region, National Marine Fisheries Service (NMFS), 300 South Ferry Street, Terminal Island, California 90731.

FOR FURTHER INFORMATION CONTACT: Rodney R. McInnis (Chief, Resource Management Branch, NMFS, Southwest Region), 213–548–2518.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved by the Secretary of Commerce on January 4, 1982, and implementing regulations were published on October

5, 1982 (47 FR 43964). The FMP specifies that experimental fishing permits (EFPs) may be issued to authorize fishing which otherwise would be prohibited. The procedures for issuance of EFPs appear in the regulations at 50 CFR 663.10. Applications were received for three mid-water trawl vessels to delay sorting and discarding prohibited species from the catch in their fishing operations directed on Pacific whiting. A notice of receipt of the EFP applications and a request for public comment was published in the **Federal Register** on March 8, 1983, (48 FR 9681). Consultations with the Pacific Fishery Management Council (Council), the U.S. Coast Guard, and the Directors of the Washington, Oregon, and California State fisheries management agencies were held during the Council's March 16–17, 1983, meeting in Portland, Oregon. The Director, NMFS, Northwest Region, is issuing these permits at the recommendation of the Director, NMFS, Southwest Region (Southwest Regional Director) who has proposed and will implement these EFPs.

The regulations at 50 CFR 663.7(1) prohibit the retention of any species of salmonid or Pacific halibut caught in trawl nets, among other types of fishing gear. Normal practice on groundfish trawl vessels is to sort the catch from each tow before storing it in the hold. Species and sizes of fish that are not marketable are discarded during this sorting. Prohibited species also are returned to the sea at that time. Currently, any salmonid or Pacific halibut taken in a trawl and placed in the hold (not returned to the sea immediately) is considered to be retained in violation of 50 CFR 663.7(i). By delaying sorting until the time of landing, the applicants expect to shorten the length of time before the catch is placed in refrigerated seawater. Since Pacific whiting deteriorate rapidly after death, rapid refrigeration is necessary to maintain product quality when shoreside processing is involved.

Comments

The Southwest Regional Director received one letter from the U.S. Coast Guard and several oral comments and recommendations during consultations with the Pacific Fishery Management Council and the State fishery agency directors. Those comments are summarized below.

1. *Comment:* The Pacific Fishery Management Council unanimously recommended that these permits be granted subject to reporting and observer requirements.

Response: Reporting requirements have been specified in the conditions attached to the EFPs. Onboard observers will be assigned to provide a level of coverage which is not yet determined. Because the entire catch will be landed and subject to inspection at that time, full-time onboard observers probably will not be necessary to effectively monitor these operations. The first few trips under these permits will be observed and subsequent need for observers will be determined on the basis of that experience.

2. *Comment:* Two comments related to the disposition of salmon landed under these EFPs. The Council's Prohibition Species Task Force recommended that the salmon not be allowed to enter commercial channels but be distributed through charity organizations to the needy. The Council's final recommendation left this matter to the Southwest Regional Director's discretion. On this same subject, the California Department of Fish and Game recommended that the salmon be auctioned by the State and allowed to enter normal market channels.

Response: To ensure that the best use is made of all salmon landed under these EFPs, the Southwest Regional Director has combined these recommendations. California Department of Fish and Game will take possession of all legal-sized salmon during the open salmon season. Sublegal-sized salmon and salmon landed during the closed season will be distributed through local charity organizations at the Southwest Regional Director's discretion.

3. *Comment:* The U.S. Coast Guard recommended several conditions be attached to the permits, if issued. These conditions which relate to maintaining effective enforcement and obtaining adequate documentation of the results of this experiment include requiring detailed log books, special markings on the vessels, posting the EFP in the wheelhouse, and designating catch offloading sites. They also recommended that the NMFS consider requiring full observer coverage on board the permitted vessels.

Response: Most of these recommendations have been incorporated in the EFP conditions. Masters must maintain up-to-date trawl log books as required by the State of California. By permit condition, this State reporting requirement has been incorporated into the EFP and expanded to require reporting the number and species of salmon landed. Special markings are not required by the EFPs because the identification required under 50 CFR 663.6 is expected to be adequate. The master of a vessel engaged in fishing under an EFP is required by regulation [50 CFR 663.10(g)] to carry the EFP aboard the vessel for which it was issued and to present it for inspection by any authorized officer. A catch offloading site has been designated and the Southwest Regional Director must be notified at least 24 hours in advance of any landing under these EFPs at any other site.

The level of onboard observer coverage necessary to monitor this experiment adequately is expected to be less than full-time. The appropriate level will be determined by the Southwest Regional Director based on the experience of observers on the first several trips under these EFPs.

Description of the Experimental Fishing Permits

(1) *Vessels.* Permits are issued to the following three vessels: *Travis William, Pacific Raider* and *Warrior II.*

(2) *Species.* The authorized target species is Pacific whiting. Incidental catches of rockfish and salmon are expected. The whiting catch may be sold to a local, shore-based processor. Incidental catches of rockfish may be sold to local processors as well, subject to any existing trip limits. The number of salmon allowed to be landed under these EFPs is not limited. Incidentally-caught salmon must be sorted from the catch at the local processing facility and would be turned over to agents designated by the Southwest Regional Director. Salmon of legal size may be sold by the California Department of Fish and Game to the highest bidder. Salmon of less than legal size or landed during the closed season for salmon will not be sold and will not enter normal market channels.

(3) *Time.* The authorized season for this operation begins on the effective date of this notice and ends on December 31, 1983, 2400 hours PST.

(4) *Place.* The vessels are authorized to operate in the fishery conservation zone (3–200 miles) off Washington, Oregon, and California.

(5) *Gear.* Pelagic trawl gear authorized under 50 CFR Part 663 must be used.

(6) *Reporting requirements.* Trawl log books required by the State of California must be maintained up-to-date and the number of salmon and halibut landed must be recorded at the end of each trip. These log books must be available for inspection by authorized agents.

(7) *Observers.* The Southwest Regional Director, NMFS, may assign an observer to permitted vessels for the purposes of collecting scientific data and carrying out other management and compliance activities as may be authorized.

(16 U.S.C. 1801 *et seq.*).

Dated: May 13, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-13468 Filed 5-18-83; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Magnuson Fishery conservation and Management Act (Pub. L. 94–265, as amended), will meet to discuss the proposed FY 84 budget; discuss proposed amendments to the Shrimp and Stone Crab Fishery Management Plans (FPMs), to resolve Pasco/Citrus Counties conflict; discuss data collection FMPs, and discuss other administrative and fishery management business, as appropriate.

DATES: The public meetings will convene on Wednesday, June 8, 1983, at approximately 10:15 a.m., adjourn at approximately 5 p.m.; reconvene on Thursday, June 9, 1983, at approximately 8:30 a.m., and adjourn at noon.

ADDRESS: The public meetings will take place at the Ramada Inn, 1295 North 11th Street, Beaumont, Texas.

FOR FURTHER INFORMATION CONTACT: Contact Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: May 16, 1983.

Richard B. Stone,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-13469 Filed 5-18-83; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Public Comments on Foreign Fishing Applications

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Opportunity for Public Comments on Foreign Fishing Applications Received by the Mid-Atlantic Fishery Management Council.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended). As required by the Act, Section 204(b)(5), the Council announces that the public may comment on any and all foreign fishing applications received by the Council by June 6, July 5, or August 1, 1983.

The Council's staff will be available between 9 a.m. and noon on each of these dates to receive comments, which may be made in person at the Council's Headquarter's Office, Federal Building, Room 2115, 300 South New Street, Dover, Delaware. Between the above-stated hours. In addition, written comments may be mailed in time to be received and reviewed by the Council, on June 6, July 5, or August 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: May 16, 1983.

Richard B. Stone,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-13467 Filed 5-18-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing the Import Restraint Levels for Certain Cotton Textile Products From the Socialist Republic of Romania Under a New Agreement Effective January 1, 1983

May 16, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import levels for certain cotton textile products imported from Romania during the twelve-month period beginning on January 1, 1983 and extending through December 31, 1983, under a new agreement.

SUMMARY: On March 31, 1983, the Governments of the United States and the Socialist Republic of Romania signed a new Bilateral Cotton Textile Agreement which establishes a specific ceiling for cotton coats in Category 335 and designated consultation levels for men's and boys' cotton knit shirts in Category 338 and its submit, produced or manufactured in Romania and exported during the twelve-month period beginning on January 1, 1983. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the new bilateral agreement, to prohibit during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983 entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 335, 338 and 338 pt. in excess of 56,100 dozen, 256,000 dozen, and 97,222 dozen, respectively.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

May 16, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 21, 1981; pursuant to the Bilateral Cotton Textile Agreement of March 31, 1983, as amended, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on May 20, 1983 and for the twelve-month period beginning on January 1, 1983, and extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 335, 338 and 338 pt. (TSUSA number 379.0230, 379.0240, 379.4040, and 379.4050) produced or manufactured in Romania, in excess of 56,100 dozen, 256,000 dozen, and 97,222, dozen respectively.[1]

In carrying out this directive, entries of cotton textiles products in the foregoing categories produced or manufactured in the Socialist Republic of Romania, which have been exported to the United States on and after January 1, 1982 and extending through December 31, 1982, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1982.

the level of restraint established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

Textile products in Categories 335 and 338 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of March 31, 1983 between the Governments of the United States and the Socialist Republic of Romania which provide, in part, that: (1) within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these levels may also be increased by the application of carryforward; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of cotton textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-13483 Filed 5-18-83; 8:45 am]

BILLING CODE 3510-25-M

Controlling Imports of Certain Cotton Apparel From Malaysia

May 16, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling imports of women's girls' and infants' woven cotton blouses in Category 341, produced or manufactured in Malaysia and exported during the sixty-day period which began on April 27, 1983 and extends through June 25, 1983.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

SUMMARY: On April 27, 1983 the Government of the United States requested consultations with the Government of the Malaysia with respect to Category 341 (women's, girls', and infants' woven cotton blouses). This request was made on the basis of the Agreement of December 5, 1980 and February 27, 1981, as amended, between the Governments of the United States and the Malaysia relating to trade in cotton, wool, and man-made fiber textiles and texile products.

Under the consultation provision of the bilateral agreement, Malaysia is obligated to limit its exports to the United States of these products during the sixty-day period to 54,216 dozen. Malaysia is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve-month period which began on April 27, 1983 and extends through April 26, 1984 to 216,865 dozen.

The United States Government has decided, pending a mutually satisfactory solution, to control imports of cotton textile products in Category 341 for the sixty-day period at the level described above. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the Malaysia, further notice will be published in the **Federal Register.**

In the event the limits established for Category 341 for the sixty-day period are exceeded, such excess amounts, if they are allowed to enter, will be charged to the level (described above) for the twelve-month period.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLMENTARY INFORMATION: On December 17, 1982 there was published in the **Federal Register** (47 FR 56535) a letter dated December 14, 1982 to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton, wool, and man-made fiber textile products, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1983. The bilateral agreement includes a consultation mechanism which applies to categories of textile products, such as Category 341, which are not subject to specific ceilings and for which levels may be established during the year. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 341, produced or manufactured in Malaysia and exported during the indicated sixty-day period, in excess of the designated level of restraint.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

May 16, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 5, 1980 and February 27, 1981, as amended, between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on May 20, 1983 and for the sixty-day period which began on April 27, 1983, and extends through June 25, 1983, entry into the United Stated for consumption and withdrawal from warehouse for consumption of textile products in Category 341, produced or manufactured in Malaysia, and exported on and after April 27, 1983, in excess of 54,216 dozen.[1]

Textile products in Category 341 which have been exported to the United States prior to April 27, 1983 shall not be subject to this directive.

Textile products in Category 341 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption

[1] The level of restraint has not been adjusted to reflect any imports after April 26, 1983.

to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Malaysia and with respect to imports of cotton textile products from Malaysia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-13464 Filed 5-18-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closing Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Tuesday, 7 June 1983.

Time: 0830-1700 hours (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The "How to Fight" subpanel of the 1983 Army Science Board Summer Study on Future Development Goal will meet for classified briefings and discussions addressing concepts and doctrine of the way we fight and the way we will fight in the Airland Battle 2000 to include suggestions on innovations. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 83-13549 Filed 5-18-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of metting: Thursday and Friday, 9 and 10 June 1983 and Wednesday and Thursday, 29 and 30 June 1983.

Time: 0830-1700 hours (Closed), all four days.

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Ad Hoc Subgroup on Balanced Protection for the Individual Soldier will meet for classified briefings which primarily involve combat developer activities on 9 and 10 June. The panel will continue its assessment on individual soldier protection on 29 and 30 June. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, May be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Adminstrative Officer.

[FR Doc.83-13550 Filed 5-18-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Monday, 13 June 1983.

Time: 0830-1700 hours (Closed).

Place: Harry Diamond Laboratories, Adelphi, Maryland.

Agenda: The Army Science Board Functional Subgroup on Research and New Initiatives will meet for classified briefings and on-site orientations to cover the following topics: High Power Microwave Technology (Technology Overview, Army Program, Navy Program, Medical Aspects, Intelligence Considerations), the DoD VHSIC Program, and Mission Area Analysis Methodology. An Executive Session will wind up the meeting. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc.83-13551 Filed 5-18-83; 8:45am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Monday, Tuesday, Wednesday, 20-22 June 1983.

Time: 0830-1700 hours (Closed) each day.

Place: U.S. Army Chemical School, Fort McClellan, Alabama.

Agenda: The Army Science Board Ad Hoc Study Group on the Smoke & Obscurants Program will meet for classified briefings and discussions on smoke operational concepts, doctrine, materiel requirements, systems, training and force structure. The Smoke Study Group will observe a smoke training and large area smoke system demonstration. An Executive Session will be held on the third day. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 83-13552 Filed 5-18-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Monday, 20 June 1983.

Time: 0830-1700 hours (Closed).

Place: Hughes Aircraft Company, Fullerton, California.

Agenda: The Army Science Board 1983 Summer Study group on Acquiring Army Software will meet for proprietary briefings from the private industry sector for civilian perspectives on the subject of this study. An Executive Session to discuss progress to date will wrap up the meeting. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraphs (1 and 4) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified, nonclassified, and proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 83-13553 Filed 5-18-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Wednesday, Thursday, Friday, 22–24 June 1983.

Time: 0830–1700 hours (Closed) each day.

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Ad Hoc Subgroup on Ballistic Missile Defense will meet for classified briefings and discussions to continue the examination of advanced techniques for ballistic missle defense. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 659–3039 or 697–9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 83-13554 Filed 5-18-83; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Advisory Committee on Women in the Services (DACOWITS); Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 1:30 p.m. to 5:00 p.m., 14 June 1983 in MRA&L Conference Room #3E794, The Pentagon, and from 9:30 a.m. to approximately 12:00 noon, 15 June 1983 in the Secretary of Defense's Executive Conference Room #3E869, The Pentagon. Meeting sessions will be open to the public.

The purpose of the meeting is to review the recommendations/requests for information/statements of appreciation made at the 1983 Spring Meeting, discuss current issues relevant to women in the Services, and to start planning the program for the next Semi-annual Meeting scheduled for 16–20 October 1983 in Jacksonville, North Carolina.

Persons desiring to (1) attend the Executive Committee Meeting or (2) make oral presentations or submit written statements for consideration at the Meeting must contact Captain Mary J. Mayer, Executive Secretary, DACOWITS, OASD (Manpower, Reserve Affairs, and Logistics), Room 3D769, The Pentagon, Washington, D.C. 20301, telephone (202) 697–2122 no later than 3 June 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

May 16, 1983.

[FR Doc. 83-13515 Filed 5-18-83; 8:45 am]

BILLING CODE 3810-01-M

Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, July 5, 1983; Tuesday, July 12, 1983; Tuesday, July 19, 1983; and Tuesday, July 26, 1983 at 10:00 a.m. in Room 1E801, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy & Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, the Pentagon, Washington, D.C. 20301.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

May 16, 1983.

[FR Doc. 83-13512 Filed 5-18-83; 8:45 am]

BILLING CODE 3810-01-M

Science Board 1983 Summer Study Panel on Conventional Munitions, Advisory Committee Meeting

The Defense Science Board 1983 Summer Study Panel on Conventional Munitions will meet in closed session on 13–14 July 1983 in McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 13–14 July 1983, the Task Force will consider the current long endurance aircraft programs.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

May 16, 1983.

[FR Doc 83-13514 Filed 5-18-83; 8:45 am]

BILLING CODE 3810-01-M

Science Board Task Force on International Industry-to-Industry Armaments Cooperation; Advisory Committee Meeting

The Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation will meet in closed session on 29 June 1983 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advice the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 29 June 1983 the Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation will continue

its review of the Defense Department's policies, plans and procedures which impede or might impede international arms cooperation and thereby have the potential for adversely impacting the collective security of the United States, its friends and Allies. In this context, the Task Force will also analyze the effect current international cooperation policies have on the utility of the U.S., its friends and Allies to achieve in good order and sustain mobilization capacities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. I (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

May 16, 1983.

[FR Doc. 83-13513 Filed 5-18-83; 8:45 am]

BILLING CODE 3810-01-M

Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, June 7, 1983; Tuesday, June 14, 1983; Tuesday, June 21, 1983; and Tuesday June 28, 1983 at 10:00 a.m. in Room 1E801, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92–392. At this meeting, the Committee will consider wage survey specifications wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b (c)(4)).

Accordingly, the Deputy Assistance Secretary of Defense (Civilian Personnel Policy & Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C 552b (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C 552b (c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, the Pentagon, Washington, D.C. 20301.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

May 16, 1983.

[FR Doc. 83-13511 Filed 5-18-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Centers and Services for Deaf-Blind Children

AGENCY: Department of Education.

ACTION: Notice of proposed annual funding priority and proposed geographical regions.

SUMMARY The Secretary proposes an annual funding priority and the composition of six geographical regions for the award of grants under the Centers and Services for Deaf-Blind Children program. To ensure effective use of program funds, the Secretary proposes to establish an annual priority related to the (1) types of activities being conducted, and (2) the children being served. This action is being proposed to ensure that States will have the necessary capability to provide appropriate services to those children for whom they are responsible. It is also intended to ensure the provision of services to deaf-blind children to whom States are not obligated to make available a free appropriate public education under Part B of the Education of the Handicapped Act (EHA–B). States participating in the EHA–B program are required to provide special education and related services to handicapped children, including those who are deaf-blind, within certain age groups.

In addition, the Secretary proposes to establish six regions for the purpose of making awards. The proposed regional structure is designed to bring about increased coordination of effort among States and reduce administrative costs of the program. A separate competition will be held for each of the six regions.

DATES: Comments must be received on or before June 20, 1983.

ADDRESSES: Comments should be addressed to R. Paul Thompson, Centers and Services for Deaf-Blind Children, Special Education Programs, U.S. Department of Education, 400 Maryland Avenue S.W., Donohoe Building, Room 4918, Washingron, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: R. Paul Thompson, Telephone (202) 472–7993.

SUPPLEMENTARY INFORMATION: Grants for Centers and Services for Deaf-Blind Children are authorized under Section 622 of the Education of the Handicapped Act (EHA). Program regulations are set out at 34 CFR Part 307. The purpose of the program authorized by Section 622 is to establish a limited number of centers designed to provide effective educational services to deaf-blind children beginning as early in life as feasible. Each center is required to provide (1) diagnostic and evaluative services for deaf-blind children; and (2) programs of education, orientation, and adjustment for those children; and (3) consultative services to those persons directly involved in the lives of those children. Centers funded under this authority are also required by regulation to conduct other activities, including the development and dissemination of materials and information to assist professional and allied personnel engaged in programs designed for deaf-blind children, and training to personnel engaged in the delivery of services to those children.

An application notice for transmittal of applications for Fiscal Year 1983 indicating the closing date for submitting those applications is published in this issue of the Federal Register.

Eligible Applicants: Public and nonprofit private agencies, organizations, or institutions are eligible to apply for awards under this program.

Priority: In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(b)(2) and 75.105(c)(3)(i), the Secretary proposes to give an absolute preference to each application for a project that will use funds made

available under this program for the following activities before using those funds for other authorized activities:

1. Activities authorized by 34 CFR 307.34 to the extent that they are designed to ensure that the States will have the necessary capacity to serve the deaf-blind children for whom they are responsible, including the provision of training to personnel in participating agencies which are engaged in, or responsible for, direct delivery of services to deaf-blind children or their families; and dissemination of materials and information about effective methods, approaches, or techniques for the adjustment and education of deaf-blind children.

2. The provision of services authorized by 34 CFR 307.33 to those deaf-blind children from birth through 21 years of age, in each State served by the center, to whom the State is not obligated to make available a free appropriate public education under Part B of the EHA. *See* Section 612(2)(B) of the EHA, 20 U.S.C. 1412(2)(B). Any remaining funds may be used to carry out any other activities authorized by Section 622 of the EHA and 34 CFR Part 307.

Composition of Geographical Regions: The Secretary proposes to establish six regions as follows:

Region and State To Be Included in Region

1—Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, Vermont, Virgin Islands
2—Delaware, District of Columbia, Kentucky, Maryland, North Carolina, South Carolina, Tennessee, Virginia, West Virginia
3—Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, Oklahoma, Texas
4—Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, Wisconsin
5—Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming
6—Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Northern Mariana Islands, Oregon, Trust Territories of the Pacific Islands, Washington

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priority and composition of regions. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before [the 30th day after publication of this document] will be considered before the Secretary issues any final priority and statements of regional composition. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 4918, Donohoe Building, 400 Sixth Street, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(20 U.S.C. 1422)

(Catalog of Federal Domestic Assistance No. 84.025, Centers and Services for Deaf-Blind Children)

Dated: May 16, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-13489 Filed 5-18-83; 8:45 am]

BILLING CODE 4000-01-M

Centers and Services for Deaf-Blind Children

AGENCY: Office of Special Education and Rehabilitative Services; Education.

ACTION: Application Notice for Transmittal of Applications for Fiscal Year 1983.

Applications are invited for new awards under the Centers and Services for Deaf-Blind Children program.

Authority for this program is contained in Section 622 of the Education of the Handicapped Act. (20 U.S.C. 1422).

Closing Date for Transmittal of Applications: Applications for new awards must be mailed or hand-delivered by July 18, 1983.

Applications Delivered by Mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.025, 400 Maryland Avenue, SW., 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; or

(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. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Regional Office Building 3, Room 5673, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between the hours of 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Each center is required to provide (1) diagnostic and evaluative services for deaf-blind children; (2) programs of education, orientation, and adjustment for those children; and (3) consultative services to those persons directly involved in the lives of those children. Centers are also required by regulation to conduct other activities, including the development and dissemination of materials and information to assist professional and allied personnel engaged in programs designed for deaf-blind children, and training to personnel engaged in the delivery of services to deaf-blind children.

Available Funds: An applicant for a grant may propose a project period of up to 36 months. Approximately $11,760,000 is available for these awards for Fiscal Year (FY) 1983. It is expected that the amount available for continuation awards will decrease by 35 percent for FY 1984 and by an additional 25 percent for FY 1985.

It is expected that funding will be available to award six new grants in FY 1983, as indicated in the table below. These estimates of funding levels do not bind the U.S. Department of Education to the amount of any grant, unless that amount is otherwise specified by statute or regulation.

A separate competition will be held for each region. The Secretary intends to make one award per region, but will not make any award for a region for which he determines that no application is of sufficient quality to merit approval.

Number	Region	States to be included in Region	Approximate fiscal year 1983 funding level
84.025A	1	Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, Vermont, Virgin Islands.	$2,560,000
84.025B	2	Delaware, District of Columbia, Kentucky, Maryland, North Carolina, South Carolina, Tennessee, Virginia, West Virginia.	1,860,000
84.025C	3	Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, Oklahoma, Texas.	2,100,000
84.025D	4	Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, Wisconsin.	1,660,000
84.025E	5	Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming.	1,420,000
84.025F	6	Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Northern Mariana Islands, Oregon, Trust Territories of the Pacific Islands, Washington.	2,140,000

Application Forms: Application forms and program information packages may be obtained by writing to the Special Needs Section, Program Development Branch, Special Education Programs, Donohoe Building, Room 4918, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations. The Secretary urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing Centers and Services for Deaf-Blind Children (34 CFR Part 307);

(b) Any final annual priority or statement of regions adopted by the Secretary. A notice of a proposed annual priority and a proposed statement of regions for the Centers and Services for Deaf-Blind Children program is published in this issue of the **Federal Register.** Applicants should prepare their applications based on the proposed priority and statement of regions. If there are any substantive changes made in these proposed provisions when published in final form, applicants will be given the opportunity to amend or resubmit their applications; and

(c) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

FOR FURTHER INFORMATION CONTACT:
R. Paul Thompson, Centers and Services for Deaf-Blind Children, Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Donohoe Building, Room 4918, Washington, D.C. 20202. Telephone: (202) 472–7993.

(20 U.S.C. 1422)

(Catalog of Federal Domestic Assistance No. 84.025, Centers and Services for Deaf-Blind Children)

Dated: May 16, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-13490 Filed 5-18-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Action on Consent Order With Hudson & Hudson

AGENCY: Office of Special Counsel, Economic Regulatory Administration, DOE.

ACTION: Adoption of Proposed Consent Order as Final.

SUMMARY: The Department of Energy (DOE) hereby gives the notice required by 10 CFR § 205.199J that is has adopted the Consent Order with Hudson and Hudson executed on January 19, 1983 and published for comment in 48 FR 8326 on February 28, 1983, as a final order of DOE. The Consent Order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations with respect to crude oil sales for the period September 1973 through November 30, 1980. To remedy any violations that may have occurred during the period, Hudson and Hudson has agreed to make payment in the principal amount of $750,000.

As required by the regulation cited above, DOE received comments on the Consent Order for a period of not less than 30 days following publication of the notice cited above. Five comments were received by march 30, 1983, the thirtieth day following publication of the notice of the proposed Consent Order. DOE has considered all comments and determined that the Consent Order should be made final without modification. The Consent Order is made effective as a final order of the DOE on May 19, 1983.

FOR FURTHER INFORMATION CONTACT:
David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106–2466, Phone: (816) 374–2092.

Copies of the Consent Order may be received free of charge by written request to: Hudson and Hudson, Consent Order Request, Economic Regulatory Administration, 324 East 11th Street, KANSAS City, Missouri 64106–2466.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Aveue, S.W., Room 1E–190, Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m.

SUPPLEMENTARY INFORMATION:

The Consent Order

On February 28, 1983, DOE published notice in the **Federal Register** at page 8326 announcing the execution of a proposed Consent Order between Hudson and Hudson and DOE. In compliance with DOE Regulations, that notice and a subsequent press release summarized the Consent Order and the facts behind it. The notice and press release also gave instructions for obtaining copies of the Consent Order. The proposed Consent Order can be summarized as follows:

1. The Consent Order marks the conclusion of the DOE's audit of Hudson and Hudson's compliance with the Federal petroleum price and allocation regulations for the period September 1973 through November 30, 1980, (the audit period). The Consent Order resolves all administrative and civil issues between DOE and Hudson and Hudson not previously resolved concerning the sale of crude oil during the audit period.

2. Hudson and Hudson has agreed to make payment in the amount of $750,000, plus interest, to the DOE for deposit in a suitable account for subsequent disposition by DOE.

Commencing with the first day of the first month following the effective date of this Consent Order, Hudson and Hudson shall pay the principal amount in twelve (12) equal monthly installments. Interest shall accrue on the unrefunded balance of the principal amount until the principal amount is paid in full.

3. The Consent Order also provides details concerning the conclusion of the audit and procedures concerning enforcement of the provisions of the Consent Order. These matters include Hudson and Hudson's obligation under DOE recordkeeping regulations and DOE's obligation to maintain the confidentiality required by law of proprietary data received from Hudson and Hudson. The Consent Order provides that Hudson and Hudson has waived its right to an administrative or judicial appeal of the Consent Order. The Consent Order does not constitute an admission by Hudson and Hudson nor a finding by OSC of a violation of any Federal petroleum price and allocation statutes or regulations.

Comments Received

As noted above, DOE received a total of five comments on the proposed Consent Order. Separate comments were submitted by four states and a law firm representing the Attorneys General or eight states submitted a joint response. None of the comments objected to the settlement. DOE has considered all comments and determined that the Consent Order should be made final without modification. The significant points raised by the comments are discussed below.

The comments suggested that those parties that can verify and overcharge should enjoy priority as to any funds made available by the Consent Order. To the extent that monies are not paid out to direct purchasers, the comments urged that payments be made to the states.

It has been DOE's practice to provide, when possible, for refunds to be made directly to those persons who DOE believes may have borne the ultimate burden of the alleged violations, however, it is not always possible to identify specific persons who may have been injured or to determine the extent of their injury. The ultimate disposition of the funds in this case will depend on several factors, such as the nature of the alleged violations underlying the Consent Order and DOE's ability to identify the persons who ultimately bore the burden of the alleged violations. The suggestions of the commenting states regarding the distribution of the funds will be considered in determining the appropriate ultimate disposition. In the interim, the funds will be deposited into an interest-bearing escrow account maintained by the DOE.

Having considered all comments received, DOE has determined that the proposed Consent Order with Hudson and Hudson should be make final without modification, the Consent Order, therefore, is made final and effective on May 19, 1983.

Issued in Washington, D.C., May 9, 1983.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 83-13478 Filed 5-18-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed; Week of April 8 Through April 15, 1983

During the Week of April 8 through April 15, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 13, 1983

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of April 8 Through April 15, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 11, 1983	Highway Oil, Inc., Washington, D.C.	HRD-0123 and HRH-0123.	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted in response to a Proposed Remedial Order (Case No. HRO-0123) issued to Highway Oil, Inc.
Apr. 11, 1983	Office of Special Counsel/Gulf Oil Corporation, Washington, D.C.	HRZ-0143	Interlocutory Order. If granted: The affidavits of Clyde W. Oldham, Daniel J. Kortum, and William N. Walker submitted in conjunction with the Gulf Oil Corporation Statement of Legal Objections (Case No. DRO-0194) would be stricken from the record.
Apr. 11, 1983	Texaco, Inc., Washington, D.C.	HRZ-0142	Interlocutory Order. If granted: Texaco, Inc. would not be required to comply with the March 26, 1982, Stipulation Order entered into with the Office of Special Counsel.
Apr. 13, 1983	Edward T. Cotham, Jr., Houston, Texas	HEG-0028	Petition for Special Redress. If granted: Edward T. Cothman, Jr. would not be required to pay fees incurred in the processing of his Freedom of Information Act Request (06298201R), pending a determination on his appeal of the request (Case No. HFA-0093).
Apr. 14, 1983	Christmann & Welborn, Dallas, Texas	HEE-0065	Application for Exception. If granted: Christmann & Welborn would be permitted to sell the crude oil produced from the CWC Prentice Unit at upper tier ceiling prices for the period of September 1, 1973 to January 27, 1981.
Apr. 14, 1983	Transco Trading Company, Washington, D.C.	HRD-0125	Motion for Discovery. If granted: Discovery would be granted to Transco Trading Company in connection with the Statement of Objections submitted in response to a Proposed Remedial Order (Case No. HRO-0114) issued to the firm.
Apr. 15, 1983	Thornton Oil Corporation, Atlanta, Georgia	HFA-0138	Appeal of Information Request Denial. If granted: Thornton Oil Corporation would receive access to certain documents in connection with the Consent Order entered into between Ashland Oil Company and the Office of Special Counsel.

REFUND APPLICATIONS RECEIVED

[Week of April 8 to April 15, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No. assigned
April 11, 1983	Ozona Gas Processing Plant/Enterprise Products Co.	RF27-1.
April 11, 1983 to April 15, 1983	Amoco Refund Applications	RF21-6227 through RF21-6686.

[FR Doc. 83-13482 Filed 5-18-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; Period of March 21 Through April 15, 1983

During the period of March 21 through April 15, 1983, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania, Avenue, N.W. Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

May 13, 1983

George B. Breznay,

Director, Office of Hearings and Appeals.

Caribou Four Corners, Inc., Afton, Wyoming: HEE-0053, BYX-0197, Crude Oil

Caribou Four Corners, Inc. submitted financial and operating data for a review of the entitlements exception relief granted to the firm for its operations during the period from April 1, 1980 through January 27, 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that Caribou should be required to sell $17,687 of entitlements to account for an insufficient level of exception relief which the firm received for its operations prior to January 1981. In addition, subject to certain limitations, the Proposed Decision fully relieves Caribou of any net entitlements purchase or sales obligation that the firm might otherwise incur on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Caribou also filed a submission which was construed as an application for Exception and was consolidated with the review of its April 1, 1980 through January 17, 1981 operations. In that submission, Caribou sought immediate compensation for the effects of an error that the Economic Regulatory Administration committed in establishing the firm's position on the December 1980 entitlements notice. The Proposed Decision took the value of this error into account in concluding that Caribou should be permitted to sell $17,687 of entitlements. Therefore, the Proposed Decision concluded that this request should be dismissed without prejudice to a refiling at a later date.

Kentucky Oil and Refining Co., Inc., Betsy Layne, Kentucky: HYX-0010, crude oil

Kentucky Oil and Refining Co., Inc. submitted financial and operating date for a review of the entitlements exception relief granted to the firm for its operations during the period from January 1, 1981 through January 17, 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that Kentucky Oil should be required to purchase entitlements with a value of $342,755 to account for the excessive exception relief that it received for its operations during its 1980 fiscal year and that, subject to certain limitations, Kentucky Oil should be relieved in full of any net entitlements purchase or sales obligation that it might otherwise incur on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Laketon Asphalt Refining, Inc., Evansville, Indiana; BYX-0196, crude oil

Laketon Asphalt Refining, Inc., submitted financial and operating data for a review of the entitlements exception relief granted to the firm for its operations during the month of January 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that, subject to certain limitations, Laketon should be relieved in full of any net entitlements purchase or sales obligation that it might otherwise incur on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Navajo Refining Company, Dallas, Texas; BYX-0204, crude oil

Navajo Refining Company submitted financial and operating data for a review of the entitlements exception relief granted to the firm for its operations during the period from August 1, 1980 through January 17, 1981. On April 11, 1983, the Department Energy issued a Proposed Decision and Order which determined that Navajo should be required to sell $3,753,686 of entitlements to account for the insufficient exception relief that it received for its operations prior to January 1981 and that, subject to certain limitations, Navajo should be relieved in full of any net entitlements purchase or sales obligation that it might otherwise incur on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Plateau, Washington, D.C.; BYX-0193, crude oil

Plateau, Inc. submitted financial and operating data for a review of the entitlements exception relief granted to the firm for its operations during the period from October 1, 1980 through January 27, 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that Plateau should be required to sell $4,617,920 of entitlements to account for the insufficient exception relief that it received for its operations prior to January 1981 and that, subject to certain limitations, Plateau should be relieved in full of any net entitlements purchase or sales obligation that it might otherwise incur in excess of $207, 675 on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Sage Creek Refining Company, Cowley, Wyoming; HYX-0058, Crude oil

Sage Creek Refining Company submitted financial and operating data for a review of the entitlements exception relief granted to the firm for its operations during the period from September 1, 1980 through January 27, 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that Sage Creek should be required to sell $80,802 of the entitlements to account for the insufficient exception relief that it received for its operations prior to January 1981 and that, subject to certain limitations, Sage Creek should be relieved in full of any net entitlements purchase or sales obligation that it might otherwise incur on the

January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Southland Oil Company, Jackson, Mississippi; BYX-0199, Crude oil

Southland Oil Company submitted financial and operating data for a review of the entitlements relief granted to the firm for its operations during the month of January 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that, subject to certain limitations, Southland should be relieved in full of any net entitlements purchase or sales obligation that it might otherwise incur on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Southport Exploration, Inc., Tulsa, Oklahoma; HEE-0057, Crude oil

Southport Exploration, Inc. filed an Application for Exception from the provisions of 10 CFR 207. The exception request, if granted, would permit Southport to be permanently relieved from the obligation to prepare and submit Form EIA-23. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Southwestern Refining Company, Inc., Salt Lake City, Utah; BYX-0200, Crude oil

Southwestern Refining Company, Inc. submitted financial and operating data for a review of the entitlements exception relief granted to the firm for its operations during the period from July 1, 1980 through January 27, 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that Southwestern should be required to sell entitlements with a value of $354,539 to account for the excessive exception relief that it received for its operations prior to January 1981 and that, subject to certain limitations, Southwestern should be relieved in full of any net entitlements purchase or sales obligation that it might otherwise incur on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Thriftway Company, Washington, D.C; HYX-0019 crude oil

Thriftway Company submitted financial and operating data for a review of the entitlements exception relief granted to the firm for its operations during the month of January 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that, subject to certain limitations, Thirftway should be relieved in full of any net entitlements purchase or sales obligation that it might otherwise incur in excess of $113,437 on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Young Refining Corporation, Washington, D.C.; BYX-0198, crude oil

Young Refining Corporation submitted financial and operating data for a review of the entitlements exception relief granted to the firm for its operations during the period from August 1, 1980 through January 27, 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that Young should be required to purchase $3,799,539 of entitlements to account for the excessive exception relief that it received for its operations prior to January 1981 and that, subject to certain limitations, Young should be relieved of any net entitlements purchase or sales obligation that it might otherwise incur on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

[FR Doc. 83-13480 Filed 5-18-83; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of April 4 Through April 8, 1983

During the week of April 4 through April 8, 1983, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

Gear Petroleum Co., Wichita, Kansas; HRO-0144, crude oil

On April 4, 1983, Gear Petroleum Co. of Wichita Kansas filed a Notice of Objection to a Proposed Remedial Order which the DOE Kansas City Office of Enforcement issued to the firm on March 4, 1983. In the PRO, the Kansas City Office found that during the period June 1979 through October 1980, Gear Petroleum Co. violated various pricing regulations in connection with the sale of crude oil. According to the PRO, the Gear Petroleum violation resulted in $369,485.87 of overcharges.

Jaguar Petroleum, Inc., R. Wayne Stufflebean, Houston Texas; HRO-0145, crude oil

On April 5, 1983, Jaguar Petroleum, Inc., and R. Wayne Stufflebean, 8818 Arbor Wood, Houston, Texas 77040, filed a Notice of Objection to a Proposed Remedial Order which the DOE Houston Office of Enforcement issued to them on March 2, 1983. In the PRO, the Houston Office found that during the period January 1980 through December 1980, Jaguar Petroleum, Inc. and R. Wayne Stufflebean committed various pricing violations in the State of Texas in the connection with the sale of crude oil. According to the PRO, the pricing violations resulted in $860,350.00 of overcharges.

Tesoro Petroleum Corporation, San Antonio, Texas; HRO-0143, crude oil entitlements

On April 4, 1983, Tesoro Petroleum Corporation, 8700 Tesoro Drive, San Antonio, Texas 78286, filed a Notice of Objection to a Proposed Remedial Order which the DOE Office of Special Counsel (OSC) issued to the firm on March 7, 1983. In the PRO, the OSC found that during the period October 1977 through January 1978 the firm unlawfully received entitlements benefits under the Domestic Crude Oil Allocation Program (Entitlements Program) totalling $2,869,779.00. The PRO directs the firm to pay this amount plus interest to the DOE for ultimate disposition by DOE.

[FR Doc. 83-13479 Filed 5-18-83; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of April 11 Through April 15, 1983

During the week of April 11 through April 15, 1983, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 13, 1983.

Bi-Petroleum Refining Co., Springfield, Illinois, HRO-0146, Crude O il

On April 13, 1983, Bi-Petroleum Refining Company, P.O. Box 3245, Springfield, Illinois 62708, filed a Notice of Objection to a Proposed Remedial Order which the DOE Kansas City Office of Special Counsel issued to the firm on March 17, 1983. In the PRO the Kansas City Office found that during the period July 1978 through December 1979, Bi-Petroleum Refining Company increased its selling price for gasoline in violation of 10 CFR 212.130(a)(1). According to the PRO, the Bi-Petroleum Refining Company violation resulted in $4,365,386.86 of overcharges.

Gonsoulin Energy Corporation, Jackson, Mississippi, HRO-0148, Crude Oil

On April 13, 1983, Gonsoulin Energy Corporation, 633 North State Street, Suite 405, Jackson, Mississippi 39201, filed a Notice of Objection to a Proposed Remedial Order which the DOE Houston District Office of Enforcement issued to the firm on March 2, 1983. In the PRO, the Houston Office found that during the period June 1980 through December 1980, Gonsoulin violated §§ 212.186 and 210.62 of the DOE price regulations. According to the PRO, the Gonsoulin violation resulted in $1,795,021.32 of overcharges.

Placid Oil Company, Dallas, Texas, HRO-0147, Crude Oil

On April 13, 1983, Placid Oil Company, 1600 First National Bank Building, Dallas, Texas 75202, filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas District Office of Enforcement issued to the firm on March 29, 1983. In the PRO, the Dallas Office found that during the period August 19, 1973 through January 31, 1976, Placid violated various pricing regulations in connection with the sale of refined petroleum products, natural gas liquids and natural gas liquid products. According to the PRO the Placid violation resulted in $6,683,346.00 of overcharges.

[FR Doc. 83-13481 Filed 5-18-83; 8:45 am]
BILLING CODE 6450-0-M

ENVIRONMENTAL PROTECTION AGENCY

[W-1-FRL 2363-7]

New Jersey Coastal Plain Area, New Jersey; Request for EPA Determination Regarding Aquifer System

AGENCY: Environmental Protection Agency.

ACTION: Notice of available additional information and public comment period.

SUMMARY: The purpose of this notice is to announce that: 1) the Environmental Protection Agency (EPA) has received and included in the public docket a technical publication from the U.S. Geological Survey (USGS) entitled "Hydrogeologic Conditions in the Coastal Plain of New Jersey" by Eric F. Vowinkel and W. Kendall Foster (Open File Report 81-405); 2) the EPA has prepared a draft Support Document summarizing (a) the available information on the ground water system and drinking water resources in the N.J. Coastal Plain Area and (b) preliminary findings with respect to a designation of such resources as a sole or principal source of drinking water in the area; 3) the USGS publication and the EPA draft document are available for review; and 4) public comments are requested.

DATES: The public is encouraged to submit written comments before the close of business on July 15, 1983 at the EPA regional office in New York City.

ADDRESSES: Comments on the USGS study and the EPA draft Support Document should be mailed to Andrea G. Sklarew, Water Supply Branch, Environmental Protection Agency, Region 2, 26 Federal Plaza, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: Andrea Sklarew, Chief, Drinking Water Protection Section, (212) 264-1800.

SUPPLEMENTARY INFORMATION: The USGS technical publication and the EPA draft Support Document are available for public inspection during normal business hours (8:00 a.m.-4:30 p.m.) at the Office of the Water Supply Branch, U.S. Environmental Protection Agency, Room 824, 26 Federal Plaza, New York, N.Y. 10278. EPA has also made arrangements to make the USGS study and the draft Support Document available for inspection at the following library facilities:

Facility and Hours

EPA Library, GSA Depot, Woodbridge Avenue, Edison, New Jersey 08837—M-F 8:00 a.m.-4:30 p.m.

N.J. State Library, U.S. Documents Collections, 185 W. State Street, Trenton, N.J. 08625—M, TH 8:30-9:00 p.m.; T, W, F 8:30-5:00; Sat. 9:00-5:00.

Camden County Library (Periodicals), Little Gloucester Road, Blackwood, N.J. 08012—M & Th 10:00-9:00 p.m.; T, W, F 10:00-5:00; Sat: 10:00-2:00

Stockton State College Library, Jimmie Leeds Road, Pomona, N.J. 08240—M-Th 8:00-10:00 p.m.; F: 8:00-5:00; Sat: 10:00-5:00; Sun: 1:00-9:00 p.m.

In addition, copies of the USGS study may be inspected at the Office of the U.S. Geological Survey, Room 430 Federal Building, 402 East State Street, Trenton, New Jersey 08608; USGS Headquarters Office 421 National Center, Reston, Virginia 22092 or the Open-File Publications Unit, Box 25425, Denver Federal Center, Lakewood, Colorado 80225.

Section 1424(e) of the Safe Drinking Water Act (Pub. L. 93-523) authorizes the Administrator to determine, on his or her own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health. After such a determination is made, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project the Administrator determines may contaminate such an aquifer through a recharge zone so as to create a significant hazard to public health.

On March 21, 1979, notice was published (44 FR 17208) stating that the EPA had received a petition from the Environmental Defense Fund, Inc. and the Sierra Club (New Jersey Chapter) requesting the EPA to designate the Aquifer(s) underlying the Counties of Monmouth, Burlington, Ocean, Camden, Gloucester, Atlantic, Salem, Cumberland and Cape May and portions of Mercer and Middlesex Counties, as the sole or principal source of drinking water for the area, which, if contaminated, would create a significant hazard to public health. In the notice the EPA expressed a need to obtain additional hydrogeologic information on the area and sought the assistance of the USGS. On September 14, 1979, a notice was published (44 FR 53567) indicating that the EPA had contracted with the USGS for additional technical information on the N.J. Coastal Plan Aquifer System.

The USGS study has been completed and the EPA has incorporated information from this publication and other technical publications into a draft Support Document. The draft document includes conclusions which will be the basis for the final determination. Specifically, a recommendation to designate the NJ Coastal Plain Area would be based on a finding that the underlying aquifer system is the sole or principal source of water supply for the Area, that the system is susceptible to contamination, and that alternative supplies are limited or not available at comparable cost.

Due to the elapsed time since the EPA was petitioned to consider the NJ Coastal Plain Area for designation, the EPA is seeking any information relevant to the following preliminary findings incorporated in the draft Support Document:

1. The NJ Coastal Plain Aquifer System which underlies Monmouth, Ocean Atlantic, Salem, Gloucester, Camden, Burlington, Cumberland and portions of Middlesex and Mercer Counties, New Jersey is the sole or principal source of drinking water for the Area. Approximately 75 percent of

the ground water used for drinking water by 3 million people in these counties is supplied by the NJ Coastal Plain Aquifer System.

2. There is no existing alternative drinking water source which provides 50 percent or more of the drinking water to the Area. Streamflow may be available for some municipalities located within the petitioned Area, but not all. Furthermore, streamflow in the NJ Coastal Plain Area is largely dependent upon ground water for its quality and quantity and therefore cannot serve as an independent alternative source.

3. The NJ Coastal Plain Aquifer System is susceptible to contamination because of the highly permeable nature of the sediments.

Since ground water contamination can be difficult or impossible to reverse, and because this aquifer system is relied upon for drinking water purposes by 75 percent of the population in the Area, contamination of the aquifer would pose a significant hazard to public health.

4. The area in which projects may be reviewed is delineated by (1) the boundary of the aquifer's recharge zone and (2) its streamflow zone. The recharge zone for the NJ Coastal Plain Area would include the outcrop areas of the major water bearing formations in southern New Jersey. The streamflow source zone would include the entire Delaware River Basin (as delineated by the Delaware River Basin Commission) down to the Chesapeake and Delaware Canal (along the western boundary) and all of the waterways in southern New Jersey which drain into the NJ Coastal Plain Area.

Regulatory Flexibility Act Compliance

The Regulatory Flexibility Act (5 U.S.C. 601–612, Pub. L. 96–534) is intended to ensure that Federal agencies analyze the effect of regulatory requirements on small businesses, organizations, or governmental jurisdictions (collectively referred to as "small entities"). The law requires that, with certain exceptions, each proposed or final regulation be accompanied by a regulatory flexibility analysis or by a certification that no such analysis is necessary because the regulation will not have a "significant economic impact on a substantial number of small entities".

Should the Administrator determine to designate the N.J. Coastal Plain Area, EPA expects that the only affected entities will be those Area based businesses, organizations or governmental jurisdictions that request Federal financial assistance for projects which have the potential for contaminating the aquifer so as to create a significant hazard to public health. EPA does not expect to be reviewing small isolated commitments of financial assistance on an individual basis, unless a cumulative impact on the aquifer is anticipated; accordingly, the number of affected small entities is expected to be minimal. For those small entities which would be subject to review, the impact of an affirmative determination is not expected to be significant. Most projects subject to a review would be preceeded by a ground water impact assessment required pursuant to other Federal laws, such as the National Environmental Policy Act, as amended (NEPA), 42 U.S.C. 4321, *et seq.* Integration of those related review procedures with sole source aquifer review would allow EPA and other Federal agencies to avoid delay or duplication of effort in approving financial assistance, thereby minimizing any adverse effect on those small entities which are affected. Furthermore, a recommendation to designate does not prevent grants of Federal financial assistance which may be available to any affected small entity in order to pay for the redesign of a project to assure protection of the aquifer. Comments related to impacts that a sole source designation may have on small entities are also hereby solicited.

Dated: March 31, 1983.

Jacqueline E. Schafer,

Regional Administrator.

[FR Doc. 83-13141 Filed 5-18-83; 8:45 am]

BILLING CODE 6560-50-M

[OLEC-FRL 23658]

Wheeling-Pittsburgh Steel Corp.; Findings and Notice of Consent Prior to Lodging of Amended Consent Decree

AGENCY: Environmental Protection Agency.

ACTION: Notice of findings and Notice of consent prior to lodging of amended consent decree.

SUMMARY: The Administrator announces his decision to exercise his discretion and grant compliance deferrals to Wheeling-Pittsburgh Steel Corporation under the Steel Industry Compliance Extension Act of 1981.

EFFECTIVE DATE: Effective May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Stuart I. Silverman, Attorney, Office of Legal and Enforcement Counsel (LE–134A), United States Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, phone (202) 382–2859.

SUPPLEMENTARY INFORMATION

Background

On July 17, 1981, President Reagan signed into law the Steel Industry Compliance Extension Act (SICEA), Pub. L. 97–23, popularly known as "Steel Stretchout," which amended Section 113 of the Clean Air Act. The legislation was drawn up in response to the recommendations of the Tripartite Committee, and ad hoc group of representatives from industry, labor, government and environmental groups called together by the President in 1979 to address the special problems of the steel industry.

The environmental history of the steel companies in this country has been an arduous one. In the Clean Air Act Amendments of 1970, 42, U.S.C. 1857 *et. seq.* (1970) amended (1977), Congress directed the Federal Environmental Protection Agency to promulgate air quality standards for various air pollutants, and required the States to adopt plans (State Implementation Plans, or SIPs) to attain and maintain the standards, imposing control measures on individual sources where necessary. In 1975, representatives of the steel industry testified to a House Subcommittee that no steel plants were in compliance with the SIP requirements then applicable to them.[1]

In the Clean Air Act Amendments of 1977, Congress extended the deadlines for attainment of the national ambient air quality standards and at the same time strengthened the Act considerably.

In 1977, using the new enforcement authority provided by Congress, EPA launched a vigrous campaign to bring the steel companies and other major polluters into compliance with the SIPs. By 1979, EPA had negotiated consent decrees with many of the major steel producers. Other plants were covered by new rigorous SIP requirements specifically tailored to iron- and steel-manufacturing processes. Pollution control in the steel industry, however, required tremendous infusions of capital, greater than for many other heavy industries: for example, in 1980, nineteen percent of the steel industry's capital expenditure went for environmental clean-up, as opposed to nine percent for electric utilities, and five percent for automobile manufacturers. House Report *supra* at 9. Not only was the percentage of capital invested higher, but according to the

[1] Hearings on H.R. 2622 and H.R. 2650 before the Subcommittee on Health and the Environment, Serial No. 94–24 at 600, May 1975, cited in H.R. Rep. No. 97–121, 97th Cong., 1st Sess. (1981) (House Report) at 4.

steel companies, it was more difficult for them to raise. *Id.* Moreover, at the same time they were belatedly spending signirficant sums on pollution control, American steel companies were losing ground in the marketplace to imports from mills overseas. Domestic plants which could not compete were closing. The industry argued that the only long term solution was to quickly and substantially modernize U.S. facilities. Such an effort, however, would put additional pressure on limited capital resources.

In the SICEA, Congress adopted a compromise devised by the Tripartite Committee to mitigate these competing claims for capital. In essence, Congress gave the EPA Administrator authority to extend dealines for installation of certain capital-intensive pollution control equipment for up to three years if a company agreed to use the money saved instead for capital investments which improved the efficiency and productivity of its steelmaking facilities. Thus, Congress provided that each company which took advantage of the Act eventually would spend twice the value of the deferred pollution controls—it would still meet all its environmental obligations (albeit later than initially required) and it would invest at least an equal *additional* sum in modernization.

To qualify, SICEA sets forth specific criteria, including a requirement that each applicant demonstrate that it is in compliance with all the requirements of its existing Federal consent decrees, or that any violations are *de minimis* in nature. Section 113(e)(1)(E), 42 U.S.C 7413(e)(1)(E). Moreover, to obtain relief, a company must agree to bring all of its other iron- and steel-producing facilities into compliance with all applicable emission limitations pursuant to a "phased program of compliance" as defined in section 113(e)(2) of the act (installing reasonably available control technology where necessary). Section 113(e)(1)(C), 42 U.S.C. 7413(e)(1)(C). In addition, it must agree to interim pollution control measures, scheduled increments of progress with stipulated penalties for failure to meet schedule deadlines, monitoring and reporting requirements, and whatever other requirements the Administrator finds approprate. *Id.*

Compliance extensions are not available on a blanket basis. The Administrator must review requests for extensions case-by-case, and the applicant assumes the burden of demonstrating that it qualifies. Section 13(e)(2), 42 U.S.C. 7413(e)(2).

The vehicle Congress chose for granting relief is a new consent decree, or an amendment to an existing consent decree, to be lodged in Federal district court and to include the terms of the extension and the undertakings of the company required by the statute, including plant modernization. The court must of course approve the decree before it becomes effective. Anyone who wishes to comment upon or challenge the decree or the Administrator's findings may do so in the same forum. Sections 113(e)(7) (B), 113(e)(8) and 304(b)(1)(B), 42 U.S.C. 7413(e)(7)(B), 7413(e)(8) and 7604(b)(1)(B).

Application of Wheeling-Pittsburgh Steel Corporation

Wheeling-Pittsburgh Steel Corporation is an integrated steel producer with production facilities located in the Monongahela and Ohio Valleys in the States of Pennsyvania, Ohio and West Virginia. The facilities are the subject of a Federal consent decree originally entered on November 26, 1979, in the United States District Court for the Western District of Pennsylvania, and subsequently amended on April 20, 1982.

On October 30, 1981, Wheeling-Pittsburgh Steel Corporation filed an initial application with the EPA requesting relief under SICEA. It supplemented its application on February 24 and December 9, 1982, and January 20, February 7, and 16 and March 14, 1983. In its application, the company requested the Administrator to defer until after December 1982 compliance obligations at ten facilities requiring expeditures for pollution control of approximately $15 million. It proposed instead to incur capital expenditures for a modernization project totaling approximately $15 million for improved efficiency and productivity at an eighty inch hot strip mill at its South Steubenville, Ohio plant.

In its initial SICEA application, the company sought postponement of compliance obligations in the outstanding Federal consent decree, as amended, for its Monessen basic oxygen furnance and blast furnance No. 1 in Pennsylvania, the Follansbee sinter plant windbox in West Virginia, as well as the North Steubenville blast furnaces Nos. 1 and 2 in Ohio. Wheeling-Pittsburgh supplemented its original SICEA application and requested additional compliance extensions for its Mingo Junction basic oxygen furnace and blast furnace No. 5 in South Steubenville, Ohio. Extensions were also requested for its long terne sheet line and coke battery No. 2 and battery No. 3 at Follansbee, West Virginia. Except for the long terne sheet line, all of these facilities are covered by the Federal decree.

EPA Decision

The Administrator has determined that Wheeling-Pittsburgh Steel Corporation satisfies SICEA's requirements, and has decided to exercise his discretion to grant the company deferrals of compliance requirements under its existing Federal consent decree. EPA, in partnership with the Commonwealth of Pennsylvania, and the States of West Virginia and Ohio (signatories to the original Federal decree), and the company have negotiated amendments to the Federal decree extending compliance requirements and incorporating a commitment to invest in modernization of Wheeling-Pittsburgh's steelmaking operations.

The De Minimis Requirement

The most salient issue which arose during the processing of Wheeling-Pittsburgh's SICEA application concerned whether the company was in compliance with its Federal consent decree and, if not, whether violations of the decree were *de minimis* in nature.

As indicated above, to consent to relief, the Administrator must find that an applicant is in compliance with all of its Federal consent decrees, or that any violations are *de minimis* in nature. Section 113(e)(1)(E), 42 U.S.C. 7413(e)(1)(E).

The text of the Act does not define *de minimis;* as in many other statutes, Congress has left to an administrative agency the task of working out the meaning of a critical term in case-by-case analysis. The Administrator has adopted an interpretation of *de minimis* based on the normal meaning of the phrase—small, of little concern.[2] He must evaluate each decree violation separately to determine if it is *de minimis*, rather than, for example, assessing the significance of a violation in the context of a company's entire compliance effort. This interpretation requires the Administrator to deny relief to a company if he finds even one violation which is not *de minimis.*

Wheeling-Pittsburgh Steel Corporation is a party to a Federal consent decree originally entered by the Court on November 26, 1979, and subsequently amended on April 20,

[2] As noted under Finding (7) herein, in evaluating whether a violation of a decree requirement is of little concern, the Administrator has considered all of the facts or circumstances associated with the violation, not necessarily limited to the degree or duration of emission exceedances.

1982.[3] With regard to the company's compliance status under the Federal decree, as amended in 1982, EPA considered all information currently available.

At one particular facility, blast furnace No. 3 in South Stubenville, Ohio, the Administrator was unable to conclude definitely whether the furnace is in compliance with decree standards. Lack of current information on furnace No. 3 is a result of both newly discovered information and changed circumstances. Under the Federal Decree, as amended, Wheeling-Pittsburgh was obligated to demonstrate compliance with the visible emission standard by December 23, 1982.

On December 22, 1982, EPA issued a certification of compliance for furnace No. 3 based on an evaluation of tests conducted in December 1982. On May 4, 1983, The Agency reevaluated the December test results and concluded that they did not show compliance. The Administrator is presently unable to determine definitely the current compliance status of furnace No. 3 because the collection efficiencies of existing controls have been enhanced during the past few months.

EPA has provided for measures to ascertain the precise compliance status of furnace No. 3 under proposed amendments to the existing Federal decree. Wheeling-Pittsburgh has committed to test furnace No. 3 and to incur expenditures for pollution control if EPA notifies the company of noncompliance. Had EPA informed Wheeling-Pittsburgh of the Agency's current analysis of the test results in December 1982, the company would have had the opportunity to immediately retest, request stretchout for that furnace or cure violations. In view of all the circumstances, the Administrator has decided to proceed with Agency action on Wheeling-Pittsburgh's stretchout application. Action is needed now to enable the company to invest modernization by the statutory deadline of July 16, 1983. Further delay would effectively bar stretchout to the company.

At several other facilities, the Administrator, upon reviewing their compliance status, does conclude that decree violations exist. For SICEA purposes, the Administrator finds these violations *de minimis*.

Specifically, Wheeling-Pittsburgh Steel Corporation has failed to comply with certain increments of progress and final compliance deadlines under the Federal decree at eleven facilities. Consent decrees for steel companies and other industrial sources often require not only final compliance with emission limitations by a particular date, but also set intermediate deadlines for submission of engineering plans, issuance of purchase orders, and installation of control equipment to ensure that the work will be completed on time.

For nine of these facilities,[4] violation of decree requirements occurred in the last three months of 1981 or during 1982, *after* SICEA was passed by Congress. Significantly, in reliance upon the potential remedial relief afforded by SICEA, the company requested SICEA deferrals for those deadlines which have been violated. As explained below, the Administrator believes that Congress intended that he consent to the extension of such "late maturing" deadlines, provided all the other requirements of the Act are satisfied. Accordingly, the Administrator has concluded that the schedule violations are *de minimis*.

The Clean Air Act Amendments of 1977 required each State to demonstrate compliance with the national ambient air quality standard for particulate matter (the standard at issue here) by December 31, 1982, and, with respect to each of its "nonattainment" areas, to take all reasonably available control measures to ensure that they would meet the statutory deadline. Section 172, 42 U.S.C. 7502. Therefore, when EPA entered into a consent decree with an individual source, it normally required that all equipment be installed and operating by December 31, 1982, at the latest. (In many decrees, of course, compliance was feasible, and was required earlier.) However, the vehicle by which Congress proposed to make funds available for modernization was the deferral of certain capital expenditures, that is , requirements to buy pollution control equipment. If a company was required to continue to meet decree deadlines which fell due *after* SICEA passage and which were the subject of its stretchout request until relief was granted, there would be virtually nothing left to stretch, and no additional funds would be available for modernization. If violations of such obligations could not be found to be *de minimis*, companies would be caught in a "Catch 22": in order to remain eligible for any SICEA relief, as time passed while its stretchout application was pending, a company would have to deny itself increasing increments of relief. Thus, to effectuate SICEA's statutory scheme, violated deadlines which fell due *after* SICEA enactment and subject to a request for stretchout are viewed as "late maturing" and *de minimis* for SICEA purposes.

In addition to the foregoing, the Administrator finds decree violations for several of the nine facilities[5] of small concern given that poor market demand has resulted in extended and continuing shutdown of operations with elimination of emissions. Shutdown of these facilities occurred solely as a result of business conditions, in good faith, and not to evade the requirements of the statute.

At four other facilities,[6] where the company has not requested stretchout, it has not determined compliance with decree standards. In evaluating the nature of these violations, the Administrator has considered the objectives of both SICEA in general and the *de minimis* criterion in particular. SICEA's legislative history evidences a concern that the applicant should incur expenditures under existing decrees for pollution control and undertake necessary measures to comply with decree requirements. Congress did not intend stretchout be granted to companies which have failed to undertake decree obligations at the expense of those which have done so.[7] The Administrator has determined that violation of decree standards at these four facilities are of small concern for SICEA purposes given the company's past and ongoing compliance efforts and the likelihood that violations will be cured promptly. Wheeling-Pittsburgh incurred expenditures for pollution

[3] The April 1982 amendments to the original decree reflected an agreement between EPA and the company regarding new, more realistic compliance schedules in view of past delays encountered by the company in complying with control requirements under the original decree. The Agency informed Wheeling-Pittsburgh of its willingness to renegotiate the original decree and commenced discussions with the company for this purpose in early March 1981, approximately four months prior to SICEA enactment. Thus, reliance upon the Federal decree as amended in 1982 for purposes of judging the company's compliance status does not violate the prohibition in SICEA's legislative history against modifying a decree to specifically eliminate violations which are not *de minimis*. H.R. Rep. No. 121, 97th Cong., 1st Sess. (1981) at 10.

[4] Coke battery No. 2 and battery No. 3 at Follansbee, West Virginia; Blast furnace No. 5 at South Steubenville, Ohio; Blast furnaces Nos. 1 and 2 at North Steubenville, Ohio; Basic oxygen furnace at South Steubenville, Ohio; Basic oxygen furnace at Monessen, Pennsylvania; Sinter plant winbox at Follansbee, West Virginia; Blast furnace No. 1 Monessen, Pennsylvania.

[5] Blast furnace Nos. 1 and 2 at North Steubenville, Ohio; Basic oxygen furnace at Monessen, Pennsylvania; Blast furnace No. 1 at Monessen, Pennsylvania.

[6] Coke batteries Nos. 1, 2, 3, and 8 at Follansbee, West Virginia.

[7] H.R. Rep. No. 121, 97th Cong. 1st Sess. (9181), at 10.

controls and/or instituted necessary operation and maintenance procedures. Significantly, the company has continued to take corrective measures, and has demonstrated during the past several months an ability to achieve compliance expeditiously. Further, the company has definitively committed to cure existing violations promptly. This commitment has been embodied in proposed amendments to current Federal decree recently negotiated which provide assurances that the company will comply promptly. Thus, finding emission exceedances at these four facilities *de minimis* comports with legislative intent.

Finally, at one facility * the company installed pollution controls and instituted operations and maintenance procedures but ceased operation due to poor market demand prior to the compliance demonstration date specified in the decree. Although Wheeling-Pittsburgh has violated the Federal consent decree because it did not conduct a compliance demonstration test as required, it has installed controls and optimized its control program at the facility as required by the decree. Thus, the violation is of small concern.

Findings

On the basis of information submitted by the applicant and other information available to me (including background documents prepared by EPA and available for public inspection), the Administrator makes the following findings:

(1) The Administrator finds that extensions may be made of the following compliance obligations (capital expenditures currently required under the Federal decree, as amended, which are necessary to achieve compliance with SIP or RACT where applicable):

[In millions of dollars]

Project	Cost
A. Monessen Works (PA):	
i. Basic Oxygen Furnace	1.9
ii. Blast Furnace No. 1	1.8
B. Follansbee Works (WV):	
i. Sinter Plant Windbox	3.5
ii. Long Terne Sheet Line	.3
iii. Coke Battery No. 2 and Coke Battery No. 3 for charging	.665
C. North Steubenville Works (OH):	
i. Blast Furnaces Nos. 1 and 2	3.2
D. South Steubenville Mingo Junction Works (OH):	
i. Basic Oxygen Furnace	4.0
ii. Blast Furnace No. 5	.005
Total	15.370

(2) The Administrator finds that these extensions of compliance are necessary to allow the company to make capital investments in its eighty inch hot strip mill at the South Steubenville, Ohio Plant. The company will invest approximately $15.4 million for modernization of the hot strip mill which will yield improvements in steelmaking efficiency and productivity in a community which contains iron- and steel-producing operations.

(3) The Administrator finds that in order to achieve compliance with the Clean Air Act (including RACT where applicable) at all sources in its iron- and steel-producing operations,* Wheeling-Pittsburgh will be required to make at least the following capital expenditures, based upon EPA's estimate of the amount of capital remaining to be expended from this day forward. (Except for the long terne sheet line, these expenditures are currently required under the Federal decree, as amended):

Description	Cost (millions)
A. Monessen Plant:	
—Basic Oxygen Furnace, fugitive controls	$1.9
—Blast Furnace, No. 1 fugitive controls	1.8
—Coke Oven Gas Desulfurization [1]	7.6
B. Follansbee Plant:	
—Sinter Plant Windbox, particulate matter control	3.5
—Long Terne Sheet Line, particulate matter control	3
—Coke Battery No. 2, Coke Battery No. 3 for charging larry car	.7
C. North Steubenville Plant:	
—Blast Furnaces, Nos. 1 and 2 fugitive controls	3.2
D. South Steubenville Mingo Junction Plant:	
—Blast Furnace No. 5, fugitive controls	.005
—Basic Oxygen Shop, fugitive controls	4.0
Total	23.170

[1] Capital expenditures for coke oven gas desulfurization at the Monessen Plant in the amount of $7.6 million will be expended after 1982 to comply by June 1, 1985, with applicable requirements. This compliance requirement was imposed under the Federal decree, as amended in 1982, and does not reflect a stretchout of compliance under SICEA. Given that the polluting source is located in an unclassified area for sulfur oxides, it need not comply with the applicable sulfur oxide standard by December 31, 1982.

(4) The Administrator finds that a "phased program of compliance" (as defined in Section 113(e)(2) of the Act) would require the company to make the capital expenditures on the following schedule:

At least a total of $12.820 million by December 31, 1984.

At least a total of $23.170 million by December 31, 1985.

(5) The Administrator finds that an integration of the qualifying capital expenditures and the "phased program of compliance" schedule, when allowing for the required modernization investments under section 113(e)(1)(B), results in the following required schedule of capital expenditures:

At least $15.4 million for improving efficiency and productivity by July 16, 1983. (SICEA requires the investments in modernization projects be made within two years from the date of enactment of the law which occurred on July 17, 1981.)

At least a total of $12.820 million for pollution control projects by December 31, 1984.

At least a total of $23.170 million for pollution control projects by December 31, 1985.

The proposed amendments negotiated under SICEA incorporates this spending schedule.

(6) The Administrator finds that the company will have sufficient funds to comply with the capital expenditure requirements set forth in Finding (5). An economic analysis conducted by the Agency to support this conclusion is in the public docket for inspection.

(7) The Administrator finds that the company is not in compliance with its existing Federal consent decree, as amended in 1982,[10] but that its violations are *de minimis* in nature. In particular, the Administrator finds the following violations of consent decree provisions *de minimis* in nature:

A. The company failed to demonstrate compliance with the door standard at coke batteries Nos. 1, 2, 3 and 8 at the Follansbee Coke Plant in West Virginia. Paragraph B2(b)(1) of Section I of the Federal decree required compliance at

* Blast furnace No. 3 at Monessen, Pennsylvania.

* For facilities at Wheeling-Pittsburgh's Monessen Plant in Pennsylvania, the proposed amendments to the outstanding Federal decree require compliance with emission limitations specified in an implementation plan under Part D of Title I of the Clean Air Act approved by U.S. EPA. For facilities at the company's North and South Steubenville Plants as well as its Martins Ferry and Yorkville Plants in Ohio, the proposed amendments specify emission limitations representing reasonably available control technology. Facilities at the Follansbee Plant in West Virginia are required to comply with emission limitations specified either in Regulation II, VI, or X of the West Virginia Air Pollution Control Commission Administrative Regulation Series. Regulations II and X were approved under Part D of Title I of the Clean Air Act by U.S. EPA. With regard to Regulation VII, U.S. EPA proposed approval of this regulation as part of West Virginia's Part D Plan on August 3, 1982. The State legislature has recently approved Regulation VII, and it is expected that within the next few weeks the West Virginia Air Pollution Control Commission will submit this regulation to U.S. EPA for promulgation. It is anticipated that Regulation VII as approved by the West Virginia legislature is substantially unchanged from that which was proposed by U.S. EPA on August 3, 1982. Accordingly, upon submittal by the Commission, the Agency anticipates promulgation of Regulation VII as a portion of the state's Part D Plan.

[10] *United States of America, et al. v. Wheeling-Pittsburgh Steel Corporation*, U.S. District Court for the Western District of Pennsylvania, Civil Action No. 79-1194.

batteries Nos. 2, 3 and 8 by December 31, 1981. For battery No. 1, Paragraph B2(b)(1) required compliance by August 31, 1982. Wheeling-Pittsburgh has incurred capital expenditures to enhance its ability to comply with the door standard, including expenditures for door spraying and jambs cleaning machinery. Further, the company has implemented a cleaning program for proper operation and maintenance of battery doors. These ongoing measures in the past several months have yielded reductions in emission exceedances of the door standard. Significantly, the company has demonstrated an ability to expeditiously achieve compliance and has committed to comply promptly (thereby curing violations) in proposed amendments to its existing Federal decree recently negotiated. In view of all the circumstances, the Administrator has determined that violations of the door standard at the Follansbee Coke Plant are *de minimis*.

B. Wheeling-Pittsburgh failed to demonstrate compliance with the decree charging standard for batteries Nos. 1, 2 and 3 at the Follansbee Coke Plant in West Virginia. Paragraph B2a(5) of Section I of the decree required the company to demonstrate compliance with the charging standard by August 31, 1982 for these three batteries. The company has incurred capital costs for and has installed control equipment required by the Federal decree. Corrective measures implemented and emissions data of the past several months indicate that Wheeling-Pittsburgh has demonstrated an ability to expeditiously achieve compliance at battery No. 1. It has committed to comply promptly (thereby curing violations) at battery No. 1 in recently negotiated proposed amendments to its existing Federal decree.

In view of all of the circumstances, the Administrator has determined that violations of the charging standard at battery No. 1 are *de minimis*.

With regard to batteries Nos. 2 and 3, Wheeling-Pittsburgh has requested deferral of compliance with the charging standard under SICEA. The company's request for SICEA relief was submitted on February 16, 1983, as a supplement to its stretchout application. In the supplement, the company commits to incur capital expenditures for the repair of larry car No. A1 to enhance that car's ability to stage charge coal and thereby enable compliance with the charging standard at batteries Nos. 2 and 3. The need to utilize larry car No. A1 as the primary means of charging coal for a portion of battery No. 2 and battery No. 3 has recently become apparent. For several months, coke production at batteries Nos. 1, 2 and 3 has predominantly been below normal levels, necessitating the use of only one larry car (designated as larry car No. A2) for charging (capable of stage charging) at these three batteries. Recent improvement in market demand, however, has increased production of coke at batteries Nos. 1, 2 and 3, requiring the use of a second larry car for charging coal at a portion of battery No. 2 and all of battery No. 3. To accommodate the recent shift to shorter coke time and increased coke production, and pending repairs to larry car No. A1, on March 7, 1983, Wheeling-Pittsburgh began utilizing a larry car (designated as larry car No. 2) not capable of stage charging for a portion of battery No. 2 and all of battery No. 3. Use of larry car No. 2 for increased production and the resultant increases in charging emissions above the allowable at a portion of battery No. 2 and battery No. 3 are violations of the decree requirements to comply with the charging standard.

In view of the company's request for SICEA relief, the requirement under the decree to comply with the charging standard at battery No. 2 and battery No. 3 is late maturing and therefore the type of obligation Congress intended for relief under SICEA. Accordingly, in view of all the circumstances, the Administrator has determined these violations are *de minimis*.

C. The company failed to demonstrate compliance at its blast furnace No. 5 in South Steubenville, Ohio. Specifically, Paragraph G3e of Section I of the Federal decree required Whelling-Pittsburgh to demonstrate compliance with emission limitations at furnace No. 5 by December 23, 1982.

The company has incurred capital costs for controls at furnace No. 5 and installed these controls as required by the decree.

Prior to the December 23, 1982, compliance deadline, the company attempted a compliance demonstration test but failed to achieve compliance with standards. The company temporarily ceased production at furnace No. 5 on December 19, 1982, and resumed operations during the first week of January 1983. Significantly, upon resumption of operations, Wheeling-Pittsburgh continued to undertake corrective measures to achieve compliance. The company determined additional capital expenditures were required to comply with standards. It therefore requested deferral of these expenditures in a supplement to its SICEA application, dated March 14, 1983.

The final compliance requirement for furnace No. 5 which has been violated is the type of late maturing obligation Congress intended for SICEA relief. Accordingly, in view of all the circumstances, the Administrator has determined the violation at furnace No. 5 is *de minimis*.

D. Wheeling-Pittsburgh failed to comply with certain requirements under the Federal decree, as amended, for blast furnaces Nos. 1 and 2 at its North Steubenville Plant in Ohio. The company submitted a request for SICEA compliance extensions for these two facilities on October 30, 1981. Paragraph G3a of Section I of the Federal decree required the company to submit engineering plans for pollution control by September 30, 1981. Paragraph G3b of Section I of the Federal decree obligated the company to let all initial major contracts for fugitive emission controls for those furnaces by November 30, 1981. Additionally, Paragraph G3c of Section I required the company to initiate installation of control equipment by March 1, 1982. Lastly, Paragraphs G3d and G3e of Section I required the company to complete installation of controls and demonstrate compliance on November 1 and December 23, 1982, respectively. The company violated these decree requirements.

The decree requirements which have been violated are the type of late maturing obligations Congress intended for relief under SICEA. Further, as a result of poor market demand, blast furnaces Nos. 1 and 2 ceased production on April 26, 1981 and May 18, 1980, respectively, and have not recommenced operations. Both furnaces, therefore, have not been a source of particulate emissions since shutdown. Accordingly, in view of all of the circumstances, the Administrator has determined these violations are *de minimis*.

E. The company failed to comply with certain requirements for its basic oxygen furnace at the South Steubenville Mingo Junction Plant in Ohio. On February 24, 1982, Wheeling-Pittsburgh submitted a request for SICEA extensions for this facility. Paragraphs C1c (2) and (3) of Section I of the Federal decree, as amended, required the company to let all initial major contracts and commence installation of control equipment by November 30, 1981, and May 1, 1982, respectively. Paragraphs C1c(4) and C1c(5) required the company to complete installation of controls and demonstrate compliance by December 1,

and December 31, respectively. The company has violated these decree requirements. The decree requirements which have been violated are the type of late maturing obligations Congress intended for relief under SICEA. Accordingly, in view of all of the circumstances, the Administrator has concluded these violations are *de minimis*.

F. Wheeling-Pittsburgh failed to comply with schedule requirements for the basic oxygen process at its Monessen Plant in Pennsylvania. Paragraph A7d(2) of Section I of the Federal decree required the company to let all initial major contracts by April 15, 1982. Further, Paragraphs A7d(3) and A7d(4) required the company to initiate installation and complete installation of controls by July 15, 1982 and December 1, 1982, respectively. Finally, Paragraph A7d(5) of Section I required Wheeling-Pittsburgh to demonstrate compliance by December 31, 1982. These decree requirements have been violated by the company. The company submitted a request for SICEA relief for this facility on October 30, 1981.

The requirements which have been violated are the type of late maturing obligations Congress intended for relief under SICEA. Further, as a result of poor market demand, the basic oxygen furnace has ceased production from March 1982 through March 1983. This furnace, therefore, has not been a source of particulate matter for one year. Accordingly, in view of all of the circumstances, the Administrator has determined these violations are *de minimis*.

G. The company failed to comply with decree requirements for the sinter plant windbox at its Follansbee Plant in West Virginia. Paragraph B1d(1) of Section I of the Federal decree required the company to submit engineering plans by January 31, 1982. Paragraph B1d(2) of Section I of the decree required the company to let all initial major contracts for controls by April 30, 1982. Additionally, Paragraph B1d(3) obligated the company to commence installation of controls by June 30, 1982. Lastly, Paragraphs B1d(4) and B1d(5) required the company to complete installation of controls and demonstrate compliance by November 30, and December 31, 1982, respectively.

The company submitted a request for SICEA relief for this facility on October 31, 1981.

The decree requirements which have been violated are late maturing obligations Congress intended for relief under SICEA. Accordingly, the Administrator has concluded these violations are *de minimis*.

H. Wheeling-Pittsburgh failed to comply with certain decree requirements for blast furnace No. 1 at its Monessen Plant in Pennsylvania. The company submitted a request for SICEA relief for this facility on October 30, 1981. Paragraph IG3a of Section I of the Federal decree required the company to submit engineering plans for pollution control by September 30, 1981. Paragraph IGcb of Section I of the decree required the company to let all initial major contracts for controls by November 30, 1981. Additionally, Paragraphs IG3c and IG3d of Section I required commencement and completion of installation of controls by March 1, and November 1, 1982, respectively. Finally, Paragraph IG3e obligated the company to demonstrate compliance by December 23, 1982. These decree requirements were violated by the company.

The requirements which have been violated are the type of late maturing obligations Congress intended for relief under SICEA. Further, as a result of poor market conditions, blast furnace No. 1 ceased production on June 23, 1980, and has not recommenced operations. The furnace, therefore, has not been a source of particulate matter since shutdown. Accordingly, considering all of the circumstances, the Administrator has concluded these violations are *de minimis*.

I. The company failed to conduct a compliance demonstration test for its blast furnace No. 3 at the Monessen Plant. Paragraph G2d of Section I of the Federal decree required Wheeling-Pittsburgh to demonstrate compliance with applicable standards by performing a demonstration test at furnace No. 3 by March 31, 1982. However, in early March 1982, due to poor market demand, the company ceased operations at furnace No. 3 and did not conduct a demonstration test as required. Wheeling-Pittsburgh has installed pollution controls and instituted operations and maintenance procedures as required by the decree at furnace No. 3.

Considering the circumstances regarding the violation of the compliance demonstration test requirement, the Administrator has concluded that the violation is *de minimis*.

The preceding list is a compilation of violations of the existing Federal consent decree, as amended in 1982, which are presently known to me and which continue to the present. Several other violations of decree requirements which occurred since the 1982 amendments to the decree are no longer occurring and are, therefore, not addressed herein.

The list of violations which I have found to be *de minimis* in nature for purposes of the Steel Industry Compliance Extension Act of 1981 should not be construed in any manner as expression of Agency policy regarding the propriety of or nature of determinations which the Agency would make or remedies which the Agency would seek in circumstances or in contexts other than under the Steel Industry Compliance Extension Act of 1981.

(8) I find that the extensions of compliance contemplated herein will not result in degradation of air quality during the term of the extensions.

Based upon the foregoing findings, I have decided to exercise my statutory discretion and consent to the entry of a decree under Section 113(e)(1)(C) of the Act to extend certain compliance schedule deadlines under the existing Federal consent decree, as amended. Persons wishing to comment on these findings should do so no later than June 3, 1983. Comments should be sent to Stuart I. Silverman (LE–134A), Office of Legal and Enforcement Counsel, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Telephone: (202) 382–2859.

Documents submitted by Wheeling-Pittsburgh with its SICEA application and information otherwise available to the Administrator in connection with this application may be inspected at the following locations between 8:30 a.m. and 4:00 p.m. week days: U.S. Environmental Protection Agency, Central Docket Section: West Tower, 401 M Street, SW., Washington, D.C.

Notice is hereby given that negotiations for proposed amendments to Wheeling-Pittsburgh's existing Federal decree have concluded. These amendments extend certain compliance obligations and commit the company to investments in modernization. The amendments also require capital expenditures to be made on the schedule reflected in my Finding number (5) above and satisfy the other requirements of the statute.

Proposed amendments under SICEA are currently being circulated for signatures and will be lodged with the Court within the next several weeks. At that time, an opportunity for public comment for a period of thirty days will be provided by the U.S. Department of Justice in a **Federal Register** notice pursuant to 28 CFR 50.7 without further public notification by EPA.

Dated: May 13, 1983.

Lee L. Verstandig,

Acting Administrator.

[FR 83-13548 Filed 5-18-83; 8:45 am]

BILLING CODE 6560-50-M

[AMS-FRL 2367-4]

California State Motor Vehicle Pollution Control Standards; Opportunity for Public Hearing To Consider Request for Waiver of Federal Preemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Opportunity for Public Hearing on Request for Waiver of Federal Preemption.

SUMMARY: The California Air Resources Board (CARB) has notified EPA of an amendment to California's emission standards and test procedures for new motor vehicles, and has requested a waiver of Federal preemption, pursuant to section 209(b) of the Clean Air Act (Act), 42 U.S.C. 7543(b). These amended requirements pertain to particulate emissions from diesel passenger cars (PC), light-duty trucks (LDT) and medium-duty vehicles (MDV). This notice announces that EPA has tentatively scheduled a public hearing for June 7, 1983 and, if necessary June 8, to consider the standards for which CARB has requested a waiver. Any party desiring to present oral testimony for the record at the public hearing, instead of or in addition to written comments, must notify EPA by June 2, 1983. If no party informs EPA that it wishes to testify EPA will consider the waiver request based on written submissions to the record. EPA will publish a notice in the **Federal Register** to announce that the scheduled hearing is cancelled if no party wishes to present testimony.

DATES: EPA has tentatively scheduled a public hearing for June 7, 1983 and, if necessary June 8, beginning at 9:00 a.m., if any party notifies EPA by June 2, 1983, that it wishes to present oral testimony regarding CARB's waiver requests. Any party also may submit written comments regarding the waiver request by July 7, 1983.

ADDRESSES: EPA will hold the public hearing announced in this notice at: U.S. Environmental Protection Agency, Regional Office (Region IX), Sixth floor, 215 Fremont Street, San Franciso, California. Parties wishing to present oral testimony at the public hearing should notify in writing: William Heglund, Acting Director, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Any party also may submit written comments regarding the waiver request to the same address. Copies of material relevant to the waiver request will be available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m., Monday through Friday) at the U.S. Environmental Protection Agency, Central Docket Section (A-130), Gallery I, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460 (Docket Number En-83-01).

FOR FURTHER INFORMATION CONTACT: Peter J. Murtha, Attorney/Advisor, Manufacturers Operations Division (En-340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 (202) 382-2521.

SUPPLEMENTARY INFORMATION:

Background and Discussion

Section 209(a) of the Act, as amended, 42 U.S.C. 7543(a), provides in part: "No state or any political subdivision thereof shall adopt or attempt to enforce any standard relating to control of emissions from new motor vehicles or new motor vehicle engines subject to this part * * * (or) require certification, inspection, or any other approval relating to the control of emissions * * * as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

Section 209(b) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209(a) for "[California] if [it] determines that [its] standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards [unless] the Administrator finds that: (A) The determination of [California] is arbitrary and capricious, (B) [California] does not need [its] standards to meet compelling and extraordinary conditions, or (C) [its] standards and accompanying enforcement procedures are not consistent with section 202(a) of [the Act]."

By letter of March 23, 1983, CARB requested a waiver of federal preemption for amendments to "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles." These amendments set particulate emission standards for diesel-powered passenger cars, light-duty trucks and medium-duty vehicles as follows:

Model Year	Particulates [1]
1985	0.4
1986-88	0.2
1989 and subsequent	[2]0.08

[1] Grams per vehicle mile (g/mi).

[2] The current corresponding federal particulate standards for 1985 and subsequent model years are 0.2 g/mi for light-duty vehicles (LDV) (which includes vehicles classified by California as PC's) and 0.26 g/mi for LDT's (which includes vehicles classified by California as LDT's or as MDV's). However, EPA has announced a proposed rule which would delay for two years the imposition of these standards and would instead maintain the existing 1984 model year standards of 0.6 g/mi for both LDV's and LDT's. 47 FR 54250 (December 1, 1982).

California states in its letter that its particulate standards are, in the aggregate, at least as stringent as the proposed corresponding federal standards. *See* note 1. California further asserts that, even if EPA does not grant a two year delay of imposition of the Federal standards, the corresponding California standards will still be at least as stringent in the aggregate because of California's long-range (i.e., 1989 and subsequent model year) standard of 0.08 g/mi. California contends that its standards were enacted in response to compelling and extraordinary conditions, including visibility concerns, adverse health effects and the economic impact of particulate soiling. Finally, California has found that the trap-oxidizer technology necessary for certain vehicles to attain its 1986 and later model year particulate standards, will be generally available in California for utilization in the 1986 model year, and thus is technologically feasible.[2]

II. Procedures for Public Participation

If the scheduled hearing takes place, it will provide an opportunity for interested parties to state orally their views or arguments or to provide pertinent information concerning the waiver request at issue. Any party desiring to make an oral statement should file 10 copies of its proposed testimony and other relevant material along with its request for a hearing with the Acting Director of EPA's Manufacturers Operations Division at the address listed above not later than June 2, 1983. In addition, the party should submit 25 copies, if feasible, of the proposed statement to the Presiding Officer at the time of the hearing.

[2] EPA's proposed two-year delay for the federal particulate standards is based in part on its technological feasibility study which forecast the availability of trap-oxidizer technology on a nationwide basis between February 1985 and October 1985, in time for the 1986 and 1987 model years, respectively. 47 FR 54250, 54252. In view of a number of factors, including consideration of the potential hardships to vehicle manufacturers of an erroneous decision to retain the 1985 standards on a 49 state basis, EPA utilized a "conservative approach" and proposed delaying the trap-based standards until 1987 model year. *Id.* at 54254.

Since a public hearing is designed to give interested persons an opportunity to participate in the waiver proceeding, there are no adversary parties as such. Statements by participants will not be subject to cross examination by other participants without special approval by the Presiding Officer. The Presiding Officer is authorized to strike from the record statements which he or she deems irrelevant or repetitious and to impose reasonable limits on the duration of the statements of any witness.

Participants at the hearing, if any, and interested parties who make written submissions should limit their presentations to the following considerations:

(1) Whether California's determination that the amended standards will be at least as protective of public health and welfare as applicable Federal standards is arbitrary and capricious;

(2) Whether California does not need its standards to meet compelling and extraordinary conditions; and

(3) Whether the California standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

If EPA does hold the hearing, the agency will make a verbatim record of the proceedings. Interested persons may arrange with the reporter at the hearing to obtain a copy of the transcript at their own expense. The Administrator will base his determination with regard to CARB's waiver request on the record of the public hearing, if any, and on any other relevant written submissions and may also consider other scientific, engineering or pertinent information. This information will be available for public inspection at the EPA Central Docket Section.

Dated: May 13, 1983.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 83-13598 Filed 5-18-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83-455; File No. BPCT-820323KE et al.]

National Communications Affiliates of West Virginia et al.; Hearing Designation Order

In the matter of applications of: National Communications Affiliates of West Virginia, Charleston, West Virginia; MM Docket No. 83-455, File No. BPCT-820323KE; Channel 11 Broadcasting Corporation, Charleston, West Virginia; MM Docket No. 83-456, File No. BPCT-820827KG; Gemini Broadcasting Company of West Virginia, Inc., Charleston, West Virginia; MM Docket No. 83-457, File No. BPCT-820831KE; West Virginia Educational Broadcasting Authority, South Charleston, West Virginia; MM Docket No. 83-458, File No. BPET-820901KE; Greater Kanawha Valley Broadcasting, Ltd., Charleston, West Virginia; MM Docket No. 83-459, File No. BPCT-820901KF; Long Broadcasting Systems, Inc., South Charleston, West Virginia; MM Docket No. 83-460, File No. BPCT-820901KG; Charleston Broadcasting Corporation, Charleston, West Virginia; MM Docket No. 83-461, File No. BPCT-820901KH; The Hightower Partnership,[1] Charleston, West Virginia; MM Docket No. 83-462, File No. BPCT-820901KK; West Virginia Telecasting, Inc., Charleston, West Virginia; MM Docket No. 83-463, File No. BMPCT-820901KL; for construction permit: DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES.

Adopted: April 29, 1983.

Released: May 13, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it: (1) The above-captioned nine mutually exclusive applications for authority to construct a new television station on Channel 11, Charleston, West Virginia, eight of which propose a commercial station and one of which proposes a non-commercial educational station; (2) a petition to deny the application of National Communications Affiliates of West Virginia, filed by Roy H. Park Broadcasting of the Tri-Cities, Inc. (Roy Park), licensee of Station WJHL-TV, Channel 11, Johnson City, Tennessee; (3) petitions to deny the commercial applications, filed by Gateway Communications, Inc. (Gateway), licensee of Station WOWK-TV, Channel 13, Huntington, West Virginia; (4) petitions to deny the seven other commercial applications filed by West Virginia Telecasting, Inc. (WVT), licensee of Station WVAH-TV, Channel 23, Charleston, West Virginia, and an applicant for a major change in facilities to specify operation on Channel 11, Charleston, West Virginia; [2] (5) oppositions filed by most of the applicants; [3] and (6) consolidated replies filed by Gateway and WVT.

2. Roy Park and Gateway have established standing as parties in interest pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended. Specifically, Roy Park has standing to petition to deny the application of National Communications Affiliates on the ground of alleged electrical interference between the proposed station and Park's Station WJHL-TV, Channel 11, Johnson City, Tennessee. *FCC* v. *National Broadcasting Company (KOA)*, 319 U.S. 239 (1943). Additionally, Gateway has standing because, if any of the commercial applications are granted, the new station will compete for audience and revenues with Gateway's Station WOWK-TV, Channel 13, Huntington, West Virginia. *FCC* v. *Sanders Bros. Radio Station*, 309 U.S. 470 (1940).

Short Spacing

3. In their petitions, Roy Park and Gateway contend that the above-captioned application for a new commercial television station on Channel 11, Charleston, West Virginia, should be denied or designated for hearing because they proposed transmitter sites that exceed the "maximum limit" for waiver of the Commission's mileage separation rule contemplated by the Commission when it proposed this short-spaced VHF drop-in assignment. Specifically, the petitioners assert, citing the *Memorandum Opinion and Order and Notice of Proposed Rulemaking, BC Docket No. 20418*, 63 FCC 2d 840 (1977) (hereinafter referred to as *VHF Drop-In Notice*), that the Commission established a maximum limit of 17.65% short-spacing from the required co-channel separation of 170 miles for Zone I, set forth in § 73.610 of the Commission's Rules. They point out that the above-captioned applicants for a commercial station propose transmitter sites that are located approximately 135 to 138 miles from the transmitter site of Roy Park's Station WJHL-TV, Channel 11, Johnson City, Tennessee, resulting in deviations from the mileage separation rule of about 19% to 20%. Gateway

[1] On December 27, 1983, Hightower filed a "Petition for Leave to Amend" accompanied by an amendment updating its other broadcast interests and modifying its engineering to reflect a correction of 0.26 miles in its proposed transmitter site. For good cause shown, the petition is granted and the amendment is accepted for § 1.65 purposes only.

[2] We view WVT's petitions as predesignation petitions to specify issues against competing applicants. Such pleadings are no longer authorized. *Processing of Contested Broadcasting Applications*, 72 FCC 2d 202, 214 (1979). We further believe that no exception to this procedure is warranted because WVT is also the licensee of a television station in Charleston, West Virginia. Accordingly, WVT's petitions will be dismissed. *See, e.g., Kaye-Smith Enterprises*, 90 FCC 2d 105, 106 n.2 (1982). However, WVT will have the opportunity to raise the issues contained in its petitions in postdesignation pleadings, as set forth in Section 1.229 of the Commission's Rules.

[3] Oppositions were filed by Greater Kanawha Valley Broadcasting, Ltd.; Gemini Broadcasting Company of West Virginia, Inc.; Long Broadcasting Systems, Inc.; Channel 11 Broadcasting Corporation; West Virginia Telecasting, Inc.; and National Communications Affiliates of West Virginia.

further states that these deviations might result in a greater loss of service and less benefit to the public than the Commission intended in BC Docket No. 20418 and that these issues should be re-examined in a hearing. Finally, Gateway contends, citing *Western Broadcasting Co. v. FCC*, 674 F. 2d 44 (D.C. Cir. 1982), that the greater short-spacing proposed by the commercial applicants toward WJHL–TV, Johnson City, Tennessee, constitutes a modification of WJHL–TV's license, pursuant to Section 316 of the Communications Act of 1934, entitling WJHL–TV to written notice of the action and a reasonable opportunity to show cause by public hearing why its license should not be modified.

4. We are of the view that no hearing issues are warranted on the short-spacing question. In BC Docket No. 20418, the Commission used seven preliminary selection criteria in order to select 18 out of 96 drop-in channels that appeared to have minimum technical difficulties. One of these preliminary criteria was that "the proposed drop-in requires a waiver of minimum co-channel separation distances to existing stations or allocations not in excess of 17.65%." *VHF Drop-In Notice*, 63 F.C.C. 2d at 863. Thereafter, these 18 drop-ins were subjected to further analyses, resulting in only four new channels being proposed. However, in proposing these channels for allocation, the Commission stated that "the preliminary selection criteria and the large potential benefit study were administrative tools used to narrow our examination to the most promising drop-ins. While we have found those procedures helpful in this instance, we do not consider them tests which must be passed by any future proposal." *VHF Drop-In Notice*, 63 FCC 2d at 893. As a result, we do not believe that it is necessary for the applicants for Channel 11, Charleston, West Virginia, to propose transmitter sites that result in only a 17.65% deviation from the mileage separation rule.

5. On the contrary, the Commission assigned Channel 11 to Charleston, West Virginia, "subject to the condition that the new station provide equivalent protection to the existing stations(s) to which it is short-spaced." *Report and Order, Docket No. 20418*, 81 F.C.C. 2d 233, 234 (1980), *recon. denied*, 90 F.C.C. 2d 160 (1982). This means that any station using this short-spaced assignment would reduce power or use a directional antenna to reduce radiated power toward existing stations "so that the interference created would be no more than that created by a station operating with maximum facilities at standard separations." *Report and Order, Docket No. 20418*, 81 F.C.C. 2d at 238. Inasmuch as the petitioners do not contest the ability of the applicants to accord WJHL–TV, Johnson City, Tennessee, equivalent protection and our staff engineering analysis confirms that all of the above applicants will provide equivalent protection, we do not find that grant of any of the above applications would result in a modification of the license of Station WJHL–TV. This follows from the court's holding in *Capitol Broadcasting Company v. FCC*, 324 F. 2d 404, 404–405 (D.C. Cir. 1963), that no "modification" of a license occurs if equivalent protection is being provided to the station in question. Furthermore, both the present case and *Capitol Broadcating* are quite different from *Western Broadcasting, supra*, which is relied upon by Gateway. Specifically, a hearing was required in *Western*, pursuant to Section 316 of the Communications Act, because a question of fact existed as to interference between grandfathered, short-spaced FM stations operating on the same channel. There is no comparable dispute in the present case.

6. We find that the deviations from the mileage separation rule proposed by the above-captioned applicants do not warrant a re-examination of the gains and losses of service already studied in BC Docket No. 20418. The Commission stated, in BC Docket No. 20418, that "applicants for the drop-in channels are not restricted to the transmitter site utilized by the Commission in calculating service gain and loss areas * * and applicants are permitted to specify their own site so long as equivalent protection is still provided and other regulations on antenna siting are observed." *Memorandum Opinion and Order, BC Docket No. 20418*, 90 F.C.C. 2d at 179. Furthermore, we do not agree with Gateway's contention that *Hall v. FCC*, 237 F. 2d 567 (D.C. Cir. 1956), requires a hearing on gain and loss areas. *Hall* stands for the proposition that a loss or reduction of service by a permittee or licensee of a broadcast station is against the public interest unless there is a showing of offsetting factors. However, unlike *Hall*, the present case involves applicants for a new television station that were filed after a rulemaking proceeding in which the Commission determined that "the benefits, in terms of new service available, outweigh the cost in terms of service possibly lost or interfered with." *Report and Order, Docket No. 20418*, 81 F.C.C. 2d at 261. Accordingly, the requested issues will be denied.[4]

7. West Virginia Educational Broadcasting Authority and Long Broadcasting System, Inc. specify South Charleston as their city of license.[5] All of the other applicants specify Charleston. Consequently, it will be necessary to determine, pursuant to Section 307(b) of the Communications Act of 1934, as amended, whether a new station in south Charleston or Charleston would better provide a fair, efficient and equitable distribution of television service. If the Section 307(b) issue is not determinative (the applicants would serve substantial areas in common), all applicants can be considered under the comparative issue.

8. Four television channels are allocated to Charleston, two of which are vacant: Channel 11 and Channel 49 (reserved for noncommercial educational use). West Virginia Educational Broadcasting Authority (WVEBA) requests noncommercial educational use of Channel 11. It further appears that the station proposed by WVEBA and its existing station in Huntington, WPBY–TV, would serve substantial areas in common. Consequently, a question arises as to whether there is a greater need for commercial programming as proposed by eight of the applicants or educational programming as proposed by WVEBA. If it is determined that there is a greater need for noncommercial educational programming, a selection can be made without reliance on the standard comparative evaluation; if there is a greater need for commercial programming, a selection among those applicants proposing commercial programming can be made under the standard comparative issue. If no determination can be made with respect to whether there is a greater need for one or another of these types of programming, all of the applicants will be evaluated under the standard

[4] Gateway and Roy Park also allege that National Communications Affiliates has not shown that the city-grade contour of its proposed station would encompass the community of license, Charleston, West Virginia. We note, however, that NCA's engineer certified in the application that city-grade coverage would be achieved and subsequently tendered an amendment on October 7, 1982, documenting this point. As a result, no hearing issue is warranted.

[5] Channel 11 is assigned to Charleston, West Virginia. South Charleston is located within 15 miles of Charleston. Accordingly, under Section 73.607 of the Commission's Rules, Channel 11, is available for use in South Charleston. Although, the Commission has abolished its "15 miles rule," these applications were on file prior to the effective date of the change. Consequently, the "15 mile rule" is still in effect for these applicants.

comparative issue. *Houma Broadcasters, Inc.*, FCC 80-534, 45 FR 66866 (1980). *See also VHF Drop-In Proceeding, 90 FCC 2d 160, 180 (1982).*

9. Each of the applicants indicates that it will provide equivalent protection to WJHL-TV, Johnson City, Tennessee. Accordingly, a grant of any of these applications will be appropriately conditioned.

10. No determination has been made that any of the tower heights and locations specified by National Communications Affiliates of West Virginia, Gemini Broadcasting Company of West Virginia, Inc., Greater Kanawha Valley Broadcasting, Ltd., Charleston Broadcasting Corporation and The Hightower Partnership would not constitute hazards to air navigation.[6] Accordingly, an appropriate issue will be specified.

11. Section 73.614(b)(1) of the Commission's Rules limits the maximum effective radiated power (ERP) of any VHF station in zone 1 with an antenna height above average terrain (HAAT) in excess of 1000 feet. Channel 11 Broadcasting Corporation, Gemini Broadcasting Company of West Virginia, Inc. and West Virginia Educational Broadcasting Authority each specifies an HAAT in excess of 1000 feet, but each exceeds the maximum allowable ERP. Accordingly, each of these applicants will be required to amend its application to speficy an ERP in conformance with Section 73.614(b)(1) of the Rules and to submit its amendment to the presiding Administrative Law Judge within 20 days after this Order is released.

12. Section 73.685(e) of the Commisson's Rules states that stations operating on Channels 2-13 will not be permitted to employ a directional antenna having a ratio of maximum to minimum radiation in the horizontal plane in excess of 10 dB. Channel 11 Broadcasting Corporation, West Virginia Educational Broadcasting Authority and Charleston Broadcasting Corporation each proposes a directional antenna with a maximum to minimum ratio in excess of 10 dB. In each case, the minor deviation from the requirements of § 73.685 (e) is a part of the applicant's method of providing equivalent proetction to Station WJHL-TV. In these circumstances, the public interest will be served by a waiver of the rule, and no issue will be specified.

[6] The Commission is not in receipt of the Federal Aviation Administration's studies of the tower heights and locations proposed by National Communications Affiliates of West Virginia, Gemini Broadcasting Company of West Virginia, Inc., Greater Kanawah Valley Broadcasting, Ltd. and The Hightower Partnership.

Gemini Broadcasting Company of West Virginia, Inc. (Gemini)

13. Gemini indicates in Section V-C, Item 7, FCC Form 301, that it will use electrical and mechanical beam tilt. § 73.685(e) and (f) of the Commission's Rules requires the submission of information to verify the nature of the proposed electrical and mechanical beam tilt. Accordingly, the applicant will be required to submit an appropriate engineering amendment within 20 days of the release of this Order.

West Virginia Educational Broadcasting Authority (WVEBA)

14. WVEBA has indicated that it would not have line-of-sight to its principal community. Consequently, the applicant has requested a waiver of § 73.685(b) of the Commission's Rules. Accordingly, an appropriate issue will be specified to determine whether a waiver of § 73.685(b) is warranted.

15. Applicants for new broadcast stations are required by § 73.3580 of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission certification of compliance as described in § 73.3580(h). We have no evidence that WVEBA has published the required local notice. To remedy this, WVEBA will be required to file a certification of compliance with the presiding Administrative Law Judge within 20 days after this Order is released.

16. The material submitted in WVEBA's application does not demonstrate the applicant's financial qualifications. WVEBA indicates that it is depending on NTIA for most of its finances. However, NTIA has no application on file requesting funds for the Channel 11 facility. Accordingly, and issue will be specified to determine whether there is a reasonable assurance that the funds needed to construct and operate the proposed station would be available in the event of a grant of the construction permit.

Long Broadcasting Systems, Inc. (LBS)[7]

17. Section II, page 2, item 5(a), FCC Form 301, requires that if an applicant is a corporation, the names, addresses and offices held by each officer must be listed. The LBS application shows Russell Long as the sole stockholder and President of the corporation. No other names as listed as officers. The laws of West Virginia appear to require an entity incorporated in its state to have at least two officers, a secretary and one other officer (West Virginia State Law 31-1-126). Furthermore, § 73.3514(a) requires applicants to provide all information called for by FCC Form 301, unless the required information is in inapplicable. Accordingly, appropriate issues will be specified to determine the identity and qualifications of the corporate officers and to examine LBS's compliance with § 73.3514(a).

18. LBS's application indicates that construction of the station would constitute a major environmental action withing the meaning of § 1.1305 of the Commission's Rules. The applicant, however, has not submitted an environmental narrative statement which contains the information required by Section 1.1311 of the Rules. Therefore, LBS will be required to submit to the presiding Administrative Law Judge, within 20 days of the release date of this Order, and environmental narrative statement which complies with § 1,13311 of the Commission's Rules.

Charleston Broadcasting Corporation (CBC)

19. On November 5, 1982, CBC filed an amendment to its application. The amendment reflected the resignation of one of its Vice Presidents and its Secretary, as well as changes in the ownership interests of its principals. West Virginia State Law appears to require that businesses incorporated under its laws to have a secretary and one other officer. (See paragraph 17, above). Furthermore, Section 73.3514(a) requires applicants to provide all information called for by FCC Form 301, unless the required information is inapplicable. Accordingly, appropriate issues will be specified to determine the identity and qualifications of the corporate officers and to examine CBS's compliance with Section 73.3514(a).

20. The material submitted in CBC's application does not demonstrate the applicant's financial qualifications. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 20 days from the date of release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III.

[7] LBS filed a "Petition for Leave to Amend" on December 12, 1982, and on April 8, 1983, accompanied by an amendment updating the ownership interests of its owner. Inasmuch as the information is required by § 1.65 of the Commission's Rules, the petition is hereby granted and the amendment is accepted for § 1.65 purposes only.

Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378 (released July 15, 1982).*

21. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proeceeding on the issues specified below.

22. Accordingly, *it is ordered*, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications *are designated for hearing in a consolidated proceeding*, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to National Communications Affiliates of West Virginia, Gemini Broadcasting Company of West Virginia, Inc., Greater Kanawha Valley Broadcating, Ltd., Charleston Broadcasting Corporation and The Hightower Partnership, whether the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine with respect to West Virginia Educational Broadcasting Authority:

(a) whether operation from its proposed site would be in violation of § 73.685(b) of the Commission's Rules, and if so, whether circumstances exist to warrant a waiver of the Rule;

(b) whether, in light of the evidence adduced pursuant to issue (a), the applicant is qualified.

(c) whether there is a reasonable assurance that the funds needed to construct and operate the proposed station would be available in the event of a grant of the construction permit.

3. To determine with respect to Long Broadcasting System, Inc.:

(a) The number, identity and legal qualifications of its officers;

(b) Whether, in light of the evidence adduced pursuant to the foregoing issue, the applicant complied with § 73.3514(a) of the Commission's Rules; and

(c) In light of the evidence adduced pursuant to the foregoing issues, the effect of any omissions on the applicant's basic or comparative qualifications.

4. To determine with respect to Charleston Broadcasting Corporation:

(a) The number, identity and legal qualifications of its officers;

(b) Whether, in light of the evidence adduced pursuant to issue (a), the applicant complied with § 73.3514(a) of the Commission's Rules; and

(c) In light of the evidence adduced pursuant to the foregoing issues, the effect of any omissions on the applicant's basic or comparative qualifications.

5. To determine the areas and populations that would receive Grade B or better service from the proposals and the availability of other Grade B services to such areas and populations.

6. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would provide a fair, efficient and equitable distribution of television service.

7. To determine whether there is a greater need for noncommercial educational programming or for commercial programming in Charleston, West Virginia, and the surrounding area to be served;

8. In the event it is concluded from Issues 6 and 7, above, that a choice among applicants should not be based solely on considerations relating to Section 307(b) or the relative meris of additional commercial or noncommercial service, to dertermine which proposal would, on a comparative basis, best serve the pulic interest.

9. To determine, in light of the evidence adduced pursuant to the foregoing issues, which application should be granted.

23. *It is further ordered*, That the petitions to deny filed by Roy H. Park Broadcasting of the Tri-Cities, Inc., and Gateway Communications, Inc., *are denied.*

24. *It is further ordered*, That the petition to deny filed by West Virginia Telecasting, Inc., *Is Dismissed.*

25. *It is further ordered*, That a grant of National Communications Affiliates of West Virginia's application will be conditioned as follows:

The maximum visual effective radiated power at azimuth 186 degrees True towards Station WJHL-TV, Johnson City, Tennessee shall not exceed 17.7 dBk (58.9 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation.

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL-TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL-TV.

26. *It is further ordered*, That a grant of Channel 11 Broadcasting Corporation's application will be conditioned as follows:

The maximum visual effective radiated power at azimuth 184 degrees True towards Station WJHL-TV, Johnson City, Tennessee shall not exceed 13.78 dBk (23.88 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation.

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL-TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL-TV.

27. *It is further ordered*, That a grant of Gemini Broadcasting Company of West Virginia, Inc.'s application will be conditioned as follows:

The maximum visual effective radiated power at azimuth 186 degrees True towards Station WJHL-TV, Johnson City, Tennessee shall not exceed 13.05 dBk (20.18 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation.

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL-TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL-TV.

28. *It is further ordered*, That a grant of West Virginia Educational Broadcasting Authority's application will be conditioned as follows:

* CBC has not answered the questions in Section III.

The maximum visual effective radiated power at azimuth 179 degrees True towards Station WJHL–TV, Johnson City, Tennessee shall not exceed 15.01 dBk (31.7 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation.

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL–TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL–TV.

29. *It is further ordered,* That a grant of Greater Kanawha Valley Broadcasting, Ltd.'s application will be conditioned as follows:

The maximum visual effective radiated power at azimuth 185 degrees True towards Station WJHL–TV, Johnson City, Tennessee shall not exceed 12.62 dBk (18.28 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation.

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL–TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL–TV.

30. *It is further ordered,* That a grant of Long Broadcasting Systems, Inc.'s application will be conditioned as follows:

The maximum visual effective radiated power at azimuth 184 degrees True towards Station WJHL–TV, Johnson City, Tennessee shall not exceed 8.74 dBk (7.41 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation.

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL–TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL–TV.

31. *It is further ordered,* That a grant of Charleston Broadcasting Corporation's application will be conditioned as follows:

The maximum visual effective radiated power at azimuth 186 degrees True towards Station WJHL–TV, Johnson City, Tennessee shall not exceed 12.99 dBk (19.91 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation.

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL–TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL–TV.

32. *It is further ordered,* That a grant of The Hightower Partnership's application will be conditioned as follows:

The maximum visual effective radiated power at azimuth 186 degrees True towards Station WJHL–TV, Johnson City, Tennessee shall not exced 12.72 dBk (18.71 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation.

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL–TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL–TV.

33. *It is further Ordered,* That a grant of West Virginia Telecasting, Inc.'s application will be conditioned as follows:

The maximum visual effective radiated power at azimuth 185 degrees True towards Station WJHL–TV, Johnson City, Tennessee shall not exceed 9.43 dBk (8.77 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation.

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL–TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL-TV.

34. *It is further ordered,* That the Federal Aviation Administration *is made a party respondent* to this proceeding with respect to issue 2.

35. *It is further ordered,* That, Channel 11 Broadcasting Corporation, Gemini Broadcasting Company of West Virginia and West Virginia Educational Broadcasting Authority, shall each submit an amendment to specify an effective radiated visual power that complies with § 73.614(b)(1) of the Commission's Rules to the presiding Administrative Law Judge within 20 days after this Order is released.

36. *It is further ordered,* That, Gemini Broadcasting Company of West Virginia, Inc. shall submit, pursuant §73.685 (e) and (f) of the Commission's Rules, an appropriate engineering amendment to verify the nature of the proposed electrical and mechanical beam tilt within 20 days after the date of release of this Order to the presiding Administrative Law Judge.

37. *It is further ordered,* That, West Virginia Educational Broadcasting Authority, shall file certification with the presiding Administrative Law Judge, within 20 days after this Order is released, that it has or will comply with § 73.3580 of the Commission Rules.

38. *It is further ordered,* That, West Virginia Educational Broadcasting Authority, shall submit a financial certification in the manner prescribed in Public Notice, FCC 82–557, Mimeo No. 32341 (released December 13, 1982), within 20 days after this Order is released or advise the Administrative Law Judge that certification cannot be made, as may be appropriate.

39. *It is further ordered,* That, Long Broadcasting Systems, Inc. shall submit an environmental narrative statement which meets the requirements of § 1.1311 of the Commission's Rules to the Presiding Administrative Law Judge within 20 days after this Order is released.

40. *It is further ordered,* That, Charleston Broadcasting Corporation shall submit a financial certification in

the form required by Section III, F.C.C. Form 301, within 20 days after this Order is released or advise the Administrative Law Judge that certification cannot be made, as may be appropriate.

41. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

42. *It is further ordered,* That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Divisions, Mass Media Bureau.

[FR Doc. 83-13415 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-440; File No. BPCT-820810KI et al.]

Texas Family Television, Ltd. et al.; Hearing Designation Order

In the matter of applications of: Antonio Lizano d/b/a/ Texas Family Television, Ltd., Alvin, Texas; MM Docket No. 83-440; File No. BPCT-820810KI; Living Stone Church Incorporated, d.b.a Community Television of Alvin, Alvin, Texas; MM Docket No. 83-441, File No. BPCT-820930KF; Telemedia Broadcasting Corporation, Alvin, Texas; MM Docket No. 83-442, File No. BPCT-821005KF; Harold V. Dutton, II d/b/a Four Star Broadcasting Company, Alvin, Texas; MM Docket No. 83-443, File No. BPCT-821008KN; Patricia B. Steele, Alvin, Texas; MM Docket No. 83-444, File No. BPCT-821008KQ; Debra Martin Chase and Saundria Chase d/b/a Chase Communications, Ltd, Alvin, Texas; File No. BPCT-821008KE; for construction permit; Designating applications for consolidated hearing on stated issues.

Adopted: April 28, 1983.

Released: May 12, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Antonio Lizano d/b/a Texas Family Television, Ltd. (Family), Living Stone Church Incorporated d/b/a Community Television of Alvin (Community), Telemedia Broadcasting Corporation (Telemedia), Debra Martin Chase and Saundria Chase d/b/a Chase Communications, Ltd. (Chase), Harold V. Dutton, II d/b/a Four Star Broadcasting Company (Four Star) [1] and Patricia B. Steele for authority to construct a new commercial television station on Channel 67, Alvin, Texas.[2]

Telemedia Broadcasting Corporation

2. Section II, Item 3(a), FCC Form 301 inquires whether the applicant is in compliance with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments. Telemedia responded "no" and "not applicable." This is inconsistent and confusing. Telemedia will be required to clarify this response by submitting an amendment to the Administrative Law Judge within 15 days after the date of the release of this Order.

3. Section II, Item 10, FCC Form 301, inquires whether documents, instruments, agreements or understandings for the pledge of stock of a corporate applicant, as security for loans or contractual performance, provide that (a) voting rights will remain with the applicant, even in the event of default on the obligation; (b) in the event of default, there will be either a private or public sale of the stock; and (c) prior to the exercise of stockholder rights by the purchaser at such sale, the prior consent of the Commission (pursuant to 47 U.S.C. 310 (d)) will be obtained. Telemedia has not answered Item 10. Applicant will be required to submit its response to Item 10 to the presiding Administrative Law Judge within 15 days after the date of the release of this Order.

Harold V. Dutton II, d/b/a Four Star Broadcasting Company

4. Section 73.636(a)(1) of the Commission's Rules states that no license for a television broadcast station shall be granted to any party if such party directly or indirectly controls one or more AM broadcast stations and the grant of such license will result in the Grade A contour of the proposed television station encompassing the entire community of license of the AM broadcast station. Note 8 exempts UHF applicants from the blanket prohibition of § 73.636(a)(1) and, instead, requires case-by-case analysis to determine whether common ownership, operation, or control of the station in question would be in the public interest. Harold V. Dutton II is the general partner and 65 percent owner of Four Star.[3] He is also a member of the Board of Directors and 3.1 percent owner of Tri-Star Communications, Inc., applicant (BP-810403AH) for a new AM station in Houston, Texas. That application is now in a comparative hearing in MM Docket No. 82-671. In the event both applications were granted, Four Star's proposed Grade A contour would envelop Houston. However, Mr. Dutton has stated he would divest all his interest in Tri-Star Communications, Inc. within ninety (90) days following the grant of a construction permit for the proposed television station. Accordingly, any grant of a construction permit to Four Star will be conditioned upon Mr. Dutton's divestiture of all interest in, and connection with, Tri-Star Communications, Inc.

5. Four Star has submitted to the Federal Zviation Administration a request for clearance of a tower of 1,171 feet AGL and obtained a determination of no hazard for that height, but its application to the Commission specifies a tower height of 1,174 feet AGL. We will not specify an air hazard issue, four Star, however, will be required to eliminate this discrepancy by an appropriate *minor* amendment.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, *it is ordered,* That the Joint Request for Approval of Settlement Agreement filed by Harold V. Dutton, II d/b/a Four Star Broadcasting Company and Debra Martin Chase and Saundria Chase d/b/a Chase Communications, Ltd. *is approved* and the application of

---

[1] On April 14, 1983, Four Star and Chase Communications filed an agreement for merger, under the terms of which Chase's application would be dismissed. Debra Martin Chase is to receive 15% of the partnership as a limited partner, reducing Harold V. Dutton II's interest in Four Star from 80% to 65%. Dutton is the general partner in Four Star. The agreement complies with § 73.3525 of the Commission's Rules. The Joint Request for Approval of Settlement Agreement filed by these two applicants will be approved and the Chase application will be dismissed.

[2] Although the deadline for filing per-designation amendments as a matter of right was December 17, 1982, on January 19, 1983 Four Star amended its application to reflect changes in the broadcast interests of its principals and an EEO signature page. Inasmuch as the information is required by § 1.65 of the Commission's Rules the amendment is accepted for filing.

[3] See Footnote 1, *supra.*

Chase Communications Ltd. (BPCT-821008KE) *is dismissed.*

8. *It is further ordered,* That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the remaining applications *are designated for hearing in a consolidated proceeding* to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

9. *It is further ordered,* That Telemedia Broadcasting Corporation will be required to clarify the response to Section II, Item 3(a), FCC Form 301, by submitting an amendment to the Administrative Law Judge within 15 days after the date of the release of this Order.

10. *It is further ordered,* That Telemedia Broadcasting Corporation file its response to Section II, Item 10, FCC Form 301 to the presiding Administrative Law Judge within 15 days after the date of the release of this Order.

11. *It is further ordered,* That, in the event of a grant of the Harold V. Dutton, II d/b/a Four Star Broadcasting Company application, the construction permit shall contain the following condition:

> Prior to the commencement of operation of the television station authorized herein, Harold V. Dutton, II shall certify to the Commission that he has divested himself of all interest in, and connection with, Tri-Star Communications, Inc.

12. *It is further ordered,* That Harold V. Dutton, II d/b/a Four Star Broadcasting Company shall eliminate by an appropriate *minor* amendment the discrepancy in the tower height.

13. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to 1.221(c) of the Commission's Rules in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. *It is further ordered,* That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-13414 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 17474; PR Docket No. 83-430]

Action in Docket Case; Inquiry Begun on International Maritime Organization Safety Convention

April 28, 1983.

The Commission has begun an inquiry on the International Maritime Organization's (IMO) provisional recommendations and amendments to the Safety of Life at Sea (SOLAS) Convention.

The inquiry will serve as a means to inform the public and to obtain comments of interested parties in regard to actions being taken by the IMO through its Maritime Safety Committee (MSC) and Subcommittee on Radiocommunications (SRC) pertaining to radiocommunications equipment required on vessels subject to the SOLAS Convention.

The SRC held its Twenty-fifth Session in December 1982 and approved several draft recommendations and considered other matters of a technical and operational nature that will lead to amendment of the SOLAS Convention.

The documents of particular interest, which are contained in an appendix to the notice of inquiry, are:

—Future Global Maritime Distress System;
—Performance Standards for Narrow-Band Direct-Printing Telegraph Equipment for the Reception of Navigational and Meteorological Information;
—Performance Standards for VHF Multiple Watch Receivers;
—Draft Assembly Resolution on Charges for Distress, Urgency and Safety Messages through the INMARSAT System;
—Operator Function, and
—Transition Plan.

In soliciting comments on these documents, the Commission noted that they would be used to assist the U.S. Delegation prepare its position for the Twenty-sixth Session of the SRC scheduled for September 1983.

The Commission noted that it was represented on the IMO Delegation and participated in many of the Subcommittee's working groups. It added that anyone wishing to participate directly in the preparation of the U.S. positions on matters coming before the Subcommittee may attend the meetings of the U.S. Working Group on the SRC which are open to the public. Meeting times, dates and locations are published in the **Federal Register** at least 14 days before the meetings.

Action by the Commission April 27, 1983, by Notice of Inquiry (FCC 83-205). Commissioners Fowler (Chairman), Quello, Fogarty, Dawson, Rivera and Sharp.

For more information contact Robert McIntyre at (202) 632-7175.

Note.—The Notice of Inquiry will not be printed herein due to the continuing effort to minimize publishing costs. However, copies are available from the Downtown Copy Center, 1413 K St., NW., Washington, D.C. 20005, Tel.: (202) 289-4140. In addition, a copy is available for public inspection in the FCC Dockets Branch, Rm. 239, and FCC Library, Rm. 639, both located at 1919 M St., NW., Washington, D.C. 20554.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-13411 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group, Plant Accounts Subcommittee Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Plant Accounts Subcommittee scheduled to meet on Wednesday and Thursday, June 1 and 2, 1983. The meeting will begin on June 1 at 9:30 a.m. in the offices of the Michigan Public Service Commission, Mercantile Building, 6545 Mercantile Way, Lansing, Michigan 48909, and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Review of Minutes of Previous Meeting
III. Report by Subcommittee Members
IV. Discussion of Definitions of Plant Accounts
V. Further Assignments
VI. Other Business
VII. Presentation of Oral Statements
VIII. Adjournment

With prior approval of Subcommittee Chairman Gyles Norwood, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the

Subcommittee and wishing to make an oral presentation should contact Mr. Norwood (202/887-3266) at least five days prior to the meeting date.

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 83-13413 Filed 5-18-83; 8:45 am]
BILLING CODE 6712-01-M

[Report No. 1404]

Applications for Review of Actions in Rulemaking Proceedings

May 11, 1983.

The following listings of applications for review filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such applications for review must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Key West, Florida) (MM Docket No. 83-17, RM-4208)
Filed by: James R. Cooke, Attorney for Florida Keys Broadcasting Corporation (WKIZ & WFYN-FM) on 5-2-83.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 83-13412 Filed 5-18-83; 8:45 am]
BILLING CODE 6712-01-M

[MM Docket No. 83-449, File No. BPH-810630AB, etc.]

Edward M. Johnson, et al.; Hearing Designation Order

In re Applications of Edward M. Johnson, Lamesa, Texas, Req: 100.3 MHz, Channel 262C, 100 kW(H&V), 295 feet, MM Docket No. 83-449, File No. BPH-810630AB; Robert G. Kimmell & Charles E. Kimmell, A Partnership d.b.a. Kimmell & Kimmell, Lamesa, Texas, Req: 100.3 MHz, Channel 262C, 100 kW(H&V), 880 feet, MM Docket No. 83-450, File No. BPH-820128AR; Hispanic Broadcasting Company, Inc., Lamesa, Texas, Req: 100.3 MHz, Channel 262C, 100 kW(H&V), 480 feet, MM Docket No. 83-451, File No. BPH-820129BP; and Dawson County Broadcasting Corporation, Lamesa, Texas, Req: 100.3 MHz, Channel 262C, 100 kW(H&V), 486 feet, MM Docket No. 83-452, File No. BPH-820129BH; For a Construction Permit for a New FM Station.

Adopted: April 29, 1983.
Released: May 12, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Edward M. Johnson (Johnson), Robert G. Kimmell and Charles E. Kimmell, a partnership d.b.a. Kimmell & Kimmell (Kimmell), Hispanic Broadcasting Company, Inc., and Dawson County Broadcasting Corporation (Dawson).

2. *Johnson and Dawson.* Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. We have no evidence that Johnson or Dawson published the required notice. To remedy this deficiency, both Johnson and Dawson must publish local notice of their respective applications, if they have not already done so, and so inform the presiding Administrative Law Judge.

3. Since no determination has been reached that the antennas proposed by Johnson and Dawson would not constitute a menace to air navigation, an issue regarding this matter is required.

4. *Johnson.* Question 1, Section IV, page 6 of revised Form 301 requires that applicant give a brief description, in narrative form, of the planned programming services relating to issues of public concern facing the proposed service area. Johnson has not submitteed this narrative description. Therefore, Johnson shall file an amendment with the presiding Administrative Law Judge within 30 days of the release of this Order.

5. Applicant has not responded to Question 20(c), Section II, page 5 of Form 301. Applicant shall amend his application by submitting his response to the presiding Administrative Law Judge within 30 days of the release of this Order.

6. In support of his answer to Question 20(d), Section II, page 5, Form 301, applicant refers to "exhibit No. 2." However Johnson's application does not contain an "exhibit No. 2," hence applicant shall amend his application by submitting this exhibit to the presiding Administrative Law Judge within 30 days of the release of this Order.

7. *Dawson.* The material submitted by Dawson in its application does not demonstrate the applicant's financial qualificatons.[1] Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, Dawson will be given 30 days from the release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If applicant cannot make the required certification, it shall so notify the Administrative Law Judge who shall then specify in appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket 82-378, released July 15, 1982.

8. *Dawson & Kimmell.* Because the heights of the applicants' proposed towers exceed 300 feet, grant of their applications would be a major action as defined by § 1.1305 of the Commission's Rules, hence applicants are required to file a narrative statement in accordance with § 1.1311. In their narrative statements, however, applicants do not indicate whether construction of the facilities has been a source of local controversy on environmental grounds as required by Section 1.1311. Applicants shall submit a statement with the presiding Administrative Law Judge.

9. Data submitted by the applicants indicate that there would be significant difference in the size of the areas and population which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

10. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Johnson and Dawson, whether there is a reasonable possibility that the tower

[1] Applicant relies on a bank loan of $100,000, anticipated proceeds from stock subscriptions totalling $125,000, and refers to the personal balance sheet of its principal, David Wrinkle. Applicant has not submitted any stock subscription agreements, and because Wrinkle's financial statement does not indicate how his non-liquid assets will provide the necessary funding, his net current liquid assets do not exceed his current liabilities. Hence, only $100,000 is available.

heights and locations proposed by the applicants would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

12. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding with respect to the air hazard issue only.

13. It is further ordered, That within 30 days from the release of this Order, Johnson and Dawson shall file the amendments specified in Paragraph 2 above with the presiding Administrative Law Judge.

14. It is further ordered, That within 30 days from the release of this Order, Johnson shall file the amendments specified in Paragraphs 4, 5 and 6 above with the presiding Administrative Law Judge.

15. It is further ordered, That in accordance with Paragraph 7 above, within 30 days from the release of this Order, Dawson shall submit a financial certification required by Section III, FCC Form 301, or advise the Administrative Law Judge that the requried certification cannot be made.

16. It is further ordered, That within 30 days from the release of this Order, Dawson and Kimmell shall file the amendments specified in Paragraph 8 above with the presiding Administrative Law Judge.

17. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

18. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division.

[FR Doc. 83-13454 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 83-453 and 83-454; File Nos. BPH-810518AF and BPH-810807AD]

F. G. Sneed III et al.; Hearing Designation Order

In re Applications of F.G. Sneed III et al., d.b.a. Dimension Four Radio Co., Grover City, California, Req: 107.1 MHz, Channel 296, 0.8 kW (H&V), 530 feet, MM Docket No. 83-453, File No. BPH-810518AF;

Rod B. Funston and Laura A. Funston, d.b.a. R & L Broadcasters, Grover City, California, Req: 107.1 MHz, Channel 296, 0.9 kW (H&V), 510 feet, MM docket No. 83-454, File No. BPH-810807AD,

For a Construction Permit for a New FM Station.

Adopted: April 29, 1983.

Released: May 12, 1983.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by F.G. Sneed III et al., d.b.a. Dimension Four Radio Co. (Dimension) and Rod B. Funston and Laura A. Funston, d.b.a. R & L Broadcasters (R&L).

2. *Dimension.* Analysis of the financial data submitted by Dimension reveals that $128,995 will be required to construct the proposed station and operate for three months. To meet this requirement, Dimension claims that existing capital in the amount of $160,000 will be provided by the principals, the Sneeds, from liquidation of the investments and cash listed in F.G. Sneed's personal financial statement. In his financial statement, Sneed lists current assets as cash $16,000, receivables $31,000 and stocks $18,000, offset by current liabilities of $20,000. Even if he could show how the receivables and stock will be relied upon as a readily available source of funds to meet the commitment as required by Item 4(b), page 3, Section III, Form 301, he does not have sufficient net liquid assets above liabilities to fulfill the cash required. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of mailing of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall specify an appropriate issue.

3. *Demension.* Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applictions. The local notice contained in Dimension's proof of publication is not sufficient to meet the requirements of § 73.3580(f) in that it does not specify the names of all the principals in the partnership, it indicates an incorrect effective radiated power of 3 kW and it does not mention the location of its proposed main studio. To remedy this deficiency, Dimension must republish local notice of its application as specified in § 73.3580(f) and so inform the presiding Administrative Law Judge.

4. *R & L.* Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. The local notice contained in R & L's proof of publication is not sufficient to meet the requirements of § 73.3580(f), and is merely a publication of a "Fictitious Business Name Statement." To remedy this deficiency, R & L must publish local notice of its application as specified in § 73.3580(f) and so inform the presiding Administrative Law Judge.

5. Data submitted by the applicants indicate that there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

6. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of the 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, That Dimension as specified in Paragraph 2 above, shall submit a financial certification in the form required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate, within 30 days of the release of this Order.

9. It is further ordered, That both R & L and Dimension shall inform the presiding Administrative Law Judge as to whether they have complied with the public notice requirements of § 73.3580(f) of the Commission's Rules within 30 days of the release of this Order.

10. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-13453 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Applications, etc.; Chemical New York Corp.; Correction

This notice corrects a previous Federal Register document (FR Doc. 83-12266) published at page 20796 of the issue for Monday, May 9, 1983. The last sentence of the first paragraph should have read: Although arranging equity financing has not been added to the list of permissible activities specified by the Board in § 225.4(a) of Regulation Y, the Board has determined by order that this activity is closely related to banking. *E.g. Trust Company of Georgia*, 69 Federal Reserve Bulletin 225 (1983).

Board of Governors of the Federal Reserve System, May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13386 Filed 5-18-83; 8:45 am]

BILLING CODE 6210-01-M

First Bankshare of West Point, Inc.; Formation of Bank Holding Companies

The companies listed in this notice 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 voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Bankshares of West Point, Inc.*, West Point, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of West Point, West Point, Georgia. Comments on this application must be received not later than June 13, 1983.

2. *The National City Bankcorp*, Rome, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The National City Bank of Rome, Rome, Georgia. Comments on this application must be received not later than June 13, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Earle Bankshares, Inc.*, Earle, Arkansas; to become a bank holding company by acquiring 80 percent of the voting shares of Earle State Bank, Earle, Arkansas. Comments on this application must be received not later than June 13, 1983.

2. *Wilson & Muir Bancorp., Inc.*, Bardstown, Kentucky; to become a bank holding company by acquiring at least 80 percent of the voting shares of Wilson & Muir Bank & Trust Company, Bardstown, Kentucky. Comments on this application must be received not later than June 13, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Thompson Financial, Ltd.*, Fort Worth, Texas; to become a bank holding company by acquiring 46.3 percent of the voting shares of Texas Security Bancshares, Inc., Fort Worth, Texas. Comments on this application must be received not later than June 13, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Great Mid-West Financial Company*, Ames, Iowa; to become a bank holding company by acquiring 80 percent or more of the voting shares of University Bank and Trust Company, Ames, Iowa. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Comments on this application must be received not later than June 13, 1983.

Board of Governors of the Federal Reserve System, May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13387 Filed 5-18-83; 8:45 am]

BILLING CODE 6210-01-M

First Mabel BanCorporation, Inc.; Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice 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 voting shares or assets of a bank. The factors that are considered in acting on the applications 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 indicated. With respect to each application, interested persons may express their views in writing to the address indicated. Any comment on the 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.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Mabel BanCorporation, Inc.*, Mabel, Minnesota; to acquire 84.1 percent of the voting shares or assets of First National Bank of Crosby, Crosby, Minnesota. Comments on this application must be received not later than June 8, 1983.

Board of Governors of the Federal Reserve System, May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13391 Filed 5-18-83; 8:45 am]

BILLING CODE 6210-01-M

Gulfcoast Bancshares, Inc.; Formation of Bank Holding Companies

The companies listed in this notice 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 voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Gulfcoast Bancshares, Inc.*, Palmetto, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of The County Bank, Palmetto, Florida. Comments on this application must be received not later than June 8, 1983.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Hudson Valley Holding Corp.*, Yonkers, New York; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Hudson Valley National Bank, Yonkers, New York. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York. Comments on this application must be received not later than June 10, 1983.

Board of Governors of the Federal Reserve System, May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13392 Filed 5-18-83; 8:45 am]

BILLING CODE 6210-01-M

Mellon National Corp.; Proposed Acquisition of Globe Industrial Bank and Centaur Industrial Bank

Mellon National Corporation, Pittsburgh, Pennsylvania 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 Globe Industrial Bank, Boulder, Colorado, and Centaur Industrial Bank, Lafayette, Colorado.

Applicant states that the proposed subsidiaries would engage in the activities of an industrial bank and acting as agent for the sale of credit related life, accident, and health insurance and credit related property insurance in connection with extensions of credit by the subsidiaries. Applicant states that the subsidiaries will not accept demand or transaction deposits. These activities would be performed from offices of Applicant's subsidiaries in Boulder and Lafayette, Colorado, and the geographic area to be served is the Denver/Boulder SMSA. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 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 Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than June 10, 1983.

Board of Governors of the Federal Reserve System, May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13390 Filed 5-18-83; 8:45 am]

BILLING CODE 6210-01-M

Applications, etc.; Norwest corp. Correction

This notice corrects a previous **Federal Register** document (FR Doc. 83-12545) published at page 21200 of the issue for Wednesday, May 11, 1983. The last sentence of the first paragraph should have read: Although arranging equity financing has not been added to the list of permissible activities specified by the Board in section 225.4(a) of Regulation Y, the Board has determined by order that this activity is closely related to banking. *E.g., Trust Company of Georgia*, 69 Federal Reserve Bulletin 225 (1983).

Board of Governors of the Federal Reserve System, May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13388 Filed 5-18-83; 8:45 am]

BILLING CODE 6210-01-M

Susquehannna Bancshares, Inc.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have 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 voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for the application. With respect to each application, interested persons may express their views in writing to the address indicated for the application. 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.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Susquehanna Bancshares, Inc.*, Litity, Pennsylvania; to acquire 100 percent of the voting shares or assets of Citizens National Bank and Trust Company of Waynesboro, Waynesboro, Pennsylvania. Comments on this application must be received not later than June 13, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. **United Midwest Bancorporation, Ltd.** Troy, Michigan; to acquire 100 percent of the voting shares of Liberty Bank-Oakland, Troy, Michigan. Comments on the application must be received not later than June 13, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Motelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Southern Banchares, Inc.*, Bremond, Texas; to acquire 80 percent or more of the voting shares of Moulton State Bank, Moulton, Texas. Comments on this application must be received not later than June 8, 1983.

Board of Governors of the Federal Reserve System, May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13389 Filed 5-18-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Company; Proposed de Novo Nonbank Activities

The organization identified in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, 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 comment on the application that requests a hearing must include 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 indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Southern Bancorporation, Inc.*, Greenville, South Carolina (consumer finance activities; Texas): To engage through its subsidiary, World Acceptance Corporation, in making extensions of credit as a licensed consumer finance lender. These activities would be conducted from an office in Nacogdoches, Texas, serving the approximate city limits of Nacogdoches and certain other parts of Nacogdoches County within a ten mile radius of Nacogdoches. Comments on this application must be received not later that June 13, 1983.

Board of Governors of the Federal Reserve System, May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13390 Filed 5-18-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Advisory Committee to the Director; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Advisory Committee to the Director, NIH, on June 20, 1983, at the National Institutes of Health, Bethesda, Maryland 20205. The meeting will take place from 9:00 a.m. to approximately 5:00 p.m. in Building 31, Conference Room 10, C Wing. The meeting will be open to the public.

The purpose of the meeting will be to examine the issue of stablizing NIH awards for investigator-initiated research projects. The Committee will review changes in the average costs of grants in recent years and the direct and indirect components of those costs. Also to be considered are the effects of a stablization policy on other NIH research programs and mechanisms.

The Executive Secretary, Michael I. Goldberg, Ph. D., National Institutes of Health, Building 1, Room 137, Bethesda, Maryland 301-496-3152, will furnish summaries of the meeting, rosters of Committee members and consultants, and substantive program information.

Dated: May 12, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-13403 Filed 5-18-83; 8:45 am]

BILLING CODE 4140-01-M

Biomedical Library Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biomedical Library Review Committee on June 22-23, 1983, convening each day at 8:30 a.m. in the NMAC Classroom, Lister Hill Center Building of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on June 22 will be open to the public from 8:30 to approximately 11:30 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 11:30 a.m. to 5:00 p.m. on June 22 and from 8:30 a.m. to adjournment on June 23 for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, telephone number: 301-496-4191, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Dated: May 10, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-13401 Filed 5-18-83; 8:45 am]

BILLING CODE 4140-01-M

National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council and its subcommittees on June 16, and 17, 1983 in Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public on June 16, from 8:30 a.m. to 1:00 p.m. to discuss administration, management, and special reports. Attendance by the public will be limited to space available.

Meeting of the full Council and its subcommittees will be closed to the public as indicated below in accordance with provisions set forth in Sections 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would consitiute a clearly unwarranted invasion of personal privacy.

The following subcommittees will be closed to the public on June 16, from 1:00 p.m. to adjournment: Arthritis, Musculoskeletal and Skin Diseases; Diabetes, Endocrine, and Metabolic Diseases; Digestive Diseases and Nutition; and Kidney, Urology and Hematology. The full Council meeting will be closed to the public on June 17 from 8:30 a.m. to adjournment.

Further information concerning the Council meeting may be obtained from Dr. Pierre Renault, Acting Executive Secretary, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, Westwood Building, Room 637, Bethesda, Maryland 20205. (301) 496–7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIADDK, Building 31, Room 9A46, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5765.

(Catalog of Federal Domestic Assistance Program No. 13.846–849, Arthritis, Bone and Skin Diseases; Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: May 10, 1983.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 83-13399 Filed 5-18-83; 8:45am]

BILLING CODE 4140-01-M

Cancer Clinical Investigation Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Clinical Investigation Review Committee, National Cancer Institute, June 27–29, 1983, Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on June 27, from 8:30 a.m. to 9:00 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 27, from approximately 9:00 a.m. to recess, on June 28, from 8:30 a.m. to recess, and on June 29, from 8:30 a.m. to adjournment, for the review, discussion, and evaluation of individual cooperative agreement applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Dorothy K. Macfarlane, Executive Secretary, Cancer Clinical Investigation Review Committee, National Cancer Institute, Westwood Building, Room 819, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7481) will furnish substantive program information.

Dated: May 10, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-13402 Filed 5-18-83; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of meetings of the first-level review committees of the National Institute of Child Health and Human Development of June 1983.

These meetings will be open to the public to discuss items relative to committee activities including announcements by the Director, Associate Director for Scientific Review, and executive secretaries, for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6) Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, these meetings will be closed to the public for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of committee: Maternal and Child Health Research Committee

Executive secretary: Dr. Jane Showacre, Room 6C03, Landow Building, Telephone: 301, 496–1696

Date of meeting: June 20–21, 1983

Place of meeting: Landow Building, Conference Room A

Open: June 20, 1983, 9:00 a.m.–10:15 a.m.

Closed: June 20, 1983, 10:30 a.m.–5:00 p.m.; June 21, 1983, 9:00 a.m.–adjournment

Name of committee: Mental Retardation Research Committee

Executive secretary: Dr. Stanley Slater, Room 6C03, Landow Building, Telephone: 301, 496–1696
Date of meeting: June 22–23, 1983
Place of meeting: Landow Building, Conference Room A
Open: June 22, 1983, 9:00 a.m.–10:00 a.m.
Closed: June 22, 1983, 10:00 a.m.–5:00 p.m.; June 23, 1983, 9:00 a.m.–adjournment
Name of committee: Population Reseach Committee
Executive secretary: Dr. Dinesh Sharma, Room 6C03, Landow Building; Telephone: 301, 496–1696
Date of meeting: June 23–24, 1983
Place of meeting: Building 31, Conference Room 2
Open: June 23, 1983, 9:00 a.m.–10:30 a.m.
Closed: June 23, 1983, 10:30 a.m.–5:00 p.m.; June 24, 1983, 9:00 a.m.–adjournment

(Catalog of Federal Domestic Assistance Program No. 13.864, Population Research and No. 13.865, Research for Mothers and Children, National Institutes of Health)

Date: May 10, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-13400 Filed 5-18-83; 8:45 a.m.]

BILLING CODE 4140-01-M

Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, July 14–16, 1983, at the Kahler Hotel, 20 Second Avenue, S.W., Rochester, Minnesota 55901.

This meeting will be open to the public on July 14, 1983, from 8:00 p.m. to approximately 9:00 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on July 14 from approximately 9:00 p.m. to adjournment, and from 8:30 a.m. to adjournment on July 15 and July 16, for the review, discussion and evaluation of an individual grant application. This application and the discussions could reveal personal information concerning individuals associated with the application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under Section 552b(c)(6) of Title 5, U.S. Code.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Bethesda, Maryland, 20205, Building 31, Room 4A–21, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Bethesda, Maryland 20205, Room 548B, phone (301) 496–7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health.

Dated: April 29, 1983.

Betty J. Beveridge;

NIH Committee Management Officer.

[FR Doc. 83-13396 Filed 5-18-83; 8:45 am]

BILLING CODE 4140-01-M

Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, June 28–29, 1983 at the Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

This meeting will be open to the public on June 28, 1983, form 8:00 p.m. to approximately 9:00 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 28 from approximately 9:00 p.m. to adjournment, and from 8:30 a.m. to adjournment on June 29, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under Section 552b(c)(6) of Title 5, U.S. Code.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Bethesda, Maryland, 20205, Building 31, Room 4A–21, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Bethesda, Maryland 20205, Room 548B, phone (301) 496–7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: April 29, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-13397 Filed 5-18-83; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Toxicology Program Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina, on June 29, 1983.

The meeting will be open to the public from 9:00 a.m. until adjournment. The primary agenda item is the completion of peer review on draft technical reports of toxicology and carcinogenesis bioassays from the National Toxicology Program (NTP). Reviews will be conducted by the Technical Reports Review Subcommittee on the Board in conjuctions with an *ad hoc* panel of experts.

Draft technical reports on the following chemicals listed alphabetically (with Chemical Abstract Service registry number and routes of administration) will be peer reviewed June 29. Also listed are the NTP chemical managers for each bioassay.

Chemical (CAS registry No.)	Route	Chemical manager (telephone No.)
1,2-dichloropropane (78-87-5).	Gavage	Dr. J. Lamb (919-541-6518).
Fluorescein sodium (C.I. acid yellow 73) (518-47-8).	Water	Dr. J. Mennear (919-541-4178).
Gilsonite (12002-43-6).	Feed	Dr. K. Chu (301-496-9447).
Monuron (150-68-5)	Feed	Dr. D. Goldman (301-496-9214).
Propylene (115-07-1)	Inhalation	Dr. J. Quest (301-496-9212)
Propylene oxide (75-56-9).	Inhalation	Dr. G. Boorman (919-541-3231).

In addition, time will be allowed for discussion of the conclusion from the technical report on the bioassay of benzyl acetate (CAS No. 140–11–4).

The Executive Secretary, Dr. Larry Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919–541–3971), FTS (629–3971), will furnish rosters of subcommittee and panel members and other program information prior to the meetings, and summary minutes subsequent to the meeting.

Dated: May 13, 1983.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 83-13396 Filed 5-18-83; 8:45 am]

BILLING CODE 4140-01-M

Agency for Toxic Substances and Disease Registry; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of April 19, 1983, by the Secretary of Health and Human Services to the Assistant Secretary for Health, the Assistant Secretary for Health has delegated to the Administrator, Agency for Toxic Substances and Disease Registry (ATSDR), with authority to redelegate, the following authorities delegated to the Assistant Secretary for Health under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*) as they pertain to the functions assigned to the ATSDR:

Sections 104(b) [first sentence], (c), (d), (e) [with the exception of section 104(e)(2)(C)], (f), (g), (h), (i), and 111(f). The exercise of authority under section 104(h) of the Act shall be subject to the approval of the Administrator of the Office of Federal Procurement Policy.

The Assistant Secretary for Health has made provision for the ratification of actions taken on behalf of the Public Health Service under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

The delegation to the Administrator, Agency for Toxic Substances and Disease Registry, became effective on May 13, 1983.

Dated: May 13, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 83-13517 Filed 5-18-83; 8:45 am]

BILLING CODE 4160-18-M

Intent To Issue an Exclusive Patent License; Ohio State University

Pursuant to 45 CFR 6.3 of the Department of Health and Human Services Patent Regulations and 41 CFR 101–4 of the Federal Procurement Regulations, notice is hereby given of an intent to issue to The Ohio State University an exclusive license to manufacture, use, and sell an invention of Drs. Derek Horton and Waldemar Prieve entitled "Antitumor Active Anthracycline." United States Patent Applications Nos. 268,623, and 408,942 were filed on May 29, 1981 and August 17, 1982, respectively.

Copies of the above United States patent applications may be obtained upon written request to Mr. Leroy B. Randall, Chief, Patent Branch, Department of Health and Human Services, c/o National Institutes of Health, Room 5A03, Westwood Building, Bethesda, MD 20205.

The proposed license will have a duration of 5 years from the date of first commercial sale of the product or 10 years from the date of the license, whichever comes first, with permission to sublicense, may be royalty-bearing, and will contain other terms and conditions to be negotiated by the parties in accordance with the Department of Health and Human Services (HHS) Patent Regulations. HHS will grant the license unless, within 60 days of this Notice, the Chief of the Patent Branch, named hereinabove, receives in writing any of the following, together with supporting documents:

A. A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

B. An application for a nonexclusive license to manufacture, use, or sell the invention in the United States is submitted in accordance with 41 CFR Part 101–4 of the Federal Procurement Regulations, and 45 CFR 6.3 of the Department of Health and Human Services Patent Regulations, and the applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant Secretary for Health of the Department of Health and Human Services will review all written responses to this Notice.

Authority: 45 CFR 6.3 and 41 CFR Part 101–4.

Dated: May 12, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 83-13519 Filed 5-18-83; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–83–1241]

Fund Availability Under Emergency Jobs Appropriations Bill of 1983

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of fund availability.

SUMMARY: This document: (1) Notifies the public of the availability of funds appropriated under title I of Public Law 98–8 (97 Stat. 13) (the "Jobs Bill") for community development activities under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301); (2) describes the method of allocating and distributing the funds; (3) sets forth general grant requirements for the funds; (4) establishes deadlines for applications and final statements for the funds; and (5) sets forth procedures for complying with the Jobs Bill limit on the use of these appropriated funds for public service activities.

EFFECTIVE DATE: May 19, 1983.

FOR FURTHER INFORMATION CONTACT: James R. Broughman, Director, Entitlement Cities Division, Office of Block Grant Assistance, (202) 755–9287; James Forsberg, Director, State and Small Cities Division, Office of Block Grant Assistance, (202) 755–6322; Leroy Gonnella, Director, Secretary's Fund Division, (202) 755–6092 (Indian Program); all located at the Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410 (Rooms 7282, 7184, and 7134, respectively). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Availability of Appropriated Funds

Title I of the Jobs Bill (Act of March 24, 1983, Pub. L. No. 98–8, 97 Stat. 13) appropriated an additional $1 billion for "community development grants" under the Community Development Block Grant (CDBG) Program authorized by title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301) ["the Act"]. Of this amount, $250 million is to be made available for metropolitan cities and urban counties under the CDBG Entitlement Program.

Of the remaining $750 million, one percent, or $7.5 million, is to be used for grants to Indian tribes under section 107(b) of the Act. The remaining $742.5 million is to be used for grants to entitlement grantees, to States for

nonentitlement areas under the State's program, and to units of general local government in nonentitlement areas under the HUD-administered Small Cities Program. The $742.5 million will be allocated in accordance with the provisions of the Jobs Bill, and will preserve the statutory percentage totals provided under section 106 of the Act—70 percent for entitlement grantees and 30 percent for States for use in nonentitlement areas. The resultant breakdown of the $1 billion appropriation is as follows: (1) $769.75 million for Entitlement grants, (2) $222.75 million for States for use in nonentitlement areas of States, and (3) $7.5 million for grants to Indian tribes.

The Jobs Bill contains fund allocation procedures which differ in some respects from those contained in the CDBG Program. The distribution of funds is as follows:

1. Under sections 101(b) (1) and (4) of the Jobs Bill, both the $742.5 million and the $250 million are initially allocated among the States, using the formula contained in section 101(b)(1). These two amounts are separately allocated in order to maintain exclusive use of the $250 million fund by entitlement grantees. The formula to be used for this purpose allocates:

—One-third of the amounts on the basis of the ratio of each State's number of unemployed persons in January 1983 to the number of unemployed persons in all States;

—One-sixth of the amounts among "long-term unemployment States" based on the ratio of each such State's number of unemployed persons in January 1983 to the number of unemployed persons in all "long-term employment States";

—One-half of the amounts on the basis of each State's share of "regular CDBG funds".

For purposes of distributing Jobs Bill funds, the following terms are used:

—"Regular CDBG funds" means (in the case of the $742.5 million amount) the aggregate amount of CDBG funds allocated to the entitlement cities and counties in a State and for the nonentitlement areas of the State from amounts appropriated in 1983 for the basic CDBG Program by the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1983, Pub. L. No. 97-272. In the case of the $250 million, this term means the aggregate amount of such funds allocated to a State's entitlement grantees;

—"States" means the 50 States, plus Puerto Rico and the District of Columbia;

—"Long-term unemployment State" means a State with an average rate of unemployment over the period of June through November 1982 which equals or exceeds 9.4 percent.

2. Each State's share of the $742.5 million is suballocated among the entitlement and nonentitlement categories for the State, based on the proportion each category represents in the allocation of "regular CDBG funds" for the State.

3. The amounts established by State for nonentitlement areas under step 2 are reduced on a pro-rata basis to the extent necessary to insure that total funds allocated for nonentitlement areas within States equal 30 percent of $742.5 million. (The entitlement share for each State is increased by the amount that the nonentitlement share is reduced for that State.)

4. The entitlement amount for each State resulting from steps 2 and 3 is combined with the State's share of the $250 million to form the State's total amount for its entitlement grantees.

5. The amounts established for each State under step 4 are allocated among all of its entitlement grantees, with each city and county receiving a proportion of the total amount equal to its proportion of the aggregate entitlement amount of "regular CDBG funds" allocated within that State.

Specific fund allocations for each entitlement grantee and for each State for use in nonentitlement areas have been sent to HUD Field Offices and will be announced by them.

General Grant Requirements

All allocations of Jobs Bill funds—those for entitlement grantees, for States under the nonentitlement program, for units of general local government in nonentitlement areas of States under the Small Cities Program, and for Indian tribes—are intended to provide for worthwhile and necessary projects which will result in productive jobs in communities. These amounts are to be disbursed as rapidly as possible so as to quickly assist the unemployed and the needy as well as minimize future year budgetary outlays. Jobs Bill funds are to be made available in accordance with the provisions of title I of the Act. The procedures in the Code of Federal Regulations which generally apply to CDBG grantees remain in effect, except as specifically stated in this document.

To receive Jobs Bill funds, each grantee other than Indian tribes will be required to submit a final statement and certifications acceptable to the Secretary, as provided in sections 104 and 106 of the Act, as applicable. Indian tribes will have to submit an application under section 107 of the Act. These materials are separate from those submitted for regular FY 1983 CDBG funds under the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1983, though the normal requirements contained in the Code of Federal Regulations (except as noted above) for such materials must be met.

Among otherwise applicable requirements, each activity assisted with Jobs Bill funds must be an eligible use of CDBG funds and (except for Indian tribes) must meet one of the three broad national objectives of the CDBG Program: it must benefit low and moderate income persons, aid in the prevention or elimination of slums or blight, or meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. In particular, the nondiscrimination requirements of title VI of the Civil Rights Act of 1964 (for which certification is required) apply to all employment opportunities created with Jobs Bill funds (except for grants to Indian tribes).

Sections 101(b) (2) and (4) and 101(c) of the Jobs Bill contain a number of provisions designed to target Jobs Bill funds to areas with the greatest employment need and activities with the greatest and most immediate employment impact. Consistent with these provisions, all grantees—entitlement, States, units of general local government in nonentitlement areas of the State under the Small Cities Program and Indian tribes—will be required to certify that: (1) They will, to the extent practicable, use Jobs Bill funds to maximize the immediate creation of new employment opportunities to individuals who were unemployed at least fifteen of the twenty-six weeks immediately preceding March 24, 1983 and (2) Jobs Bill funds will be obligated and disbursed as rapidly as possible so as to quickly assist the unemployed and the needy. All grantees except Indian tribes will also have to certify that they will use, to the extent practicable, Jobs Bill funds in areas where unemployment is highest and has been high for the longest period of time and for authorized purposes which have the greatest immediate employment impact. For the entitlement program, the term "area" (as used in the certification) means an occupational type, population group, industrial category, as well as geographic part of a metropolitan city or urban county. Where the Department is required to fashion allocation and

selection criteria for the receipt of Jobs Bill funds (i.e., for grants to Indian tribes and to nonentitlement areas of States under the HUD-administered Small Cities Program), the criteria selected are designed to promote the objectives contained in sections 101 (b) and (c) of the Jobs Bill. These criteria appear later in this document.

HUD will conduct the same kind of review of the submission and grantee performance for the additional grant as for regular CDBG funds. Appropriate action determined to be necessary as a result of the performance review *will apply to the Jobs Bill grant* as well as to the grantee's regular CDBG funds.

In many communities the level of unemployment among women and minorities is disproportionate to their representation within the population. To address this concern, grantees are urged to give special attention to the nondiscrimination requirements in providing jobs created with CDBG funds from this additional grant by selecting activities which will provide employment opportunities to minorities and women in proportion to their presence among the unemployed in the jurisdictions.

Funds provided under the Jobs Bill shall be accounted for separately. There will be a separate grant agreement and grant number. The Jobs Bill required HUD to submit quarterly reports to Congress on the use of these additional funds. Therefore, grantees will be required to submit reports to HUD on a quarterly basis. A special form and instructions are being developed for this report and will be sent to HUD field offices once OMB approval is obtained. Grantees will also have to submit annually a separate performance report required under section 104(d) of the Act on the use of these additional funds. Except for Indian tribes, grantees will be required to maintain records for the additional grant which contain information on employment opportunities created through these funds provided by the recipient and contractors, with separte identification by race, sex, and ethnicity and to report this information to HUD.

Deadlines for Applications and Final Statements

Final statements from entitlement communities (metropolitan cities and urban counties) and States administering the State's Program are due on or before July 1, 1983. Applications from Indian tribes are due on or before July 15, 1983.

Applications from nonentitlement units of general local government in States where HUD will administer funds under the Small Cities Program will be due on dates to be announced by the HUD field offices serving the States which have chosen not to distribute nonentitlement funds. A few of the States in which HUD might administer the funds for nonentitlement areas will not be known for some time. Deadlines for applications from units of general local government in these States will be established to permit all potential applicants sufficient time to prepare applications (approximately 30 days), and the HUD area office will rate and select applications to be funded approximately 30 days from the submission deadline.

All statements, applications and other submissions for Jobs Bill funds should be sent to the HUD field office serving the grantee's jurisdiction, and must be postmarked no later than the applicable deadline date.

Use of Funds Public Service Activities

The Jobs Bill provides that up to $500 million of the additional CDBG funds appropriated may be used for public service activities otherwise eligible under section 105(a)(8) of the Act, notwithstanding this section's ten percent limitation of such use. (This 10 percent limitation will, however, continue to apply to all other CDBG funds.) In order to comply with the $500 million limitation, the following procedures will apply.

1. Information on the amount of funds designated for public service activities will be required in the final statement from each metropolitan city and urban county grantee. States must advise HUD in writing by July 1, 1983 of the maximum amount of funds they estimate will be used for public service activities. There is no limit on the amount of funds that these grantees may initially designated for public service activities.

Funds for public service activities shall constitute no more than 50 percent of any grant made to an Indian tribe or nonentitled unit of general local government receiving a grant from HUD (in States where HUD will administer funds for nonentitlement areas).

2. Any State, metropolitan city, or urban county that designates 50 percent or less of its grant for public service activities may expend up to, but no more than, the amount designated.

3. Any State, metropolitan city, or urban county that designates *more* than 50 percent of its grant for public service activities will be prohibited from obligating or expending more than 50 percent of the grant for these activities without prior written approval of HUD.

4. Once all amounts designated for public service activities by States, metropolitan cities, and urban counties are known, HUD will determine the total. The total will be calculated as the sum of:

The amounts designated by States, metropolitan cities and urban counties; plus

50 percent of the funds distributed to Indian tribes ($3.75 million); plus

50 percent of the amount distributed to nonentitled units of general local government in States where HUD will administer the funds.

HUD will then inform in writing each State, metropolitan city, and urban county that designated more than 50 percent of its grant for public service activities as follows:

a. If the total amount of funds designated for public service activities as determined above is $500 million or less, HUD will inform each grantee that it may expend up to, but no more than, the full amount designated for public services activities; or

b. If the total amount of funds designated for public service activities as determined above is more than $500 million, HUD will calculate a pro-rata reduction in that portion of the amount designated for public services of sufficient amount to reduce the total to $500 million, to be applied to each grantee that designated more than 50 percent of its grant from this additional appropriation for public service activities, and will inform each such grantee of the adjusted maximum amount it will be permitted to expend for this purpose.

Indian Tribes

The distribution of $7.5 million appropriated under the Jobs Bill will generally be governed by the procedures at 24 CFR Part 571 [48 FR 11648, March 18, 1983]. Funds will be allocated to HUD field offices responsible for the Indian CDBG program in two steps. First, each of the field offices will receive $750,000. The balance ($3 million) will be allocated on the basis of Indian unemployment and poverty, weighted equally. Within each field office jurisdiction, funds will be distributed based upon a competition which rates projects against the selection criteria in 24 CFR 571.302, giving heavy emphasis to projects which deal with long-term Indian unemployment problems and which show evidence of an ability to be self-sustaining once grant funds have been expended.

HUD-Administered Small Cities Program

The HUD-administered Small Cities program is competitive in nature and the demand for funds exceeds the amount available. Consistent with the objectives and requirements of the Jobs Bill, HUD has tailored the competition and selection critieria to give greater emphasis, "to the extent practicable," to the factor of unemployment as a key objective to be addressed in the granting of funds.

This competition applies in those States which will not administer the State CDBG program for nonentitlement areas in FY 1983. The States opting not to administer the program in FY 1983 to date are Hawaii, Kansas and Maryland. At this time, Florida and New Hampshire have not yet indicated a decision and could possibly be affected by these procedures. All other States have elected to administer the Program, but some have not yet fulfilled the statutory requirements and failure to do so could result in HUD administering the program in those States.

Notwithstanding the competition application process, factors unique to the State of Hawaii, such as the relatively small amount of funds that will be available, and the fact that the only applicants eligible for funding are three counties, make a competitive system inappropriate in that State. Therefore, HUD has determined that the formula used for allocating funds contained in section 106(d)(1)(A) of the Act is a logical and equitable basis for distributing Jobs Bill funds to eligible applicants under the Small Cities Program in Hawaii.

In general, the selection system is designed to identify projects which meet two objectives—rapid job creation in areas suffering unemployment and meaningful impact on a community development need. Applications are rated and ranked on the level of need in the community and the project's effectiveness in rapidly meeting the employment and identified community development needs of the applicant. These selection criteria consist of the following:

Factor	Points
(1) Need—absolute number of poverty persons	50
(2) Need—percent of poverty persons	50
(3) Need—percent of persons currently unemployed (during the most recent month for which final (revised) data is available)	100
(4) Need—average percent of persons unemployed during calendar year 1982	100
(5) Project Effectiveness	300
(6) Minority Business Enterprise	50

Data for factors (1), (2), (3) and (4) above will be supplied by HUD. Direct unemployment estimates will be used if available, and if unavailable, the employment estimates will be generated using the census sharing method. This Bureau of Labor Statistics-approved method produces unemployment estimates for all places for which data from the 1980 Census are available. Data used will be the latest available final (revised) data as of the application deadline established by the Area Office. All applications are evaluated relative to the other applications within the area of competition.

For further information on the procedures to be utilized in the application and selection process, eligible recipients should contact the HUD area office.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations which implement Section 102(2)(c) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

The collection of information requirements contained in this Notice have been submitted to OMB for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Authority: Pub. L. No. 98-8 (97 Stat. 13); Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: May 13, 1983.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 83-13434 Filed 5-18-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official at 202-395-7340.

Title: 30 CFR Part 270, Geothermal Resources Operations on Public, Acquired, and Withdrawn Lands.

Bureau Form Numbers: 9-1955, 9-1956, 9-1957, 9-1958, 9-1960, and 9-1963

Frequency: Nonrecurring, on occasion, and monthly.

Description of Respondents: Lessees and operators of Federal and Indian geothermal leases.

Annual Responses: 865

Annual Burden Hours: 1,790

Bureau Clearance Officer (alternate): Linda Gibbs, 202-653-8853

Dated: April 27, 1983.

James M. Parker,

Acting Director.

[FR Doc. 83-13426 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-84-M

[M-57980-A]

Montana; Partial Termination of Classification State Indemnity Selection

May 11, 1983.

In **Federal Register** Volume 48, Number 79, pages 17400-17403 dated April 22, 1983, various lands in Blaine, Valley, Phillips, Custer and Fallon Counties, Montana, were classified as suitable for transfer to the State of Montana under the State Indemnity Selection Program. These lands were segregated from all forms of entry, except mineral leasing, for a period of two years as of March 28, 1983.

The lands described below have been withdrawn from application for State Indemnity Selection and are no longer classified or segregated from entry under the public land laws, subject to other previously granted rights and restrictions:

Principal Meridian

T. 33 N., R. 23 E.,
Sec. 6, Lots 6 and 7, E½SW¼ and SE¼.
Containing 322.11 acres.

Roland F. Lee,

Chief, Branch of Land Resources.

[FR Doc. 83-13423 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-84-M

[C-34886]

Coal Lease Offering by Sealed Bid

U. S. Department of the Interior, Bureau of Land Management, Colorado State Office, 1037-20th Street, Denver, Colorado 80202. Notice is hereby given that certain coal resources in the lands hereinafter described in Archuleta

County, Colorado will be offered for lease by sealed bid of $465.00 or more per acre to the qualified bidder submitting the highest bid. This offering is being made as a result of an application filed by Chimney Rock Coal Company in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.). The sale will be held at 2:00 p.m., June 14, 1983, in the Fifth Floor Conference Room at the above address. Bids received after 1:00 p.m., June 14, 1983 will not be considered.

Coal Offered: The coal resource to be offered is limited to 2,100,000 tons of coal recoverable by surface mining methods in the following lands located approximately 25 miles southwest of Pagosa Springs, Colorado:

T. 34 N., R. 4 W., NMPM (South of the Ute Line),
Sec. 29, NW¼SW¼;
Sec. 30, W½NW¼NE¼, SE¼NW¼NE¼, and E½NE¼NW¼.

The area described contains 90 acres.

All minable coal beds are ranked as high volatile A bituminous coal according to the American Society in Testing and Materials (Designation D388–66) and have an average as received proximate analysis of about 12,700 Btu/lb, .6 percent sulfur, and 13.2 percent ash.

Surface Owner Consent Information: The NW¼SW¼, Sec. 29 is owned by a qualified surface owner. The purchase price of the surface owner consent is $500.00. Other terms and conditions of the surface owner consent are attached to the Detailed Statement of Lease Sale.

Rental and Royalty: A lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre and a royalty payable to the United States of 12.5 percent of the value of coal produced by surface methods and 8 percent of the value of coal produced by underground methods. The value of the coal shall be determined in accordance with 30 CFR 211.63.

Notice of Availability: Bidding instructions, the terms and conditions of the surface owner consent, and details on the post-sale transfer or assignment of surface owner consent are included in the Detailed Statement of Lease Sale. Copies of the Statement and of the proposed coal lease are available in the Colorado State Office. Case file documents are also available for public inspection on the first floor.

Rodney A. Roberts,

Chief, Mineral Leasing Section.

[FR Doc. 83-13422 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-84-M

[M 58534]

Montana; Invitation Coal Exploration License Application

Members of the public are hereby invited to participate with Peabody Coal Company in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Rosebud County, Montana:

T. 1 N., R. 41 E., P.M.M.,
Sec. 24: All.
640.00 Acres.

Any party electing to participate in the exploration program shall notify, *in writing* both the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107; and Peabody Coal Company, Rocky Mountain Division, 10375 East Harvard Avenue, Suite 400, Denver, Colorado 80231. Such written notice must refer to serial number M 58534 and be received no later than 30 calendar days after publication of this Notice in the **Federal Register** or 10 calendar days after the last publication of this Notice in the Forsyth Independent, whichever is later. This Notice will be published for two consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the District Mining Supervisor, Bureau of Land Management, 2525 4th Avenue North, Billings, Montana, and the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana. The exploration plan is available for public inspection at either of these offices at the addresses given.

Dated May 11,1983.

Robert T. Webb,

Acting Deputy State Director, Division of Mineral Resources.

[FR Doc. 83-13417 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-84-M

[PHX-080325]

Arizona; Order Providing for Opening of Public Lands

May 12, 1983.

1. In an exchange of land made under the provisions of Section 8 of the Act of June 28, 1934 (49 Stat. 1272, as amended, 43 U.S.C. 315g), the following land has been reconveyed to the United States under the serial number listed below:

PHX-080325

T. 1 S., R. 2 W., GSR Mer., Arizona,
Section 32, NE¼.

The area described aggregates 160 acres in Maricopa County.

2. The United States did not acquire the mineral rights on the land described in Paragraph 1.

3. All of the land described in Paragraph 1 has been classified for State Selection purposes. Subject to valid existing rights and the provisions of applicable law, effective upon this publication, the land described in Paragraph 1 is open to application for State Selection under Sections 2275 and 2276, Revised Statutes, as amended 43 U.S.C. 851 and 852.

4. Inquiries concerning the land should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–3706).

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-13424 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-84-M

[U-47390]

Realty Action; Proposed Public Land Sale; Washington County, Utah

Under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) public land described as Lots 12 and 13, sec. 1, T. 43 S., R. 16 W., SLM, Utah, consisting of 13.85 acres will be offered for sale at 2 p.m. on July 28, 1983 at the BLM Dixie Resource Area Office, 24 East St. George Blvd., St. George, Utah.

The sale will be by public auction through competitive bidding to the highest bidder. Bids may be made by a principal or a duly qualified agent by either sealed or oral bids or both. The minimum acceptable bid is $13,850.00. Bids shall be accompanied by payment for not less than one-fifth of the amount of the bid.

About 77 percent of the land is located in the floodplain of the Santa Clara River.

The sale and subsequent title to the land will be subject to the following conditions, reservations, and restrictions:

1. All valid existing rights.

2. A right-of-way thereon for ditches and canals constructed by the authority of the United States.

3. A right-of-way, U–6724, for a water pipeline.

4. All minerals in the land will be reserved to the United States.

5. Cultural resources in two sites identified by a "Summary Report of Inspection for Cultural Resources" dated February 24, 1982 shall be reserved to

the United States, and the purchaser will be responsible for the protection or excavation of two cultural resource sites located on the tract, as directed by BLM.

6. Buildings will not be allowed in the floodplain area up to an elevation of 2,580.4 feet above sea level.

Detailed information concerning the Land Report/Environmental Assessment and procedures, terms, and conditions pertaining to the sale may be obtained at the Dixie Resource Area Office, 24 East St. George Boulevard, St. George, Utah 84770.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Cedar City BLM District Office, 1579 North Main, P.O. Box 724, Cedar City, Utah 84720. Comments will be evaluated, and the District Manager may vacate or modify this realty action. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: May 16, 1983.

Morgan S. Jensen,

District Manager.

[FR Doc. 83-13420 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-84-M

[W-79576]

Rescheduled Sale of Public Lands in Sweetwater County, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of Public Lands in Sweetwater County, Wyoming Rescheduled (W-79576).

SUMMARY: Notice is hereby given that the competitive sale of the following described public lands which was initially scheduled for November 17, 1982, will be conducted on June 22, 1983, at 2:00 p.m. The land will be offered for sale at public auction for no less than the appraised fair market value shown.

Sixth Principal Meridian, Wyoming

Township 18 North, Range 105 West, Section 18:

Parcel No., Legal description, Acreage, and Value

1—Lot 5, N½NE¼, NE¼NW¼, 157.22, $220,000.00
2—Lot 6, S½NE¼, SE¼NW¼, 157.23, $287,500.00

The sale will be held at the Rock Springs City Hall, 212 D Street, Rock Springs, Wyoming.

All other parts of the original notice (FR Vol. 47, No. 177/Monday, September 13, 1982/Notices pgs. 40238—40239) are the same.

Robert W. Bierer,

Area Manager.

[FR Doc. 83-13418 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-84-M

Reassessment of Wilderness Inventory Decision; Idaho

Notice is hereby given that the Idaho State Office of the Bureau of Land Management will be reassessing the wilderness inventory decision as it relates to Inventory Unit ID-111-5, Poison Gulch.

This unit, located in the Boise District, was declared as lacking in wilderness characteristics in the wilderness inventory decision of November 1980. That decision was protested then appealed to the Interior Board of Land Appeals (IBLA).

On April 14, 1983, IBLA ruled that the inventory decision for Unit ID-111-5 be set aside and remanded. The Idaho State Office will review the wilderness inventory files and the IBLA decisions, and will issue a revised final inventory decision on the unit by August 1983.

For Further Information Contact: George H. Weiskircher, Bureau of Land Managment, Idaho State Office, 3380 Americana Terrace, Boise, ID 83706.

Dated: May 10, 1983.

John S. Davis,

Deputy State Director for Lands and Renewable Resources.

[FR Doc. 83-13425 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-84-M

[C-26365]

Colorado; Order Opening Lands Withdrawn for Power Projects 347 and 418

May 11, 1983.

The Federal Energy Regulatory Commission (formerly Federal Power Commission) issued an order dated January 23, 1978, (FR Doc. 78-2336) vacating in their entirety orders which withdrew lands for Project Nos. 347 and 418. These orders affected the following described public and national forest lands:

Project No. 347

Sixth Principal Meridian

T. 3 N., R. 71 W.,
Sec. 24, NW¼NE¼.

Roosevelt National Forest

T. 3 N., R. 71 W.,
Sec. 19, lot 2, S½NE¼, SE¼NW¼, NE¼SE¼;
Sec. 20, NW¼SW¼, NE¼SE¼;
Sec. 21, S½NW¼.
T. 2 N., R. 72 W.,
Sec. 4, NW¼SE¼;
Sec. 5, lot 2, SW¼NE¼, SE¼NW¼, N½SW¼, SW¼SW¼;
Sec. 7, E½SE¼;
Sec. 8, SW¼SW¼;
Sec. 18, E½NE¼.
T. 3 N., R. 72 W.,
Sec. 18, lots 8, 9, 10, 17;
Sec. 19, lots 1, 2, N½NE¼, SW¼NE¼, E½NW¼;
Sec. 21, lots 8 thru 10, 11, 14, 15;
Sec. 23, lot 13, S½NE¼, SE¼NW¼, E½SW¼, N½SE¼;
Sec. 24, NW¼NE¼, S½NE¼, S½NW¼, N½S½;
Sec. 28, lots 1, 8, 9;
Sec. 34, SE¼NE¼;
Sec. 35, W½NW¼.
T. 2 N., R. 73 W., sec. 13, NE¼SE¼, S½SE¼.
T. 3 N., R. 73 W.,
Sec. 12, S½SW¼, SE¼SE¼;
Sec. 23, SW¼NW¼;
Sec. 24, NE¼.

The areas described aggregate approximately 2,850 acres of public and forest land which withdrawn by Power Project 347.

Project No. 418

Roosevelt National Forest

T. 3 N., R. 72 W.,
Sec. 17, lots 8, 15;
Sec. 19, lot 12;
Sec. 20, lots 1 thru 4;
Sec. 21, lots 1 thru 7;
Sec. 22, lots 3 thru 7;
Sec. 23, lot 12.

The areas described aggregate approximately 808 acres of forest lands which were withdrawn by Power Project 418.

4. Therefore, at 10:00 a.m., on June 16, 1983, the public lands in paragraph one shall be open to operation of the public land laws generally, subject to any valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The State of Colorado has waived its preference right for highway right-of-way or material sites on these public lands as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

5. Therefore, at 10:00 a.m., on June 16, 1983, the national forest land described in paragraphs two and three shall be open to such forms of disposition as may by law be made of national forest land, subject to valid existing rights.

6. Any valid applications received prior to the opening time and date shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

7. The lands within these power projects have been and remain open to mineral leasing and to location and entry under the U.S. mining laws, excepting any lands which may be withdrawn by other orders and would remain segregated by those orders.

Inquiries concerning these lands should be directed to the Chief, Lands and General Mining Law Section, Bureau of Land Management, 1037—20th Street, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-13421 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-05080]

Idaho; Termination of Proposed Withdrawal and Reservation of Lands

Notice of an application, serial number I-05080, for withdrawal and reservation of lands was published as **Federal Register** Document No. 55-10237 on page 9868 of the issue for December 22, 1955. The applicant agency has cancelled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2091, such lands will be at 9:00 a.m. on June 17, 1983, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

Boise Meridian

T. 6 S., R. 5 E.,
Sec. 17, NW¼NE¼.

The area described aggregates 40 acres in Owyhee County.

William E. Ireland,

Chief, Lands Section.

[FR Doc. 83-13419 Filed 5-18-83; 8:45am]

BILLING CODE 4310-84-M

[OR 13713]

Oregon; Proposed Reinstatement of Terminated Oil and Gas Lease

1. Pursuant to the provisions of Pub. L. 91-245 and Title 43 Code of Federal Regulations, § 31.08.2-1(c), and Pub. L. 97-451, a petition for reinstatement of oil and gas lease, OR 13713, has been received covering the following lands:

Willamette Meridian

T. 4 N., R. 3 W.,
Sec. 5, All;
Sec. 7, N½NE¼, SE¼, SE¼NE½, SE¼;
Sec. 17, NE¼, S½NW¼, S½.
T. 5 N., R. 3 W.,
Sec. 31, E½.

(1,826.90 acres)

2. The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5.00 per acre per year, and royalty increased to 16⅔ percent beginning on the reinstatement date.

3. Lessee will reimburse the Department $500.00 for administrative costs and for the cost of the notice published in the **Federal Register.**

Dated: May 12, 1983.

Harold A Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-13472 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting Jane Roberts at 703-860-7916. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Office of Management and Budget Interior Desk Officer at 202-395-7340.

Title: Notice of Processing of Geophysical and Geological Information, 30 CFR 251.11 and 251.12.
Bureau Form Number: N/A
Frequency: Nonrecurring
Description of Respondents: Federal Outer Continental Shelf Permittees
Annual Responses: 400
Annual Burden Hours: 20,800
Bureau Clearance Officer: Dorthy Christopher, 703-435-6213

Dated: April 20, 1983.

Robert L. Rioux,

Associate Director for Offshore Minerals Management, Minerals Management Service.

[FR Doc. 83-13427 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS-G 2323 and 2324, Blocks 360 and 361, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedues are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 12, 1983.

John L. Rankin,

Acting regional Manager Gulf of Mexico OCS Region.

[FR Doc. 83-13407 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in Outer Continental Shelf; Exxon Company, U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS-G 4451 and 4452, Blocks 181 and 182, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9

a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002. Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 12, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-13405 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Superior Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that The Superior Oil Company, has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0247, Block 102, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Mineral Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Mineral Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulation.

Dated: May 11, 1983

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-13468 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Tenneco Oil Exploration and Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3584, Block 170, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Mineral Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 12, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-13406 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; CNG Producing Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that CNG Producing Company has submitted a Development and Production Plan describing the activities it proposes to conduct of Lease OCS–G 3969, Block 478, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70003, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 14, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-13474 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Mobil Oil Exploration and Producing Southeast, Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Mobil Oil Exploration and Producing

Southeast Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2838, Block 343, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Record, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 13, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-13475 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulpur Operations in the Outer Continental Shelf; Chevron U.S.A., Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Chevron U.S.A., Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3410, Block 352, Eugene Island Area, Offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 14, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-13476 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries about the following to Team 1.

Volume No. OP1–168

Decided: May 10, 1983.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing. Member Ewing not participating.

MC 142421 (Sub-2), filed April 22, 1983. Applicant: ARMORED TRANSPORT OF NEVADA, INC., 1612 West Pico Blvd., Los Angeles, CA 90015. Representative: John C. Russell, 1545 Wilshire Blvd., Suite 606, Los Angeles, CA 90017; (213) 483–4700. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 167600, filed April 25, 1983. Applicant: CLARK A. BREVIG and JOAN K. BREVIG, d.b.a. BREVIG LAND, LIVE & LUMBER, Rural Route 2, Box 2233, Lewistown, MT 59457. Representative: Clark A. Brevig (same address as applicant), (406) 538–5579. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167701, filed April 28, 1983. Applicant: COUNCIL BLUFF TRUCK BROKERAGE, INC., 3211 Nebraska Ave., Council Bluffs, LA 51501. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OP1–176

By the Commission Review Board No. 3. Members Krock, Joyce and Dowell.

MC 127610 (Sub-11(B)), filed May 2, 1983. Applicant: J. P. NOONAN TRANSPORTATION, INC., 436 West St., West Bridgewater, MA 02379. Representative: J. Peter Noonan (same address as applicant), (617) 588–8026. Transporting *chemicals and related products, ores and minerals, and clay, concrete, glass or stone products,* between points in the U.S. (except AK and HI), under continuing contract(s) with White Pigment Corporation of Florence, VT, and OMYA, Inc., of Proctor, VT.

Note.—Applicant has concurrently filed common carrier authority docketed MC–127610(A), published in the same **Federal Register** issue.

MC 147400 (Sub-13), filed May 3, 1983. Applicant: RAEMARC, INC., 1903 Chicory Road, Racine, WI 53405. Representative: Thomas M. O'Brien, 180 N. Michigan Avenue, Suite 1700, Chicago, IL 60601, (312) 263–1600. As a *broker* or *genreal commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167750, filed May 2, 1983. Applicant: CHESHIER BUSINESS SERVICES, 72 South La Grange Rd., Suite 9, La Grange, IL 60525. Representative: Lehman L. Cheshier (same address as applicant), (312) 354–9266. As a *broker*, of *general commodities* (except household goods), bewteen points in the U.S.

MC 167760, filed May 3, 1983. Applicant: EDWARD P. SCHOLL, P.O. Box 58, Seabrook, NJ 08302. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team 2 at (202) 275–7030.

Volume No. OP2–213

Decided: May 6, 1983.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing. Member Ewing not participating.

MC 117142 (Sub-7), filed April 26, 1983. Applicant: AMERICAN TRAILER HAUL, INC., 1257 Piedmont Rd., Marietta, GA 30062. Representative: John P. Tucker, Jr., Suite 222, Lenox Towers So., 3390 Peachtree Rd., NE., Atlanta, GA 30326, 404–231–3583. Transporting, (1) for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except HI); and (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 29592 (Sub-18), filed April 27, 1983. Applicant: ARROW STAGE LINES, INC., 720 East Norfolk Ave., Norfolk, NE 68701. Representative: D. Douglas Titus, 340 Insurance Exchange Bldg., Sioux City, IA 51101, 712–277–1434. Transporting *passengers, their baggage, newspapers and express packages,* in the same or separate motor vehicles, in special and charter operations, between points in the U.S. (except HI), under continuing contract(s) with Allied Tours, Inc., d.b.a. Allied Tours and Travel, of Norfolk, NE.

MC 159033 (Sub-2), filed April 29, 1983. Applicant: CUMBERLAND LIMOUSINE SERVICE, INC., P.O. Box 1477, 1501 Ford Ave., Cumberland, MD 21502. Representative: Robert D. Fansler, (same address as applicant), 301–759–4929. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 163263 (Sub-1), filed April 27, 1983. Applicant: LOYD McCORD, INC., P.O. Box 173, Springdale, AR 72764. Representative: Loyd McCord (same address as applicant), 501–751–3221. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, sensitive weapons and munitions), between points in the U.S.

MC 163882 (Sub-1), filed April 26, 1983. Applicant: SCORPIO BUS TOURS, INC., P.O. Box 148, Richboro, PA 18945. Representative: Dennis Dean Kirk, Suite 929, Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004, 202–347–2857. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167603, filed April 22, 1983. Applicant: LUPE DELACRUZ, d.b.a. LUPE DELACRUZ & SONS, Box 38, Hendrum, MN 56550. Representative: Lupe Delacruz Sr. (same address as applicant), (218) 236–6890 or 861–6179). Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167612, filed April 25, 1983. Applicant: SUNCOAST ENTERPRISES, INC., 3153 Bankhead Hwy., P.O. Box 93216, Atlanta, GA 30318. Representative: C. Jack Pearce, 1000

Conn. Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0048. As a *broker of general commodities* (except household goods) between points in the U.S. (except AK and HI).

MC 167693, filed April 28, 1983. Applicant: TOM LANGE COMPANY, INC., 5231 South Sixth St., P.O. Box 4701, Springfield, IL 62708. Representative: Kevin B. McCarthy, 710 South Second St., 2nd Floor, Springfield, IL 62705, (217) 544–4800. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 167712, filed April 28, 1983. Applicant: EAST-WEST CONSOLIDATORS, INC., P.O. Box 160, Glen Burnie, MD 21061. Representative: Maxwell A. Howell, 2554 Mass. Ave., NW., Washington, DC 20008, (202) 483–8633. As a *broker of general commodities* (except household goods, between points in the U.S.

MC 167713, filed April 28, 1983. Applicant: MICHAEL C. BEACH, d.b.a. MICHAEL C. BEACH TRUCKING, 37107 Rock Hill Dr., Lebanon, OR 97355. Representative: Catherine E. Beach (same address as applicant), (503) 451–2374. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditions* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167722, filed April 29, 1983. Applicant: COMMERCIAL CARGO INSURANCE BROKERAGE, INC., d.b.a. COMMERCIAL CARGO BROKERAGE, 24985 Sutter, Laguna Hills, CA 92653. Representative: Wallace Warren Nevitt (same address as applicant), (714) 855–0438. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP2–221

Decided: May 9, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 167592, filed April 25, 1983. Applicant: UNITED COURIERS, INC., 3021 Gilroy St., Los Angeles, CA 90039. Representative: John C. Russell, 1545 Wilshire Blvd., Suite 606, Los Angeles, CA 90017, (213) 483–4700. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 167702, filed April 28, 1983. Applicant: NIXON BUS SERVICE, INC., 7745 Hartwell Rd., Glen Burnie, MD 21061. Representative: Mrs. Willie L. Nixon (same address as applicant), (301) 255–3978. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

Volume No. OP2–222

Decided: May 11, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 81733 (Sub-1), filed April 22, 1983. Applicant: WM. H. JELLY & CO., INC., 1060 Broadway, Bayonne, NJ 07002. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, 212–239–4610. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC–110923 (Sub-14), filed April 18, 1983. Applicant: ALBERT LIVEK, d.b.a. AL LIVEK'S TRUCKING SERVICE, 808 Harrison St., Kewanee, IL 61443. Representative: Edward D. McNamara, Jr., Leslieann G. Maxey, 907 South Fourth St., P.O. Box 5039, Springfield, IL 62705, (217) 528–8476. Transporting *food and other edible products and byproducts* intended *for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 157953 (Sub-1), filed May 3, 1983. Applicant: CUSTOMER COACH SERVICE, 1945 Hilfiker Lane, Eureka, CA 95501. Representative: Fred R. Covington, 2150 Franklin St., Suite 554, Oakland, CA 94612, 415–893–4102. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167743, filed May 2, 1983. Applicant: SYKES CONTINENTAL TOURS, INC., 8439 Allenswood Rd., Randallstown, MD 21133. Representative: David Bruce Sykes, (same address as applicant), 301–655–3923. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167792, filed May 4, 1983. Applicant: GERALD F. WILLIAMS, d.b.a. JERRY WILLIAMS TRUCKING, Rte. 1, Box 12, Arena, WI 53503. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705–0086, 608–238–3119. Transporting *food and other edible products and byproducts intended for human consumption* (except alocholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team 3 at (202) 275–5223.

Volume No. OP3–210

Decided: May 11, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 114555 (Sub-2), filed April 28, 1983. Applicant: EUREKA-REDDING STAGES, INC., d.b.a. REDWOOD EMPIRE LINES, P.O. Box 4725, Redding, CA 96099. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 118474 (Sub-14), filed April 29, 1983. Applicant: AIR VAN LINES, INC., 1280 116th Ave. NE. Bellevue, Wa 98004. Representative: Thomas N. Chewning, (same address as applicant), (206) 453–5560. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service, on behalf of the Department of Defense, between points in the U.S. (except HI).

MC 141324 (Sub-4), filed April 25, 1983. Applicant: CHENANGO VALLEY BUS LINES, INC., 17 Franklin Turnpike, Mahwah, NJ 07430. Representative: Michael J. Marzano, 99 Kinderkamack Rd., Westwood, NJ 07675, (201) 666–5111. Over *regular routes*, transporting *passengers*, between Oneonta, NY, and junction NY Hwy 206 and NY Hwy 17 at or near Roscoe, NY: From Oneonta, NY over NY Hwy 28 to junction NY Hwy 10, then over NY Hwy 10 to junction NY Hwy 206, then over NY Hwy 206 to junction NY Hwy 17 at or near Roscoe, NY and return over the same route, serving all intermediate points.

Note.—(1) Applicant seeks to provide regular-route service in interstate of foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route. (2) Applicant intends to tack this authority to its existing authority.

MC 165994 (Sub-1), filed May 2, 1983. Applicant: YELLOW BOLT EXPRESS, INC., 1604 S. Vineyard, Ontario, CA 91761. Representative: Earl N. Miles,

3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872–1106. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 167655, filed April 27, 1983. Applicant: ADVANCED TRAFFIC SERVICES, INC., 32261 Camino Capistrano, Suite D103C, San Juan Capistrano, CA 92675. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036, (202) 785–0024. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167704, filed April 27, 1983. Applicant: BONNIE L. PAULLUS TRUCK BROKERAGE, INC., 305 Linden Way, Heppner, OR 97836. Representative: Philip G. Skofstad, 529 SE. Grand Avenue, Portland, OR 97214, (503) 239–4157. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP3–214

Decided: May 11, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 167514, filed April 18, 1983. Applicant: TOWN AND COUNTRY TRANSPORTATION COMPANY, a Corporation; 46 Washington St., New Britain, CT 06051. Representative: Andrew P. Lemnotis (same address as applicant), (203) 229–7795. Transporting *passengers*, in charter and special operations, beginning and ending at points in CT, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded special and charter transportation.

MC 167675, filed April 26, 1983. Applicant: JOHN F. BISHOP, d.b.a. HUDDLESTON & BISHOP ENTERPRISES, 101 Allen Drive, San Bruno, CA 94066. Representative: John F. Bishop (same address as applicant), (415) 355–9285. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167684, filed April 28, 1983. Applicant: RFK TRANSPORTATION, P.O. Box 14763, Las Vegas, NV 89114. Representative: Lyle Gerdemann (same address as applicant), 1–800–553–8491. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to team 4 at (202) 275–7669.

Volume No. OP4–294

Decided: May 11, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 167746, filed May 2, 1983. Applicant: BIRKIE FREIGHT BROKERS, INC., 15396 Monterosa, Granger, IN 46530. Representative: Paul D. Borghesani, Suite 300, Communicana Bldg., 421 South Second St., Elkhart, IN 46516, (219) 293–3597. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP4–295

Decided: May 12, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 164496, filed May 2, 1983. Applicant: Skylark Van Service, Inc., Avenue H Branch Exchange, Bldg. 642, Sheppard Air Force Base, TX 76311. Representative: Charles E. Perry, 807 7th St., Wichita Falls, TX 76301, (817) 322–8012. Transporting *passengers*, in special operations, between Altus, OK, Wichita Falls, Dallas, and Fort Worth, TX.

Note.—Applicant seeks to provide privately funded special transportation.

Volume No OP4–297

Decided: May 12, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 111346 (Sub-6), filed May 6, 1983. Applicant: Wade Bus Lines, Inc., 716 W 2nd St., Ogallala, NE 69153. Representative: Jack L. Schultz, P.O. Box 82028, Lincoln, NE 68501–2028, (402) 475–6761. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note:—Applicant seeks to provide privately-funded charter and special transportation

MC 120737 (Sub-103), filed May 4, 1983. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James C. Hardman, 33 N LaSalle St., Chicago, IL 60602, (312) 236–5944. Transporting *general commodities*, between Algonquin, Carpentersville and East Dundee, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at the specified points.

Note:—To the extent this proceeding grants the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 142747 (Sub-5), filed May 4, 1983. Applicant: TATECO, INC., No. 1, Cheddar Lane, Valley City, IL 62340. Representative: Peter A. Greene, 1920 N St., NW. Suite 700, Washington, DC 20036, (202) 331–8800. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 167806, filed May 4, 1983. Applicant: INDIANAPOLIS YELLOW CAB, INC. 3801 W. Morris St., Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46204, (317) 846–6655. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note: Applicant seeks to provide privately funded charter and special transportation.

MC 167807, filed May 5, 1983. Applicant: JAY'S TRANSPORTATION SERVICE, INC., 1510 Whitelock St., Baltimore, MD 21217. Representative: John M. Johnson (same address as applicant), (301) 225–7666. Transporting *passengers*, in charter and special operations, between points in MD, PA, NJ, NY, CT, MA, OH, MI, WV, VA, NC, SC, AL, GA, FL, AND DC.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167816, filed May 4, 1983. Applicant: DuPAGE MOTOR COACH, INC., Poss and Western Aves., Glen Ellyn, IL 60137. Representative: Robert J. O'Brien, 2351 E. 170th St., S. Holland, IL 60473, (312) 474–6404. Transporting *passengers*, in charter and special operations, beginning and ending at points in IL, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167836, filed May 4, 1983. Applicant: JAMES MORGAN, LTD., d.b.a. POINTS EAST TRANSPORT, 8301 Florence Ave., Downey, CA 90240. Representative: James M. Hodge (same address as applicant), (213) 862–3527. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167876, filed May 9, 1983. Applicant: FOREIGN TRADE EXPORT PACKING CO., 1350 Lathrop St., Houston, TX 77020. Representative: Creighton M. Hatz (same address as applicant), (713) 672–8211. As a *broker*

of general commodities (except household goods), between points in the U.S.

MC 167867, filed May 9, 1983. Applicant: DOUGLAS L. FUGATE, 4717 SE. Jennings, Milwaukie, OR 97222. Representative: Douglas L Fugate (same address as applicant), (503) 659–8150. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 167877, filed May 9, 1983. Applicant: WILLIAM F. POOLE, 22 Knollwood Circle, North Kingstown, RI 02852. Representative: William F. Poole (same address as applicant), (401) 885–0474. As a *broker of general commodities* (except household goods), between points in the U.S.

Please direct status inquiries about the following to team 5 at (202) 275–7289.

Volume No. OP5–231

Decided: May 10, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing. Member Ewing not Participating.

MC 12618 (Sub-2), filed April 25, 1983. Applicant: MULTI-CARRIER SERVICE, IND., 215 Union St., Hackensack, NJ 07601. Representative: Edward F. Bowes, P.O. Box Y, Roseland, NJ 07068 (201) 992–2200. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except HI).

MC 130089 (Sub-2), filed April 29, 1983. Applicant: PRAIRIELAND TOURS AND TRAVEL, INC., 202 Eldorado Road, Bloomington, IL 61701. Representative: Robert T. Lawly, 300 Reisch Bldg., Springfield, IL 62701, (217 544–5468 Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 136788 (Sub-1(b), filed March 17, 1983. Applicant: SALEM TRANSPORTATION COMPANY OF NEW JERSEY, INC., 133–03 35 Ave., Flushing, NY 11354. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10017 (212) 755–9500. Transporting *passengers,* in special or charter operations, between point in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation. Applicant seeks additional authority in MC-136788 Sub 1 (a) published in this same **Federal Register.**

MC 151789 (Sub-2), filed April 28, 1983. Applicant: EASTERN CARRIERS, INC., P.O. Box 8492, Station A, Greenville, SC 29604. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions, between points in the U.S. (except AK and HI).

MC 153458 (Sub-2), filed April 28, 1983. Applicant: EL PASEO TOURS, INC., 298 Whitney St., Chula Vista, CA 92010. Representative: Steve L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167688, filed April 28, 1983. Applicant: CENTRAL STATES BROKER SERVICES CO., 5101 South Lawndale Ave., P.O. Box 450, Summit, IL 60501–0450. Representative: Edward G. Bazelon, 135 South La Salle Street, Chicago, IL 60603, (312) 236–9375. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 167719, filed April 29, 1983. Applicant: ROBERT E. REED, d.b.a. LONG LINE TRUCKING, 526 14th Street, Sparks, NV 89431. Representative: Robert E. Reed (same address as applicant), (702) 331–1471. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 167738, filed May 2, 1983. Applicant: DOUGLAS ROGER McVEY, d.b.a. EAU CLAIRE FREIGHT BROKERS, 103 Wisconsin St., PO Box 303, Eau Claire, WI 54701. Representative: Douglas Roger McVey (same address as applicant), (715) 835–2028. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OP5–233

Decided: May 11, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 167469, filed May 4, 1983. Applicant: GLOBE TREKS, INC., 247 Fifth Avenue West, Hendersonville, NC 28739. Representative: Frank T. Schell (same address as applicant), (704) 693–0724. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167708, filed April 29, 1983. Applicant: JONES BUS SERVICE, INC., 4410 Bowley's Lane, Baltimore, MD 21206. Representative: Raynard W. Jones (same address as applicant), (301) 325–9098. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167758, filed May 3, 1983. Applicant: WEST MILTON & DAYTON BUS LINE, INC., 6121 Janice Place, Dayton, OH 45415. Representative: Edgar M. Hymans, 1587 Elizabeth Place, Cincinnati, OH 45237, (513) 242–7681. Transporting *passengers,* in special and charter operations, beginning and ending at points in OH, IN, and KY, and extending to points in the U. S. (except HI).

Note.—Applicant seeks to provide privately funded special and charter transportation.

MC 167769, filed May 3, 1983. Applicant: W. G. CARROLL & CO., INC., P.O. Box 20729, 3400 Interloop Rd., Atlanta, GA 30320. Representative: W. S. Ansley, Jr. (same address as applicant), (404) 761–2929. As a *broker* of *general commodities* (except household goods), between points in the U. S.

MC 167778, filed May 3, 1983. Applicant: AUDIE and JUDY ANN MILLS, d.b.a. MILLS TRUCKING, 299 Toneff Drive, P.O. Box 3038, Waterloo, IA 50707. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U. S. (except AK and HI).

MC 167789, filed May 4, 1983. Applicant: KIRKWIL SYSTEMS, INC., 777 Dowd Ave., Elizabeth, NJ 07201. Representative: A. David Millner,7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–13437 Filed 5–18–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Proposed Exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982.

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Warren Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich

Secretary.

Volume No. OP2–225

Decided: May 13, 1983.

MC–F–15248, filed April 22, 1983. DAVID E. MAGILL AND THOMAS A. MAGILL (12681 Route 30, P.O. Box 369, Irwin, PA 15642)—continuance in control—LINCOLN COACH LINES AND LINCOLN COACH TRAVEL, INC., (address same as applicants). Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108–1166. David E. Magill and Thomas A. Magill (applicants), the majority stockholders of Lincoln Coach Lines (Lincoln Lines) and Lincoln Coach Travel, Inc. (Lincoln Travel) seek authority to continue in control of Lincoln Lines and Lincoln Travel upon institution of operations by Lincoln Travel, in interstate and foreign commerce, as a motor common carrier. Applicants control Lincoln Coach Lines, a motor common carrier under a certificate issued in MC–120083 and sub-numbers which authorizes generally the transportation of passengers: over regular routes from Oil City and Warren, PA, via Butler to Pittsburgh, PA, and from Pittsburgh, to Bedford, PA, and to Cumberland, MD; and between points in the United States; and a motor contract carrier under MC–120083 Sub-No. 10 which authorizes the transportation of passengers and their baggage in charter operations, between points in the United States, under contract with Lincoln Travel.

Notes.—(1) Lincoln Travel filed its initial common carrier application in MC–157167 (Sub-No. 1) which was published in the **Federal Register** on January 21, 1983, for authority to transport passengers, in charter and special operations, between points in the United States. (2) As a condition to a grant of that authority, applicants were required to file this continuance in control application or submit an affidavit indicating why such approval is unnecessary.

Volume No. OP3–217

Decided: May 11, 1983.

MC–F–15174, BOB ROBERTS—purchase exemption—SHOEMAKER TRUCKING COMPANY (Loren Wetzel, trustee-in-bankruptcy). Bob Roberts, an individual (operating under MC–163522) seeks an exemption from the requirement under section 11343 of prior regulatory approval for his purchase of a portion of the operating rights of Shoemaker Trucking Company (MC–138875) found in its Sub-Nos. 308, 309X [paragraph (m)], and 312X [paragraphs (1), (16), (34), and (52)]. Shoemaker also proposes to transfer the underlying authorities, namely, its Sub-Nos. 107F, 85F, 188F, 56, and a portion of its Sub-No. 1. These certificates authorize the transportation of various commodities used in building and construction between various points in the Northwest and Midwest, largely, and groceries and foodstuffs between several Idaho and Oregon Counties and other western points. Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's representative: David E. Wishney, P.O. Box 837, Boise, ID 83701–0837. Comments should refer to No. MC–F–15174.

Volume No. OP3–219

Decided: May 13, 1983.

MC–F–15246, DAMEO TRUCKING, INC.—merger—BROCKWAY FAST MOTOR FREIGHT, INC. Brockway Fast Motor Freight, Inc. seeks an exemption from the requirement under section 11343 of prior regulatory approval for its merger into Dameo Trucking, Inc. Brockway is a motor common carrier of property operating under certificate No. MC–119944 and related subs which is now owned and controlled by Daniel Dameo. If the proposed merger is consummated, Brockway will be merged into Dameo Trucking, a motor contract carrier of property operating under Permit No. MC–2359 and related subs and now owned and controlled by Rocque Dameo (who is Daniel Dameo's brother). Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's representative, Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Comments should refer to MC–F–15246.

MC–F–15251, PRESTO TRANSPORTATION, INC.—purchase exemption—SHOEMAKER TRUCKING COMPANY (Loren Wetzel, trustee-in-bankruptcy). Presto Transportation, Inc. (Presto) (No. MC–157763) and Shoemaker Trucking Company (Shoemaker) (No. MC–138875) (acting by Loren Wetzel, its trustee in bankruptcy) seek an exemption from the requirement under section 11343 of prior regulatory approval for the purchase by Presto of a portion of the operating rights of Shoemaker. Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's representative, David E. Wishney, Attorney at Law, P.O Box 837, Boise, ID 83701. Comments should refer to MC–F–15251.

Volume No. OP3–220

Decided: May 13, 1983.

MC–F–15273, WHITEHALL TRANSPORT, INC.—purchase exemption—FIFTH WHEEL TRUCKING, INC. Petitioners seek an exemption from the requirement under section 11343 of prior regulatory approval for the purchase of the operating rights of Fifth Wheel (No. MC–149184) by Whitehall (No. MC–144057). The operating rights of Fifth Wheel to be purchased are contained in its Certificate No. MC–149184 and Sub-No. 1. Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioners' representative, Joseph E. Ludden, McDonald, Ludden & Munson, Ltd., 2707 South Avenue, P.O. Box 1567, La Crosse, WI 54601. Comments should refer to MC–F–15273.

[FR Doc. 83–13436 Filed 5–18–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30143]

Rail Carriers: Seattle & North Coast Railroad Company; Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the issuance of various

notes and 50,000 shares of no par value common stock by Seattle & North Coast Railroad Company.

DATES: Exemption effective on June 20, 1983. Petitions to stay must be filed by May 31, 1983. Petitions for reconsideration must be filed by June 8, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30143 to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Fritz R. Kahn Suite 1100, 1660 L Street NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: May 10, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary

[FR Doc. 83-13435 Filed 5-18-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice.[1] These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transporation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to instutute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No. and specifics	Review Board [1]	Decided date
923	Southern Pacific Transportation Co., ICC-SP-C-0355, Supplement 2, (Petroleum).	3	5-12-83
924	The Pittsburgh and Lake Erie Railroad Co., ICC-PLE-C-0106, (Bituminous steam coal) via Post of Ashtabula Harbor, OH.	1	5-12-83
926	Southern Railway Co., ICC-SOU-C-7022, (Bituminous coal).	3	5-12-83
927	The Pittsburgh and Lake Erie Railroad Co., ICC-PLE-C-01, Supplement 3, (Iron or steel billets).	1	5-12-83
929	Missouri Pacific Railroad Co., ICC-MP-C-0360, (Urea) via Ports of New Orleans, LA, Port Allen, LA, and Corpus Christi, TX.	3	5-12-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13282 Filed 5-18-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Bureau of Justice Statistics

Analysis and Financial Support; Data Analysis Program

In accordance with the Justice System Improvement Act of 1979 (42 U.S.C. Section 302), the Bureau of Justice Statistics announces its "Data Analysis Program" offering financial support for the analysis of Bureau of Justice Statistics data on crime, victims, offenders, and criminal justice administration. A concept paper is required to make application. The concept paper must be postmarked no later than August 1, 1983. Public agencies, institutions of higher education, private organizations, and private individuals may apply.

Concept papers will be reviewed by a joint panel of Bureau staff and consultants. The panel will evaluate each concept paper's scientific and practical merits. The Bureau is particularly interested in concept papers proposing to address any of the following topics through analyses of Bureau data: criminal victimization, career criminals and recidivism, community-based corrections (probation and parole), the deterrent and incapacitative effect of incarceration, plea bargaining, bail reform, court caseload, court delay reduction, and the exclusionary rule. the Bureau is also interested in analyses relevant to methodological improvements in its existing statistical series, and analyses relevant to the development of new statistical series.

As a rough guide, the program is targeted for small-scale projects that can be completed within six- to nine-months time. A maximum of perhaps fifteen projects, each funded at around the $50,000 level, is envisioned. (In exceptional situations, projects of a longer duration and at a higher amount may be funded, as may projects using data other than those of the Bureau of Justice Statistics).

Copies of the "Data Analysis Program" *Solicitation* may be obtained by calling (313/763-5010) or writing: Ms. Janet Vavra, Criminal Justice Archive and Information Network, ICPSR, P.O. Box 1248, Ann Arbor, Michigan 48106.

Dated: May 5, 1983.

Approved:

Steven R. Schlesinger,

Director, Bureau of Justice Statistics.

[FR Doc. 83-13471 Filed 5-18-83; 8:45 am]

BILLING CODE 4410-18-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

Arkansas Power & Light Co. (Arkansas Nuclear One, Unit No. 1); Exemption

I

Arkansas Power and Light Company (AP&L or the licensee) is the holder of Facility Operating License No. DPR-51, which authorizes the operation of Arkansas Nuclear One, Unit 1 (the facility). The facility consists of a pressurized water reactor (PWR).

[1] Note Tariff supplements advancing contract's effective date shall refer to these decisions for authority.

located at the licensee's site in Russellville, Arkansas.

The license is subject to all rules and regulations of the Nuclear Regulatory Commission (the Commission).

II

10 CFR 50.48, "Fire Protection", and Appendix R to 10 CFR Part 50, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979" set forth certain specific fire protection features required to satisfy the General Design Criterion related to fire protection (Criterion 3, Appendix A to 10 CFR Part 50).

Section III.L requires that the alternative and dedicated shutdown capability provided for a specific fire area be able to achieve cold shutdown conditions within 72 hours without the use of offsite power.

III

By letter dated December 28, 1982, as supplemented by letter dated February 11, 1983, the licensee requested exemption from the specific requirements of Appendix R, Section III.L, which requires that the plant be capable of achieving cold shutdown within 72 hours without the use of offsite power. The acceptability of this request is addressed below.

IV

Without offsite power, the reactor coolant pumps cannot be operated and, therefore, the auxiliary pressurizer spray capability is lost. The licensee has indicated that the facility is unable to achieve cold shutdown within 72 hours because of the additional time required to cool and depressurize the reactor coolant system (RCS) without auxiliary pressurizer spray. The licensee provided a summary of a very conservative analysis which assumes no steam void formation in the upper reactor vessel (RV) head. This analysis, which was performed by Babcock and Wilcox (B&W), concludes that a minimum of 135 hours is needed to reach the decay heat removal system cut-in point of 291 psig and 280°F. Void formation in the upper RV head is permitted by emergency procedures under controlled conditions that would sustain natural circulation in the primary system. Additionally, it is estimated that it will take approximately five hours to reduce the RCS temperature from 280°F to 200°F (cold shutdown) with the decay heat removal system in operation. Therefore, a total of approximately 140 hours will be required to reach cold shutdown without voiding the RV head. This cold shutdown condition can be achieved without the use of offsite power. If necessary, cold shutdown conditions can be achieved in 72 hours; however, this procedure would permit flashing in the RV head. The licensee chose not to take credit for this procedure, but instead to provide a more conservative analysis based upon no flashing in the upper head.

Section III.L.3 requires the assumption of loss of offsite power for 72 hours. A fire scenario as it relates to offsite power and the safe shutdown equipment could proceed in the following ways:

(1) No loss of offsite power, power source to safe shutdown equipment maintained;

(2) Loss of offsite power but it is restored within 72 hours, power source for all safe shutdown equipment available to attain cold shutdown;

(3) Loss of offsite power for more than 72 hours, hot shutdown conditions satisfactory, no need to go to cold shutdown;

(4) Loss of offsite power for more than 72 hours, cold shutdown can be attained in 140 hours by the method proposed by the licensee and is not needed before then;

(5) Loss of offsite power for more than 72 hours, cold shutdown is needed before 140 hours, the emergency operating procedure for controlled cooldown with void formation in upper head can be used.

These scenarios are listed in their probability of occurrance. Only the last two would be considerations for this exemption request. Both of these cases can be accommodated; however, the option of reaching cold shutdown in 140 hours with no void formation in the upper head is preferable for overall plant safety.

Based upon this conservative approach of the licensee, together with the unlikeliness of the events that would require both cold shutdown and the inability to return offsite power within 72 hours as well as the availability of a less preferred method of controlled cooldown in less than 72 hours, if needed, we conclude that an approximate time of 140 hours is acceptable to achieve cold shutdown without offsite power. We therefore conclude that an exemption from the requirements of Section III.L to the extent that it requires the capability to achieve cold shutdown within 72 hours without offsite power should be granted.

V

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee's letters as referenced and discussed in III. and IV. above is authorized by law, will not endanger life or property or the common denfense and security, is otherwise in the public interest, and is hereby granted.

The Commission has determined that the granting of this exemption 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 this action.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 11th day of May 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut, Director,

Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-13525 Filed 5-18-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-313]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 80 to Facility Operating License No. DPR-51, issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit No. 1 (ANO-1) located in Pope County, Arkansas. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications relating to the surveillance requirements of the post-tensioned, prestressed concrete containment tendons.

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 rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 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 licensee's application for amendment dated January 26, 1983 as supplemented March 11, 1983, and April 1, 1983, (2) Amendment No. 80 to License No. DPR-51, 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, N.W., Washington, D.C., and at the Arkansas Tech University, Russellville, Arkansas. 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, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Sydney Miner,

Acting Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-13524 Filed 5-18-83; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270, and 50-287]

Duke Power Co.; Issuance of Amendments To Facility Operating Licenses and Exemption From Appendix J, 10 CFR Part 50

The Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 121, 121 and 118 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Company (the licensee), which revised the Technical Specifications (TSs) for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments revise the TSs to delay certain surveillance requirements for Oconee Unit No. 1 until its next scheduled refueling outage. In connection with this action, the Commission has also granted an exemption from the requirements of Section III.D.2 and III.D.3 of Appendix J to 10 CFR Part 50, to perform leak rate tests on certain of the O-ring seal electrical and the mechanical penetrations prior to the next scheduled refueling outage for Oconee Unit No. 1. The exemption is effective as of the date of issuance.

The application for the amendments and request for exemption comply 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 Chapter I, which are set forth in the license amendments and the letter to the licensee dated May 5, 1983. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments and the granting of this exemption 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 the issuance of these actions.

For further details with respect to these actions, see (1) the application for amendments and request for exemption dated April 18, 1983, as supplemented April 22, 1983, (2) Amendments Nos. 121, 121, and 118 to License Nos. DPR-38, DPR-47 and DPR-55, respectively, (3) the Commission's related Safety Evaluation and (4) the Commission's letter to the Licensee dated May 5, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691. A copy of items (2), (3) and (4) 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 5th day of May 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-13526 Filed 5-18-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co., et al.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 85 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation (the licensees), which revised the Technical Specifications (TSs) for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment becomes effective upon initial operability of a redundant hydrogen monitor.

This amendment modifies Appendix A Specification 3.22.2.5 to permit controlling explosive gas mixtures in the waste holdup system by limiting hydrogen to 2 percent by volume with no limit on oxygen concentration.

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 rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 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 February 3, 1983, as revised April 14, 1983, (2) Amendment No. 85 to License No. DPR-50, 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, N.W., Washington, D.C. 20555, and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126. 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 5th day of May 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-13527 Filed 5-18-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-277 and 50-278]

Philadelphia Electric Co. et al.; Granting Relief From ASME Code Requirements

The Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company and Atlantic City Electric Company, which revised the inservice inspection program for the Peach Bottom Atomic Power Station, Units Nos. 2 and 3, located in York County, Pennsylvania. The ASME Code requirements are incorporated by reference into the Commission's Rules and Regulations in 10 CFR Part 50. The relief is effective as of the date of issuance.

This action provides relief from certain inspection requirements, pursuant to 10 CFR 50.55a(g)(6)(i) of the Commission's regulations, involving visual, pressure test and ultransonic examinations of piping, component pressure boundary and support structural integrity.

The request for relief 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 Chapter I, which are set forth in the letter granting relief and accompanying Safety Evaluation.

The Commission has determined that the granting of this relief 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 this action.

For further details with respect to this action, see (1) the letters from Philadelphia Electric Company dated August 4, 1977, January 23, 1978, September 20, 1978, November 22, 1978, February 19, 1980, April 5, 1982, and June 11, 1982, (2) the letter to Philadelphia Electric company dated May 2, 1983, 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, N.W. Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. 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 2nd day of May 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-13529 Filed 5-18-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-278]

Philadelphia Electric Co. et al.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 92 to Facility Operating License No. DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications (TSs) for operation of the Peach Bottom Atomic Power Station, Unit No. 3 (the facility) located in York County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment changes the TSs to permit Cycle 6 operation of the facility.

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 rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 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 the 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 the amendment.

For further details with respect to this action, see (1) the application for amendment dated December 30, 1982, as supplemented April 6, 1983, (2) Amendment No. 92 to License No. DPR-56 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 Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. 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 4th day of May 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-13528 Filed 5-18-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 57 to Facility Operating License No. NPF-3 issued to the Toledo Edision Company and the Cleveland Electric Illuminating Company (the licensees), which revised Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment modifies Specifications 3.4.2, 3.5.3 and 4.4.2 and adds Figures 3.4-2a and 3.4.2-b to provide additional protection to minimize the potential for low temperature overpressure transients.

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 rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 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 the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 26, 1980, (2) Amendment No. 57 to License No. NPF-3, 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, N.W., Washington, D.C., and at the William Carlson Library, University of Toledo, 2801 Bancroft Avenue, Toledo, Ohio 43606.

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, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch #4 Division of Licensing.

[FR Doc. 83-13530 Filed 5-18-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 58 to Facility Operating License No. NPF-3, issued to The toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised Technical Specifications (TSs) for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment modifies TS Table 3.3-4 to incorporate revised trip setpoints and allowable values for the Borated Water Storage Tank low level interlock and the essential bus feeder breaker trip delay which take into consideration instrument uncertainties. This amendment also revises: (1) TS Bases 3/4.7.1.2 to be consistent with the Updated Safety Analysis Report and the results of analyses and (2) TS Bases 3/4.3.3.7 to correct the description of the operation of the Chlorine Detection Systems.

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 rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 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 the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 14, 1982, (2) Amendment No. 58 to License No. NPF-3, 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, N.W., Washington, D.C., and at the William Carlson Library, University of Toledo, 2801 Bancroft Avenue, Toledo, Ohio 43606.

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, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 83-13531 Filed 5-18-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric & Power Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 48 and 31 to Facility Operating License Nos. NPF-4 and NPF-7 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Units No. 1 and No. 2 (the facility) located in Louisa County, Virginia. The amendments are effective as of the date of issuance and must be fully implemented no later than January 1, 1984.

The amendments revise the Technical Specifications (1) to implement the requirements of Appendix I to 10 CFR Part 50, (2) to establish new limiting conditions for operation for the quarterly and annual average release rates, and (3) to revise environmental monitoring programs to assure conformance with Commission regulations.

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 Chapter I, which are set forth in these 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 the 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 December 17, 1982 as supplemented March 3, 1983; (2) Amendment Nos. 48 and 31 to Facility Operating License Nos. NPF-4 and NPF-7 and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C. 20555 and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virgnina 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 5th day of May, 1983.

For the Nuclear Regulatory Commission

Charles M. Trammell,

Acting Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 83-13532 Filed 5-18-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-325]

Carolina Power & Light Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination

The U.S. Nuclear Regulatory Commission (the Commission) is

considering issuance of an amendment to Facility Operating License No. DPR-71, issued to Carolina Power & Light Company (the licensee), for operation of the Brunswick Steam Electric Plant, Unit 1 located in Brunswick County, North Carolina.

The amendment would revise the technical specifications of the operating license to incorporate appropriate limiting conditions for operation of the facility during the fourth fuel cycle. The revised technical specifications would place appropriate restrictions on the rate of heat generation in the nuclear fuel by specifying limiting values of the Linear Heat Generation Rate, Average Planar Linear Heat Generation Rate, Minimum Critical Power Ratio and set points for the Average Power Range Monitoring System. These revisions to the technical specifications would be made in response to the licensee's application for amendment dated May 2, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility or a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance for the application of these criteria by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870 Apr. 6, 1983). One such amendment is a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the Commission for a previous core at the facility in question are involved.

This third refueling of the Brunswick Steam Electric Plant, Unit 1 involves no fuel assemblies significantly different from those used in a previous refueling and found acceptable to the Commission. Furthermore, there are no significant changes to the acceptance criteria for the technical specifications. The analytical methods used to demonstrate conformance with the technical specifications and regulations have been found previously acceptable to the Commission. Therefore, based on these considerations and the three criteria given above, we have made a proposed determination that this amendment request involves no significant hazards consideration.

The Commission has determined that failure to act in a timely way would result in extending the shutdown of the facility. Therefore, the Commission has insufficient time to issue its usual 30-day notice of the proposed action for public comment.

If the proposed determination becomes final, an opportunity for a hearing will be published in the **Federal Register** at a later date and any hearing request will not delay the effective date of the amendment.

If the staff decides in its final determination that the amendment does involve a significant hazards consideration, a notice of opportunity for a prior hearing will be published in the **Federal Register** and, if a hearing is granted, it will be held before the amendment is issued.

The Commission is seeking public comments on this proposed determination. Comments on the proposed determination may be telephoned to Domenic B. Vassallo, Chief of Operating Reactors Branch No. 2 by collect call to 301-492-8069 or submitted in writing to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Services Branch. All comments received by June 9, 1983 will be considered in reaching a final determination. A copy of the application may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Dated at Bethesda, Maryland, this 16th day of May, 1983

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 83-13599 Filed 5-18-83; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., Section 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning July 1, 1983, shall be at the rate of 18-½ cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning July 1, 1983, 25.3 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 74.7 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be crdited to the Railroad Retirement Supplemental Account.

Dated: May 12, 1983.

By authority of the Board.

James T. Brown,

Chief Executive Officer.

[FR Doc. 83-13428 Filed 5-18-83; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13235; 812-5474]

The Bank of Nova Scotia; application

May 11, 1983.

Notice is hereby given that The Bank of Nova Scotia ("Applicant") c/o Shearman & Sterling, 53 Wall Street, New York, New York 10005, filed an application on March 4, 1983, and an amendment thereto on May 6, 1983 for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions 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.

Applicant was granted a charter under the laws of the Province of Nova Scotia in 1832, and commenced operations in Halifax, Nova Scotia, in that year. Applicant states that it has been a chartered bank under the Bank Act of Canada (the "Bank Act") since 1871. Applicant states further that, at October 31, 1982, it was the fourth largest commercial bank in Canada in terms of total assets. According to the application, at October 31, 1982,

Applicant conducted its Canadian business through a network of approximately 1,032 branches located throughout all of the Canadian provinces. Applicant represents further that it provides directly, or through its subsidiaries, a wide range of financial services throughout Canada, the United States and other countries. Applicant states that it offers traditional retail banking services such as deposit accounts, savings accounts, mortgage loans and personal installment loans, as well as additional services such as credit card operations, currency exchange and the sale of traveller's checks. Applicant also engages in commercial lending activities, offering services in project financing, corporate financing and real estate financing.

Applicant states that its most important commercial banking activities are the receipt of deposits and the extension of all types of credit. Applicant states further that, at October 31, 1982, deposits (including demand, time and saving deposits) totalled approximately 88.1% of Applicant's total liabilities (including capital) of approximately $53.6 billion (all dollar amounts referred to in this notice are Canadian dollars unless otherwise specified). Applicant submits that, at September 30, 1982, approximately 56% of its deposits were from non-Canadian resident individuals or entities, with the remainder being from Canadian resident individuals or entities. According to the application, at October 31, 1982, the aggregate amount of loans extended by Applicant constituted approximately 65.3% of its total assets of approximately $53.6 billion. Accordingly, Applicant states that its assets are not highly liquid. Applicant states that, at September 30, 1982, approximately 40% of such loans had been extended to non-Canadian resident individuals or entities with the remainder being extended to Canadian resident individuals or entities.

Applicant submits that, for the year ended October 31, 1982, its total revenues were $7,450,679,000. Applicant further submits that, of this amount, $6,800,114,000, or 91.2%, represents revenues from loans, including revenues from loans to, and on deposit with, other banks. Applicant represents that, at October 31, 1982, it had 46,807,291 common shares issued and outstanding, representing an aggregate market value of approximately $1.4 billion. Shareholders' equity as of October 31, 1982, was $1,546,693,000.

Applicant states that the business of banking in Canada is a matter of exclusive federal jurisdiction. Applicant states that, at present, only 67 banks, including Applicant, are chartered to carry on the business of banking in Canada. According to the application, Canadian chartered banks are regulated under the Bank Act, which was amended through adoption by the Canadian Parliament of the Banks and Banking Revision Act, 1980 (the "Revised Bank Act"). The Revised Bank Act contains provisions pertaining to all aspects of banking in Canada, including the kinds of business the chartered banks may carry on, the types of loans and investments which they may make, the powers and qualifications of their directors and officers, the rights of their shareholders, the nature of their capital structure, and generally the extent of their obligations to maintain reserves, comply with specific auditing requirements, make timely financial disclosure, and submit to regular inspection by the Inspector General of Banks. Applicant states that Canadian chartered banks are specifically prohibited from carrying on the business of insurance and, in Canada, from engaging in fiduciary activities, portfolio management or investment counseling. Applicant states that it is prohibited under Canadian law from engaging in underwriting securities in Canada, except for the underwriting of certain debt securities issued by federal, provincial or local governments, their agencies and certain international agencies of which Canada is a member, and certain securities issued by authorized affiliates of Applicant which are guaranteed by Applicant.

Applicant represents that, in addition to the authority the Revised Bank Act confers upon the Minister of Finance to issue directives, or adopt regulations, requiring that all chartered banks maintain adequate capital and liquidity, the Revised Bank Act contains specific rules as to the kinds of assets which the banks may hold, whether for their own account or as security for the account of a customer. Applicant represents that the Inspector General of Banks is required to conduct at least annually such examination and enquiry as may be necessary to satisfy himself that the provisions of the Revised Bank Act have been complied with and that each chartered bank is in sound financial condition.

Applicant states that it is registered as a bank holding company under, and subject to extensive United States federal regulation pursuant to, the Bank Holding Company Act of 1956 (the "Bank Holding Company Act"). Under the Bank Holding Company Act, the Board of Governors of the Federal Reserve System (the "Board") regulates the types of activities in which a foreign bank holding company may engage in the United States and requires the filing of annual reports regarding its overall operations and periodic reports on certain aspects thereof. Applicant states that, in addition, the International Banking Act of 1978 ("IBA") subjects foreign banks conducting banking activities in the United States to extensive federal supervision and regulation. The IBA authorizes the Board to conduct direct examinations of each of Applicant's United States branches and agencies and to establish reserve requirements for those agencies and branches. In addition, the IBA places restrictions upon the ability of foreign banks to engage in interstate banking activities.

Applicant's activities through its United States agencies and branches are also subject to extensive regulation and examination under the laws of the states in which they are located. Applicant states that it was required to file in each state an extensive application for a lincence to establish its agency or branch, and the continued operation thereof is subject to supervision which is substantially similar to that imposed on domestic banks organized under the laws of the state.

Applicant proposes to offer, issue and sell in the United States short-term commercial paper notes (the "Notes") in bearer form and denominated in United States dollars. Applicant states that it is intended that the Notes will be sold without registration under the Securities Act of 1933 (the "1933 Act") in reliance upon an opinion of Applicant's United States counsel that the offering will qualify for the exemption from the registration requirements of the 1933 Act provided for certain short-term commercial paper by Section 3(a)(3) thereof. Applicant will not proceed with its proposed offering until it has received such an opinion. Applicant does not request Commission review or approval of such opinion.

Applicant states that the Notes will be in denominations of $100,000 or more, will mature not more than nine months from the date of issuance and will not be payable on demand or include any provision for extension, renewal or automatic "rollover" at the option of either the holders or Applicant. The presently proposed issue of Notes and any future issue of debt securities by Applicant will be conditioned upon the receipt, prior to issuance, of one of the three highest investment grade ratings from at least one of the nationally recognized statistical rating

organizations. Applicant's United States counsel will have certified that such a rating has been received.

Applicant states that the proceeds of the Notes will be used for "current transactions" within the meaning of Section 3(a)(3) of the 1933 Act. According to the application, the Notes will be sold by Applicant either to one or more United States securities dealers, which will reoffer the Notes as principal, or directly, in both cases to institutional investors and other entities and individuals in the United States who normally purchase commercial paper. The Notes will not be advertised or otherwise offered for sale to the general public. The aggregate principal amount of the Notes to be outstanding at any time is not expected to exceed U.S. $1 billion. Applicant's purpose in making the proposed offering of the Notes is to provide an additional source of supply of United States dollars to supplement dollars currently obtained in the Eurodollar and United States certificate of deposit markets.

The application indicates that, if the Notes are sold by Applicant to one or more United States securities dealers, Applicant agrees to secure an undertaking from the dealer(s) that it will provide each offeree who has indicated an interest in the Notes, prior to any sales of Notes to such offeree, with a memorandum that describes the business of Applicant and contains Applicant's most recently available annual financial statements audited in accordance with Canadian accounting principles and its most recent publicly available unaudited quarterly financial statements. The memorandum will describe the material differences between Canadian accounting principles applicable to Canadian banks and "generally accepted accounting principles" applicable to United States commercial banks. Such memorandum will also be at least as comprehensive as those customarily used in offering commercial paper in the United States and will be updated promptly to reflect material changes in Applicant's business and financial condition. Applicant consents to any order, pursuant to Section 6(c) of the Act, granting the relief requested being expressly conditioned upon Applicant's compliance with the foregoing undertaking. As direct liabilities of Applicant, the Notes will rank *pari passu* among themselves and equally with all other unsecured indebtedness of Applicant, including deposit liabilities, and ahead of its subordinated debentures and share capital.

Applicant will appoint a bank in the United States as its authorized agent to issue the Notes from time to time and will appoint its New York trust company. The Bank of Nova Scotia Trust Company of New York, as agent to accept any process which may be served in any action based on the Notes or arising out of the offering and sale thereof and instituted in any state or federal court by the holder of any Notes. Applicant will expressly accept the jurisdiction of any state or federal court in the Borough of Manhattan in the City and State of New York in respect of such action. Such appointment of an authorized agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due with respect to the Notes have been paid by Applicant. Applicant will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of the Notes or otherwise.

Applicant may, from time to time, offer other of its debt securities for sale in the United States. Applicant undertakes that any future offerings of its debt securities in the United States will be made only pursuant to a registration statement under the 1933 Act or pursuant to an applicable exemption from registration under the 1933 Act. Applicant further undertakes that any such offering will be done on the basis of disclosure documents that are at least as comprehensive in their description of Applicant, its business and its financial statements as is customary for United States offerings of similar securities. Applicant further undertakes to update promptly any such documents to reflect material changes in Applicant's financial condition. Applicant consents to any order, pursuant to Section 6(c) of the Act, granting the relief requested being expressly conditioned upon Applicant's compliance with the foregoing undertaking. Applicant undertakes to provide offerees of its debt securities with such disclosure documents prior to the sale of such securities to offerees.

Applicant also undertakes, in connection with any future offering of its debt securities in the United States, to appoint an agent to accept any process which may be served in any action based on such securities and instituted in any state or federal court by any holder of any such security. Applicant further undertakes that it will expressly accept the jurisdiction of any state or federal court in the Borough of Manhattan in the City and State of New York in respect of any such action. Such appointment of an agent to accept service of process and such consent to jurisdiction will be irrevocable so long as such securities remain outstanding and until all amounts due and to become due in respect of such securities have been paid. Applicant will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of such securities or otherwise.

Applicant believes that as a commercial bank it is not an "investment company" within the meaning of the Act. Applicant recognizes, however, that uncertainty exists as to whether some foreign commercial banks are "investment companies" under the Act.

Section 6(c) of the Act establishes three conditions for an exemption from the Act: (1) The exemption must either be necessary or appropriate in the public interest; (2) the exemption must be consistent with the protection of investors; and (3) the exemption must be consistent with the purposes fairly intended by the policy and provisions of the Act. Applicant believes that the requested exemption would comply with all of these conditions.

Applicant asserts that approval of the application is both necessary and appropriate in the public interest. Applicant states that compliance by Applicant with the provisions of the Act would preclude it from selling securities in the United States and would, therefore, deny Applicant access to the only United States dollar-denominated commercial paper market in existence. Foreign banks, such as Applicant, participating in the Eurodollar market have a particular need for access to a United States dollar-denominated commercial paper market. Such foreign banks require access to a source of United States dollars to protect against disruptions in the Eurodollar market. In addition, the requested exemption would benefit institutional and other sophisticated investors in the United States because it would permit Applicant to make available to such investors short-term, prime quality securities.

Applicant asserts that the requested exemption would be consistent with the protection of investors. Applicant is subject to extensive regulation under Canadian banking law. Applicant believes that such regulation renders the Act's protection unnecessary. Applicant asserts that the requested exemption would be consistent with the purposes of the Act because commercial banks such as Applicant do not fall within the intended scope of the Act. Applicant

further asserts that the operation of a commercial bank does not give rise to the particular abuses against which the Act is directed.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 6, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13486 Filed 5-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22936; 70-6725]

Central and South West Services, Inc., et al; System Money Pool

May 12, 1983.

In the matter of: Central and South West Services, Inc., Central and South West Corporation, 2700 One Main Place, Dallas, Texas 75250; Central Power and Light Company, P.O. Box 2121, Corpus Christi, Texas 78403; Southwestern Electric Power Company, P.O. Box 21106, Shreveport, Louisiana 71156; Public Service Company of Oklahoma, P.O. Box 201, Tulsa, Oklahoma 74102; West Texas Utilities Company, P.O. Box 841, Abilene, Texas 79604; Transok Pipeline Company, 600 South Main Street, Tulsa, Oklahoma 74101; Proposed extension of system money pool; issuance of notes to banks and commercial paper to dealers; exception from competitive bidding.

Central and South West Corporation ("CSW"), a registered holding company, and six of its subsidiaries, Central Power and Light Company ("CPL"), Public Service Company of Oklahoma ("PSO"), Southwestern Electric Power Company ("SWEP"), West Texas Utilities Company ("WTU"), and Central and South West Services, Inc. ("CSWS"), and PSO's subsidiary, Transok Pipe Line Company ("Transok"), have filed with this Commission a post-effective amendment to an application-declaration previously filed and amended pursuant to Sections 6, 7, 9(a), 10, 12(b), and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 45, 50(a)(2), 50(a)(3), and 50(a)(5) promulgated thereunder.

By Commission order dated June 29, 1982 (HCAR No. 22554), CSW and its named subsidiaries were authorized to make short-term borrowings in an aggregate amount not to exceed $300 million through December 31, 1983. The borrowings could be effected either through the CSW System money pool, the issuance or sale of commercial paper and/or bank borrowings. The individual borrowing limit for Transok was $20 million. By order dated November 22, 1982 (HCAR No. 22725), the individual short-term borrowing limit of CSW, as well as the CSW System aggregate limit, was increased to $350 million. The CSWS limit was increased to $25 million.

By post-effective amendment, the applicants seek Commission authorization to increase Transok's borrowing limit through December 31, 1983, to $30 million. The increase is needed because of proposed rule changes by the State of Oklahoma. A 90-day temporary emergency order from the Oklahoma Corporation Commission altering the State of Oklahoma's rules on gas production allowed from unallocated wells will cause Transok to place gas into underground storage earlier than anticipated so that it will have adequate supplies to meet PSO's peak summer demands. In addition, the State of Oklahoma may change the rules with respect to suspended natural gas production payments. Presently, gas purchasers are permitted to suspend payments for natural gas until allocation is determined. The proposed change would require payments suspended for one year to be remitted to the State of Oklahoma and could require an unanticipated cash expenditure by Transok. In all other respects, the application-declaration as previously authorized and the borrowing limits set forth therein will remain the same.

The application-declaration, as amended by the post-effective amendment and any amendments thereto, are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 2, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall indentify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended by the post-effective amendment or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13492 Filed 5-18-83; 8:45am]

BILLING CODE 8010-01-M

[File No. 22-12247]

Conoco Inc.; Application and Opportunity for Hearing

May 13, 1983.

Notice is hereby given that Conoco Inc., a Delaware corporation (the "Applicant") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission that the trusteeship of Bankers Trust Company ("Bankers") under certain indentures of the Applicant which are qualified under the Act and an indenture (the "New Indenture") dated as of December 1, 1982 between Bankers and the Lake Charles Harbor and Terminal District (the "District") pertaining to $10,900,000 aggregate principal amount of the District's Port Facilities Revenue Bonds (Conoco Inc. Project), Series 1982A (the "District 1982A Bonds") which is not qualified under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers from acting as trustee under any of such indentures.

The Applicant alleges that:

1. The Applicant has issued and outstanding as of January 1, 1983:

(a) $8,000,000 principal amount of its 3% Debentures Due 1984, under an Indenture dated as of November 1, 1954 (the "1954 Indenture"), between the Applicant and Bankers, as trustee, which was filed as an exhibit to Registration Statement [No. 2-11199] under the Securities Act of 1933 (the "1933 Act") registering such Debentures;

(b) $45,600,000 principal amount of its 4½% Debentures Due 1991, under an Indenture dated as of May 1, 1961 (the

"1961 Indenture"), between the Applicant and Bankers, which was filed as an exhibit to Registration Statement (No. 2–17922) under the 1933 Act registering such Debentures;

(c) $87,400,000 principal amount of its 7½% Debentures Due 1999, under an Indenture dated as of July 15, 1969, between the Applicant and Bankers, which was filed as an exhibit to Registration Statement (No. 2–33539) under the 1933 Act registering such Debentures;

(d) $150,000,000 principal amount of its 9⅛% Debentures Due 1999 under an Indenture dated as of November 1, 1974, between the Applicant and Bankers, which was filed as an exhibit to Registration Statement (No. 2–52142) under the 1933 Act registering such Debentures;

(e) $200,000,000 principal amount of its 8⅞% Debentures Due 2001, under an Indenture dated as of June 1, 1976, between the Applicant and Bankers, which was filed as an exhibit to Registration Statement (No. 2–56213) under the 1933 Act registering such Debentures;

(f) $200,000,000 principal amount of its 9⅝% Debentures Due 2009, under an Indenture dated as of April 1, 1979, between the Applicant and Bankers, which was filed as an exhibit to Registration Statement (No. 2–63888) under the 1933 Act registering such Debentures; and

(g) $300,000,000 principal amount of its 13¼% Debentures Due 2011, under an Indenture dated as of January 15, 1981 (the "1981 Indenture"), between the Applicant and Bankers, which was filed as an exhibit to Registration Statement (No. 2–70481) under the 1933 Act registering such Debentures. The foregoing Indentures are herein called collectively the "Qualified Indentures" and the foregoing Debentures are herein called collectively the "Registered Securities". Each of the Qualified Indentures has been qualified under the Act.

The Events of Default under each of the Qualified Indentures are (1) default in any payment of principal or premium, if any; (2) continuance for 30 days of default in payment of any interest or a required sinking fund payment, if any; (3) continuance for 90 days after notice to the Applicant of a default in performance of any other covenant; (4) except in the case of the 1954 Indenture, the 1961 Indenture and the 1981 Indenture, default under any debt instrument of the Applicant under which more than $10,000,000 in principal amount is outstanding; and (5) certain bankruptcy and similar proceedings. The material covenants of the Applicant in each Qualified Indenture are (1) to pay the amounts due on the respective Registered Securities; (2) not to subject any of its producing, refining or manufacturing property to a security interest for any debt (with certain exceptions), unless the respective Registered Securities are equally and ratably secured (the "Negative Pledge"); and (3) not to sell and lease back any producing, refining or manufacturing property unless the proceeds are at least equal to the fair value of such property and, (a) in the case of the 1954 Indenture and the 1961 Indenture, the Applicant redeems or repurchases a principal amount of the related Registered Securities equal to the proceeds of the sale and (b) in the case of the remaining Qualified Indentures, the Applicant either (i) would be entitled under the Negative Pledge to enter into a debt secured by such property in an amount at least equal to the present value of the rent under such lease (the "Attributable Debt") or (ii) redeems an amount of long-term debt equal to the Attributable Debt. The sale and leaseback provision of the 1981 Indenture also permits the Applicant to sell and lease back if it expends an amount equal to the proceeds of the sale on producing, refining or manufacturing property.

Bankers is currently trustee under certain other indentures which are not qualified under the Act and other agreements with respect to which the Applicant may be deemed to be the "obligor".

2. E. I. du Pont de Memours and Company, a Delaware corporation (the "Guarantor"), owns all the outstanding capital stock of the Applicant and has guaranteed the obligations of the Applicant under each of the Qualified Indentures and Registered Debentures.

3. Bankers proposes to accept appointment under the New Indenture. The District 1982A Bonds issued thereunder are secured by (1) the pledge of a note of the Applicant (the "District 1982A Note") of a principal amount equal to the principal amount of the District 1982A Bonds, issued to the District under an Agreement of Sale (the "District 1982A Agreement") dated as of December 1, 1982 between the Applicant and the District, and (2) the assignment to Bankers of the District's rights under the District 1982A Agreement. In the District 1982A Agreement, the Applicant agreed to transfer to the District title to the project and any additions thereto, and the District agreed immediately to convey such title back to the Applicant. The Applicant's obligations under the District 1982A Note and the District 1982A Agreement are unsecured and in Section 3.7 of the District 1982A agreement the District expressly waives any liens (including vendor's liens) against the Applicant. The Guarantor has guaranteed the District 1982A Bonds on an unsecured basis.

Events of Default relating to the Applicant under the District 1982A Agreement and the New Indenture are substantially the same as for the Qualified Indentures, except that default on other debts is not an event of default. The material covenants of the Applicant under the District 1982A Agreement and the New Indenture are (1) to pay on the District 1982A Note and (2) to prepay the District 1982A Note in full upon a final determination that the District 1982A Bonds are taxable. The New Indenture is attached hereto as Exhibit A.

4. As required by Section 310(b)(1) of the TIA, the 1954 Indenture provides in part as follows:

"Section 8.08. Qualification of Trustee; Conflicting Interests. (a) If the Trustee has or shall acquire any conflicting interest, either eliminate such conflicting interest, as defined in this Section, it shall, within 90 days after ascertaining that it has such conflicting interest or resign in the manner and with the effect specified in Section 8.10 * * *.

"(c) For the purpose of this Section the Trustee shall be deemed to have a conflicting interest if

"(1) the Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company, are outstanding * * *; provided that there shall be excluded from the operation of this paragraph any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, of the Company are outstanding if * * * the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that trusteeship under this Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures."

Each other Qualified Indenture contains a substantially similar provision.

5. Under the provisions of the Qualified Indentures described above, Bankers may be deemed to have a conflicting interest if it is acting as trustee under the Qualified Indentures and the New Indenture, unless it is deemed not to have such a conflicting interest by reason of a finding by the Commission after an opportunity for a hearing that its acting as Trustee under such Indentures is not so likely to involve a material conflict of interest as

to make it necessary in the public interest or for the protection of investors to disqualify Bankers from so acting.

6. No default has any time existed under any Qualified Indenture.

Such differences as exist between the Qualified Indentures, and the New Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers from acting as trustee under any of such Indentures.

The Applicant has waived (a) notice of hearing, (b) hearing on the issues raised by this Application and (c) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, NW., Washington, D.C.

Notice is further given that any interested person may, not later than June 6, 1983, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13493 Filed 5-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13236; 812-5491]

Equitable Government Securities Account, Inc.; Filing of Application

May 11, 1983.

Notice is hereby given that Equitable Government Securities Account, Inc. (the "Fund") 100 West 52nd Street, New York, New York 10019, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on March 10, 1983, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting the Fund from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-4 thereunder to the extent necessary to permit the Fund to compute its net asset value per share using the amortized cost method of valuing its portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summorized below, and to the Act for the text of those provisions of the Act from which an exemption is being sought.

The Fund states that it will operate as a "money market fund" designed for use by individual investors or by organizations such as corporations, partnerships, trusts and others. The Fund's investment objective is the maximization of current income to the extent consistent with the preservation of capital and the maintenance of liquidity. The Fund states that it will invest only in securities issued or guaranteed by the United States Government, its agencies or instrumentalities, and repurchase agreements covering those securities. According to the application, the obligations in which the Fund may invest include issues of the United States Treasury and issues of agencies and instrumentalities established under the authority of an Act of Congress. Certificates of deposit issued by banks and savings and loan associations, the principal amounts of which are fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Corporation, are considered by the Fund to be securities guaranteed by an agency of the United States Government and thus may be purchased by the Fund. The Fund may also enter into reverse repurchase agreements.

The Fund states that, contingent upon the granting of the requested exemption, the Fund's portfolio securities will be valued using the amortized cost method. The Fund represents that under the amortized cost valuation method securities are valued at their cost as of the date of acquisition assuming a constant rate of amortization to maturity of any discount or premium, regardless of the impact of fluctuating interest rates on the market value of such securities. The Fund may not purchase any security which has a maturity date more than one year from the date of the Fund's purchase, unless purchased subject to a repurchase agreement requiring repurchase from the Fund in one year or less. The Fund represents further that, in all other respects, the Fund's securities will be valued in accordance with the views of the Commission set forth in Investment Company Act Release No. 9786 (May 31, 1977).

According to the application, the Fund has determined in good faith that in light of the characteristics of the Fund the amortized cost method of valuation is appropriate and perferable for the Fund and reflects the fair value of the Fund's portfolio securities. The Fund's management believes, based on experience, that the requisted exemption will benefit the Fund and its shareholders. The Fund maintains that all investors in the Fund will have the conveniences and advantages of a stable price of $1.00 per share under conditions that provide safeguards related to portfolio quality and procedures designed to assure equitable treatment of investors.

As a condition to the granting of the requested exemption, and in order to assure the stability of the Fund's $1.00 price per share, the Fund agrees that the following may be made conditions to the exemption:

1. In supervising the Fund's operations and delegating special responsibilities involving portfolio management to the Fund's investment adviser, the Fund's Board of Directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Fund's investment objective, to stabilize the Fund's net asset value per share as computed for the purpose of distribution and redemption at $1.00 per share.

2. Included within the procedures to be adopted by the Board of Director shall be the following:

(a) Review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review. To fulfill this condition, the Fund intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Directors in the exercise of its discretion to be appropriate indicators of value. In addition, the Fund states that the quotations or estimates utilized may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values

obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from the Fund's $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Board of Directors will promptly consider what action, if any, should be initiated.

(c) Where the Board of Directors believes the extent of any deviation from the Fund's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results which action may include: redemption of shares in kind; the sale of portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average maturity of securities within the portfolio; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. The Fund will maintain a dollar-weighted average maturity of its securities appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Fund will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, the Fund will invest its available assets in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. The Fund will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and the Fund will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. The Fund will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 6, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon the Fund at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13489 Filed 5-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13240; 811-1532]

Pharos Trend Fund, Inc.; Proposal To Terminate Registration

May 12, 1983.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion that Pharos Trend Fund, Inc. ("Fund"), 639 South Spring Street, Suite. 415, Los Angeles, California 90014, registered under the Act as an open-end, non-diversified management investment company, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund registered under the Act on September 18, 1967, by filing a notification of registration on Form N-8A. The Fund did not file a registration statement under the Act or under the Securities Act of 1933. The Commission was informed by letter from counsel for the Fund, dated April 29, 1968, that the Fund had been liquidated and that all of its assets were distributed to its shareholders as of March 26, 1968. Counsel for the Fund was advised by letter dated May 2, 1968, from the Commission staff that an application should be filed under Section 8(f) of the Act requesting an order of the Commission declaring that the Fund has ceased to be an investment company. There is no record in the Commission's files to indicate that such application was made.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of that order the registration of the investment company shall cease to be in effect.

Notice is hereby given that any interested person wishing to request a hearing on the matter may, not later than June 6, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

A copy of the request should be served personally or by mail upon the Fund at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the matter will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13491 Filed 5-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19755; File No. SR-CBOE-82-07]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc., Relating to Index Options

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 1, 1983, with an amendment on May 4, 1983, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below.

which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of Proposed Rule Change

In Securities Exchange Act Release No. 19264, issued on November 22, 1982, the Commission approved certain rules changes of the Chicago Board Options Exchange, the American Stock Exchange and the New York Stock Exchange relating to the listing and trading of standardized put and call option contracts on various stock indices. In footnote 6 of the release the Commission stated, "Each index that will underlie an options contract must be reviewed separately as a proposed rule change pursuant to Rule 19b–4 under the Act before trading in an option based on that index may commence." The purpose of this proposed rule change is to permit trading options on the stock index described in Item 3.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change.* The purpose of the proposed rule change is to permit the Exchange to list and trade standardized put and call options on a stock market index, the CBOE–30 Index. On November 22, 1982 the Commission issued Securities Exchange Act Release No. 19264, and on March 10, 1983 it issued Securities Exchange Act Release Nos. 19586, 19587, 19588, 19589 and 19590 approving rules changes of the Exchange which provide a general framework for trading index options and also provide for the trading of options on a specific index, the CBOE 100 Index. Options on the CBOE–30 Index will be traded within the general framework of Exchange rules approved by the Commission as set forth in Chapter XXIV and certain other places in Exchange Rules. Certain contract terms will differ from the terms of options on the CBOE 100 Index.

The CBOE–30 Index is identical to the Dow Jones Industrial Average. It has and will have the same underlying stocks and use the same divisor and method of calculation. It is a price weighted index which is calculated by adding together the prices of the stocks underlying the index, dividing that sum by an index divisor, and dividing the result by 10. The purpose of the divisor, which is adjusted to account for differences in the per-stock values caused by circumstances such as stock dividends and stock splits, is to maintain continuity in the index. Following is a list of the 30 stocks and the divisor used as of March 18, 1983.

Allied Corporation
Aluminum Co. of America
American Brands
American Can
American Express
American Telephone and Telegraph
Bethlehem Steel
DuPont
Eastman Kodak
Exxon
General Electric
General Foods
General Motors
Goodyear
Inco Ltd.
IBM
International Harverter
International Paper
Merck & Co.
Minnesota Mining & Mfg.
Owens-Illinois
Procter & Gamble
Sears Roebuck
Standard Oil of California
Texaco
Union Carbide
U.S. Steel
United Technologies
Westinghouse
Woolworth

Divisor: 1.292 (as of March 18, 1983)

On March 18, 1983, the closing prices of all the stocks added together and divided by 1.292 was 1117.74, which is divided by 10 to product a CBOE–30 Index value of 111.77. The index multiplier, defined in Rule 24.1(f), will be 100. When the CBOE–30 is 111, an at-the-money option would be equivalent to an $11,100 contract.

The Exchange will use its authority under Rule 24.9 to set intervals of exercise prices which bracket the index. The Exchange has considered the level of the index and the volatility of the index and at this time intends to fix exercise prices at 5 point intervals for the CBOE–30 Index. For example, if at the start of trading the CBOE–30 Index is 110, the Exchange would open trading with three series: 105, 110 and 115.

The current index value would be continuously disseminated throughout the day. Shortly before trading actually commences, the Exchange will designate a reporting authority as that term is defined in Rule 24.1(h).

Whether an index which is identical to the Dow Jones Industrial Average but with is called by a different name, and for which the sponsor disclaims any association with or sponsorship by the Dow Jones & Company, may be used as an underlying stock index for futures trading is at this time the subject of litigation. Until the legal status of the proprietary rights of Dow Jones & Company is clarified, the Exchange will not commence trading even though such trading would be permitted under the Federal securities laws following approval of this rules change.

The basis under the Securities Exchange Act of 1934 for the proposed rules change is Section 6(b)(5) in that the proposed changes are designed to facilitate transaction in options on a stock index and to bring such transactions with the regulatory framework of the Act and CBOE's own rules.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The Exchange does not believe the proposed rule change will impose any burden on competition.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principle office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 10, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13405 Filed 5-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19759; File No. SR-NYSE-83-11]

Self-Regulatory Organizations; Proposed Rules Changes by New York Stock Exchange, Inc., Review and Oversight of Potential Conflict of Interest

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 25, 1983, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rules changes as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commision is publishing this notice to solicit comments on the proposed rules changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rules changes consist of a change to the Supplementary Material to Rule 495C as set forth at paragraph 2495C.10, sub-paragraph 8, and to the Supplementary Material to Rule 499 as set forth at paragraph 2499.10 of the Exchange Rules, modifying the Exchange policy concerning potential conflicts of interest within listed corporations. The policy, as modified, will establish that review and oversight of situations which may be potential conflicts of interest be the responsibility of the particular corporation rather than the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Self-regulatory organization included statements concerning the purpose of and basis for the proposed rules changes and discussed any comments it received on the proposed rules changes. The text of these statements may be examined at the places specified in Item IV below. The Self-regulatory organization has prepared summaries, set forth insections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rules Change.* The Exchange has, for a number of years, discouraged the existence of potential conflict of interest situations within listed companies. Where such situations existed, companies were given a reasonable period of time in which to resolve the potential conflict. In recent years, there have been significant strides made in the area of corporate governance. This had prompted the Exchange to reconsider the application of the policy which in turn resulted in the proposed modification which is set forth below.

The purpose of the proposed rules changes is to modify the current Exchange policy which requires the elimination of potential conflict situations within listed corporations over a reasonble period of time. The more common situations addressed by the policy are lease arrangements; minority ownership; and purchases and sales between the corporation and its officers/directors. The lack of satisfactory undertakings to eliminate existing potential conflict of interest situations is a bar to listing for prospect companies and could result in the delisting of a listed company.

There have been many positive developments in the area of corporate governance since the formulation of the Exchange conflict of interest policy.

To illustrate, the Commission has taken steps towards increased disclosure in the annual report and proxy statements as well as other corporate filings. These requirements have increased public scrutiny and created a greater awareness among public investors. This has, in turn, prompted shareholders to use more appropriate forums to question troublesome situations, such as direct contact with management, annual meetings, and in more serious situations, the courts.

Parallel to expanded disclosure requirements, positive changes have been made in the structure and composition of corporate boards of directors. In 1977, for example, the Exchange adopted the audit committee requirement for all domestic listed companies. These audit committees are comprised of non-management directors who can provide objective review of corporate policies and practices.

There has also been considerable voluntary reform taking place in the corporate community. In 1979, the Exchange, in conjunction with the American Society of Corporate Secretaries, issued a report on corporate governance.[1] Nearly 1000 companies responded and confirmed that there was a marked increase between 1975 and 1978 in corporate audit, compensations, and nominating committees. In addition, non-management directors comprise the majority on approximately 80% of respondent company boards of directors. They also comprise the majority on audit, compensation, and nominating committees.

This voluntary restructuring and recomposition of corporate boards has also seen an expanded adoption of strict codes of corporate ethics, motivated by companies which are increasingly sensitive to public responsibilities. This expanded adoption represents a major attempt to codify the rules of good business practices.[2]

In view of the above, listed companies today are in a much better position to judge the efficacy of corporate self-interest transactions than the Exchange. The Exchange is also of the opinion that the policy modification is consistent with and fosters the trend toward improved corporate governance.

The statutory basis for the proposed rules changes in Section 6(b)(5) of the Securities Exchange Act of 1934 as amended ("the Act") which, among other things, requires Exchange rules to be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers,

---

[1] "Corporate Governance-Survey of Corporate Boards, Structure and Composition", 1979.

[2] "A Study of Corporate Ethical Policy Statements", the Foundation of the Southwestern Graduate School of Banking, S.M.U., 1980.

issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by this title matters not related to the purposes of this title or the administration of the Exchange. The protection of investors and the public interest, which are among the stated purposes of Section 6(b)(5), no longer require Exchange intervention in this area in view of the positive developments in the field of corporate governance which have heretofore been described. Since an Exchange role with respect to corporate conflicts of interest is no longer necessary, we do not believe that Exchange rules in this area are "related to the purposes of this title or the administration of the Exchange" within the meaning of the statute.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The Exchange believes that the policy modification not only recognizes the many positive developments in the area of corporate governance since formulation of its conflict of interest policy but also is consistent with and fosters the trend toward improved corporate governance. As such, the proposed rules changes neither enhance nor impose a burden on competition.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others.* The Exchange has neither solicited nor received written comments with respect to the proposed rules changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and argument concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communication relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Branch, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: May 12, 1983.

George A. Fitzsimmons,

Secretary.

Additions italicized; deletions [bracketed].

Rule 495. Standards of Eligibility for Listing

* * * * *

. . . Supplementary Material

.10 It is recognized that in a closely-held company, situations involving the personal interests of officers, directors, or principal shareowners are sometimes regarded as advantageous or convenient. Usually, the character and appropriateness of these relationships is reconsidered when a company seeks the benefits of broader public ownership. [Accordingly, the Exchange would look for information on any such relationships; for example, the leasing of property to or from the company, interests or options in subsidiaries, interests (other than ordinary investments in widely-held, publicly-owned companies) in businesses that are competitors, suppliers, or customers of the company.] *The Exchange believes that the review and oversight of such situations is best left to the discretion of listed corporations and corporations applying for listing on the NYSE. While no particular method of resolution is suggested, the Audit Committee or a comparable body could be considered as the forum for review and oversight of potential conflicts of interest situations.*

.40 *Effective Dates.*—This rule is effective upon approval by the Securities and Exchange Commission.

* * * * *

Rule 499. Securities admitted to the list may be suspended from dealings or removed from the list at any time.

. . . Supplementary Material:

.10 General.—In connection with this rule, the Exchange has adopted certain guidelines which are outlined below under the heading "Numerical and Other Criteria." These normally lead the Exchange to review the appropriateness of continuing listing of any company that is reached by the definitions. When a review is made of the listing status of an individual security issue, the appropriateness of the continued listing of any other securities of the company is considered on a broad base and is not limited to the numerical and other criteria.

The Exchange is not limited by what is set forth under the heading "Numerical and Other Criteria". Rather, it may make an appraisal of, and determine on an individual basis, the suitability for continued listing of an issue in the light of all pertinent facts whenever it deems such action appropriate, even though a security meets or fails to meet any enumerated criteria. Many factors might be considered in this connection, e.g., the failure of a company to make timely, adequate, and accurate disclosures of information to its shareholders and the investing public or to observe good accounting practices in reporting of earnings and financial position; [the creation or perpetuation of conflicts of interest or other conduct not in keeping with sound public policy;] unsatisfactory financial conditions and/or operating results; inability to meet current debt obligations or adequately to finance operations; abnormally low selling price or volume of trading; unwarranted use of company funds for the repurchase of its equity securities; any other event or condition which may exist or occur that make further dealings and listing of the securities on the Exchange inadvisable or unwarranted in the opinion of the Exhchange.

[FR Doc. 83-13494 Filed 5-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19760; SR-OCC-80-6]

Options Clearing Corporation ("OCC"); Order Approving Proposed Rule Change

May 12, 1983.

On December 15, 1980, OCC filed a proposed rule change with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act") and Rule 19b-4 thereunder. The proposed rule change conforms certain of OCC's By-Laws and Rules to the clearing agency registration standards (the "Registration Standards") adopted by the Division of Market Regulation.[1] Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by publication of a Commission release (Securities Exchange Act Release No. 17428 (January 8, 1981)) and by

[1] Section 17A(b)(3) of the Act requires the Commission, before granting registration, to make a number of determinations with respect to a clearing agency's organization, capacity and rules. To provide guidance to clearing agencies in structuring their organizations, systems and rules to comply with the provisions of Section 17(A)(b)(3), the Division of Market Regulation published Registration Standards. *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

publication in the **Federal Register** (46 FR 3710 (January 15, 1981)). The Commission did not receive any comments. OCC did not solicit or receive comments.

The proposed rule change would, consistent with the Registration Standards, (i) amend OCC Rule 211 to provide notice of OCC proposed rule changes to OCC clearing members and the other registered clearing agencies; [2] (ii) amend Article III, Section 8 of the OCC By-Laws to give express authority to OCC's Board of Directors to interpret OCC By-Laws and Rules; (iii) amend Article VIII, Section 5 of the OCC By-Laws to require OCC to give OCC clearing members prompt notice of the amount of, and the reasons for, any pro-rata charge to OCC's clearing fund or any change to current earnings resulting from a pro-rata charge to the clearing fund; (iv) add a new rule which provides for OCC's distribution of its financial statements and internal accounting control reports to clearing members; and (v) amend OCC By-Laws and rules related to membership eligibility to provide, among other things, that all registered brokers and dealers are eligible for OCC membership.[3]

The Commission believes that the proposed rule change would amend certain OCC By-Laws and Rules consistent with the Registration Standards. The Commission further has determined that the proposed rule change is consistent with the requirements of the Act pertaining to clearing agencies, and in particular, with the requirements of Section 17A and the rules and regulations thereunder. In issuing this Order, however, the Commission passes only upon the rule changes that are the subject of this Order and does not make any general findings with respect to the conformity of OCC's Rules, By-Laws and Procedures, in the aggregate, with the Act and the Registration Standards.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be approved.

[2] Concurrent with this filing, OCC requested an exemption from the provision of the Registration Standards that would require OCC to provide other registered clearing agencies with a copy of OCC proposed rule changes. In a letter dated April 15, 1983, OCC requested that the Exemption request be considered within the framework of the ongoing full registration proceedings rather than in connection with this filing.

[3] In connection with OCC's application for registration as a clearing agency, OCC has requested a partial exemption from Section 17A(b)(3)(B) of the Act, which requires entities other than registered broker-dealers to be eligible for OCC membership. The Commission has not passed on the request.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13497 Filed 5-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19761; File Nos. SR-PCC-83-2 and SR-PSDTC 83-4]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Pacific Clearing Corporation ("PCC") and Order Withdrawing Proposed Rule Change of Pacific Securities Depository Trust Company ("PSDTC")

May 12, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 27, 1983, PCC filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would make several enhancements to PCC's OTC Equity Comparison System.[1] Specifically, the proposed rule change would add Demand Withhold and Demand Withhold Delete capabilities as well as make several minor enhancements to PCC's current comparison processing systems.

Under PCC's proposal, a buyer or seller that wishes to delete a previously compared OTC trade would submit to PCC a Demand Withhold form two days after trade date ("T+2"). The Demand Withhold contains trade information that is processed against the prior day's compared trade file to identify the trade in question and thereby "validate" the Demand Withhold. If the Demand Withhold matches a *contra* Demand Withhold or a *contra* Regular Withhold, a compared Demand Withhold results and the previously compared trade is deleted from the clearing cycle.

A Demand Withhold that does not match another Demand Withhold or a Regular Withhold generates a Demand Withhold Advisory that PCC sends to the *contra* party. Upon receiving a Demand Withhold Advisory, the *contra* party may do one of three things: (i) accept the Demand Advisory and return the Demand Advisory to SCCP within two days. The accepted Demand Advisory enters the comparison cycle and deletes the trade; (ii) reject ("DK") the Demand Advisory and return the Demand Advisory to PCC within two days. The DK'ed Demand Withhold Advisory causes the Demand Withhold to be dropped from the comparison system and leaves the matched trade intact for settlement on T+5; or (iii) ignore the Advisory. In that instance, the trade will be automatically deleted from the system.

The proposal also contains procedures that enable participants to delete erroneously submitted Demand Withhold instructions. To delete such an instruction, the submitting participant must forward to NSCC on T+3 or T+4 a Demand Withhold Delete instruction. The Demand Withhold Delete causes the Demand Withhold to be dropped from the comparison cycle, thus allowing the previously compared trade to remain in the clearance cycle. If a Demand Withhold Delete is received by NSCC after the Demand Withhold is compared or after any action results from a Demand Withhold Advisory, NSCC will not accept the Demand Withhold Delete instruction.

PCC stated that the Demand Withhold capability is being provided to allow participants to delete a trade that they mutually agreed to cancel, but which was nonetheless compared on T+1 because the respective firms' purchase and sale departments were notified too late to stop the comparison of the initial trade submission. In these situations, PCC stated that its participants have epxressed difficulties in using the normal Withhold process to delete the trade.[2]

In addition, the proposed rule change makes several minor changes to PCC's comparison processing systems. Specifically, the proposed rule change would (i) modify Regular advisory tickets to require full security descriptions, rather than only security symbols, (ii) permit clearing members to accept a Regular Advisory partially when the participant agrees with all details of the trade except the quantity (*i.e.*, security identification, market place of execution, trade date, *contra* broker, executing broker and price)[3] and

[1] PCC's OTC Comparison system is linked with the National Securities Clearing Corporation's ("NSCC") OTC System. PCC's proposed rule change, for the most part, reflects changes in NSCC's System and makes available to PCC's participants comparison features previously approved by the Commission. *See* File Nos. SR-NSCC-81-9 and 83-1, Securities Exchange Act Release Nos. 18203 (October 23, 1981) 46 FR 53565 (October 29, 1981) and 19530 (February 23, 1983), 48 FR 8616 (March 1, 1983), respectively.

[2] *See* PCC/PSDTC Member Information No. 83-2648 (March 17, 1983).

[3] Under the proposed rule change, any remaining uncompared quantity would be resolved as before by a close out transaction. For example, a participant that receives a Regular Advisory

(iii) establish a series of codes to replace the handwritten description of rejected Demand As Of Advisories.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning in the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments shoud file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–PCC–83–2.

Because File No. SR–PCC–83–2 is identical to File No. SR–PSDTC–83–4, which had been filed in error with the Commission on April 19, 1983, PSDTC requested that the Commission consent to the withdrawal of the PSDTC filing. The Commission hereby consents to PSDTC's request and therefore orders File No. SR–PSDTC–83–4 to be withdrawn.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13498 Filed 5-18-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 83–029]

Rules of the Road Advisory Council; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Rules of the Road Advisory Council. The meeting will be held on Wednesday, June 22, 1983 from 8:30 a.m. to 4:30 p.m. and Thursday, June 23, 1983 from 1:00 p.m. to 3:30 p.m., at the U.S. Merchant Marine Academy, Kings Point, New York. The agenda for the meeting consists of the following items:

1. Possible ambiguity of wording of Rule 24(d) of the Inland and International Navigation Rules.

2. Use of masthead lights on towing vessels below the Huey P. Long Bridge, Lower Mississippi River.

3. Inland Rule 9—Narrow Channels:

(a) Guidance for towboat operators and others on what constitutes a narrow channel.

(b) Examination of Rule 9(a)(ii) as compared to the similar Canadian Rule.

(c) Examination of Rule 9(e).

4. Inland Rule 34(e)—Application of the bend signal.

5. Rule 24—Lighting of groups of vessels being towed astern.

6. Rule 27(e)—Proposal by U.S. Coast Guard to lessen required size of diver flag under certain conditions.

7. Interpretation of the word "impede" as used in our rules in light of "Guidance" issued by the International Maritime Organization.

8. Special markings for Geophysical Research vessels and their towed arrays.

9. Marking of dredges, dredge pipelines, and floating plants.

10. Coast Guard Status Reports and Information Items:

(a) Use of high intensity flashing white lights (strobe lights) on international waters.

(b) Sidelight placement on groups of barges being pushed ahead or towed alongside.

(c) Vertical and horizontal positioning of after masthead light on Western Rivers towing vessels.

(d) Interpretive Rule for composite unit.

(e) Extension of applicability of special rules for Western Rivers to certain other waters.

(f) Vessel Bridge-to-Bridge Radiotelephone communications.

(g) Alternative frequencies to Channel 22A in U.S. ports for Coast Guard navigational safety information.

(h) Publication of "Guidance" issued by International Maritime Organization.

Attendance is open to the public. With advanced notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time.

Additional information may be obtained from Commander Galen R. Siddall, Executive Director, Rules of the Road Advisory Council, U.S. Coast Guard (G–NSR/14), Washington, D.C. 20593, telephone (202) 245–0108.

Dated: May 5, 1983.

R. A. Bauman,

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

[FR Doc. 83-13451 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

National Airspace Review; meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Meeting

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 2–2 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee The agenda for this meeting is as follows: A review of separation standards in the Air Traffic Control radar environment.

DATE: Beginning June 13, 1983, at 11 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed three weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 7 A/B, 800 Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

National Airspace Review Program Management Staff, Room 1005, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, (202) 426–3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT–1, 800 Independence Avenue, S.W., Washington, D.C. 20591, by June 9, 1983. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

indicating a transaction for 300 shares may, if it agrees with the data contained in the Advisory but recognizes the quantity as 500 shares of the stated security, accept the Regular Advisory with respect to 300 shares and submit new trade data with respect to the remaining 200 shares.

Issued in Washington, D.C. on May 11, 1983.

Karl D. Trautmann,

Manager, Special Projects Staff, Air Traffic Service.

[FR Doc. 83-13429 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

Consolidated Rail Corporation; Hearing

The Consolidated Rail Corporation (Conrail) has petitioned the Federal Railroad Administration (FRA) for approval of proposed modifications of a portion of its signal system. The proposed modification involves discontinuance of the automatic block signal, traffic control and automatic cab signal system between Steubenville, Ohio and Newark, Ohio. This proceeding is identified as Block Signal Application Number 1941 and involves the Pittsburgh, Pennsylvania to Columbus, Ohio line that is known colloquially as the Penhandle Route.

The FRA has decided to hold a public hearing before entering its decision in this proceeding. Accordingly, a public hearing is hereby set for 10 a.m. on June 6, 1983. The public hearing will be held in Room 220 of the United States Court House located at 85 Macroni Boulevard, Columbus, Ohio.

The hearing will be an informal one and will be conducted in accordance with FRA, Rules of Practice (49 CFR Part 211). A representative designated by the FRA will conduct this hearing.

The hearig will not be an adverary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The representative of the FRA will make an opening statement outlining the scope of the hearing and will provide interested persons with an opportunity to make statements. Additional procedures, if necessary, for the conduct of the hearing will be announced at the start of the hearing.

This notice is issued under authroity of Section 25 of the Interstate Commerce Act, 49 U.S.C. 26; and § 1.49(g) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(g).

Issued in Washington, D.C. on May 11, 1983.

Joseph W. Walsh,

Associate Administrator for Safety.

[FR Doc. 83-13135 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-06-M

Maritime Administration

[Docket S-735]

Chestnut Shipping Co. and Margate Shipping Co.; Amended Section 805(a) Permission Concerning Affiliation with New England Collier Co.

New England Collier Company (NECC), a joint venture of New England Energy Incorporated (NEEI), a wholly-owned subsidiary of New England Electric System, and Keystone Shipping Co. (Keystone), a wholly-owned subsidiary of Chas. Kurz & Co., Inc. (Kurz), will soon take delivery of a 36,000 ton self-unloading collier, to be employed primarily in the U.S. domestic trade. Keystone will also act as managing agent of the vessel. NECC has recently chosen to own as opposed to bareboat charter the vessel.

Chestnut and Margate are parties to long-term Operating-Differential Subsidy contracts in the foreign bulk trades of the United States and are affiliated with Kurz and Keystone, both of whom will be affiliated with NECC for operation of its vessel, ENERGY INDEPENDENCE, in the domestic trade. Chestnut and Margate on date of November 4, 1976 were granted written permission by the Maritime Adminstrator pursuant to section 805(a) of the Merchant Marine Act, 1936, as amended. That permission provided for an affiliate of Chestnut and Margate to bareboat charter and operate one self-unloading dry bulk carrier in the U.S. Pacific, Gulf and East Coast trades with Keystone to serve as managing agent. Under the NECC project, as presently contemplated, NECC will own rather than bareboat charter such a vessel in those trades. Additional notices of the details of the proposed project were published by the Securities and Exchange Commission in the **Federal Register** on December 1, 1980, July 6, 1981, and April 20, 1982.

Inasmuch as Chestnut and Margate have already been granted section 805(a) permission for an affiliate to acquire a dry bulk carrier, this Notice affords interested persons an oppourtunity to comment on the amended ownership arrangement. Therefore, any person, firm, or corporation having any interest in such affiliation and ownership (within the meaning of section 805(a)) and desiring to submit comments must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300 Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, by close of business on May 31, 1983, together with petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

Upon expiration of the time for filing comments the Maritime Administration will take such action as may be deemed appropriate, including the possibility of referring the matter to hearing. The purpose of any such hearing would be to receive evidence under section 805(a) relative to whether the proposed ownership as opposed to operation under bareboat charter (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies (ODS))

By Order of the Maritime Administrator.

Dated: May 17, 1983.

Georgia P. Stamas,

Secretary.

[FR Doc. 83-12781 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-81-M

Urban Mass Transportation Administration

Intent To Prepare an Environmental Impact Statement on a Proposed Multimodal Transportation Terminal in Santa Ana, California

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Urban Mass Transportation Administration (UMTA) and the City of Santa Ana are jointly undertaking the preparation of an Environmental Impact Statement (EIS) for a proposed multimodal transportation terminal in Santa Ana, California. The EIS is being prepared in conformance with 40 CFR Part 1500, Council on Environmental Quality Regulations for Implementing the Procedural Requirements of the National Environmental Policy Act of 1969 as amended and 49 CFR Part 622, Federal Highway Administration and Urban Mass Transportation Administration, Environmental Impact and Related Procedures.

FOR FURTHER INFORMATION CONTACT: Ms. Carmen C. Clark, Senior Community Planner, UMTA—Region IX Office at (415) 556-9364 or Mr. David H. Grosse, Director, Transportation Services, City of Santa Ana at (714) 834-4938.

SUPPLEMENTARY INFORMATION:

Project Description

The proposed project is located in downtown Santa Ana at the intersection of Santa Ana Boulevard and Santiago Avenue on a 6.5 acre site. The site immediately abuts the Atchison, Topeka, and Santa Fe Railroad tracks and is served by three existing Orange County Transit District bus routes connecting to the central business district and the County Civic Center. The multimodal terminal will provide improved access to commuter rail, Amtrak rail, intercity bus, taxi, airport limousine, and Greyhound and Trailways services.

Alternatives

Alternatives considered include a No-Action, partial development of the site, and development of the project at another downtown Santa Ana site. Under the No-Action alternative, the bus modes would continue operating at separate sites and the rail services woud continue sharing the present Amtrak facility.

Probable Environmental Impacts

All of the action alternatives would result in business displacement and increased traffic, noise and air quality impacts in the vicinity of the alternative sites.

Scoping Meeting

UMTA is sponsoring a Scoping Meeting for the preparation of the EIS. The topics for discussion will include the need for the action, probable environmental impacts and the procedures for estimating those impacts. The Scoping Meeting is scheduled for June 2, 1983 at 10:00 a.m. in the Council Chambers, 20 Civic Center Plaza, Santa Ana, California.

Dated: May 12, 1983.

James E. Davis,

Deputy Associate Administrator for Grants Management.

[FR Doc. 83-13138 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-57-M

Solicitation of Proposals for Grants; Technology Introduction Program and Innovative Techniques and Methods Program

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice

SUMMARY: The Urban Mass Transportation Administration (UMTA) announces in this notice that it is soliciting proposals for grants under the Technology Introduction Program and the Innovative Techniques and Methods Program under Sections 3(a)(1)(C) and 4(i), respectively, of the Urban Mass Transportation Act of 1964, as amended, for fiscal year 1984 funding. UMTA will select from among the proposals received, contact the submitting parties, and request complete grant applications from them.

Proposers are reminded that many projects funded under Sections 3(a)(1)(C) and 4(i) are also eligible for funding under Section 9 of the Act. UMTA is encouraging potential proposers to use, to the maximum extent possible, the funding available under Section 9. Details on the funding sources are available at the appropriate UMTA Regional Office.

DATE: Proposals are due for both programs by August 17, 1983.

ADDRESSES: Proposals for Section 3(a)(1)(C) and 4(i) grants should be sent to the appropriate UMTA Regional Office.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to the appropriate UMTA Regional Office.

Section 3(a)(1)(C): Technology Introduction Program

The Technology Introduction Program was initiated to assist in financing the introduction into public transportation service of new technology in the form of innovative and improved products. Section 3(a)(1)(C) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1602(a)(1)(C)) (UMT Act) authorizes the Secretary of Transportation to make grants or loans to assist public agencies in financing the introduction into public transportation service of new technology in the form of innovative and improved products.

UMTA's objective in financing new technology is to encourage transit suppliers to produce and transit operators to use innovative technology that will:

(a) Lower transportation life cycle costs.

(b) Improve transit system productivity.

(c) Provide societal benefits or further national goals such as energy conservation and environmental protection.

(d) Provide consumer benefits that make mass transit more attractive to users and potential users.

To meet this objective UMTA will provide:

(a) Technical and financial assistance to bridge the gap between the end of the R&D process and transit industry application; and

(b) Assistance for public agency purchase of limited pre-production quantities of new products for revenue service to increase confidence in operational preformance and reliability, and to provide a sound and valid empirical basis for cost-effectiveness tradeoffs in transit equipment selection decisions.

UMTA intends to publish a formal circular describing the Section 3(a)(1)(C) program. In the interim, prospective applicants are referred to the **Federal Register** notice of January 19, 1981 (46 FR 5832), which describes the background and purpose of the program. For purposes of evaluation, proposals should contain a detailed project description, budget, outline of benefits, market potential, evaluation plan, and the degree of development of the technology. Proposals must also include the costs and plans for data collection and evaluation and the development of a preliminary report. A complete grant application is not needed at this time. Proposers are remined that 3(a)(1)(C) project funding is now based on a 75 percent Federal and 25 percent local source of funds.

Proposers not selected for participation in earlier 3(a)(1)(C) announcements may, by submitting letters of continuing interest in lieu of new proposals, revise earlier submittals for consideration in Fiscal Year 1984.

Section 4(i): Innovative Techniques and Methods Program

The Innovative Techniques and Methods program was begun to further the national adoption of innovative techniques that will reduce the cost of transportation, increase transit system revenues, and increase opportunities for private sector involvement. Section 4(i) of the UMT Act (49 U.S.C. 1603(i)) authorizes the Secretary to make grants to States and local public bodies for the deployment of innovative techniques and methods in the management and operation of public transportation services.

Experience with UMTA's Service and Methods Demonstration Program indicates that increased acceptance of an innovation requires application of the technique in many geographically dispersed areas. The Section 4(i) program can encourage more widespread adoption of proven innovative techniques and methods in urban transportation. Innovative techniques and methods eligible for funding under the Section 4(i) program include the following:

- Conventional transit innovation,
- Pricing and service innovation,

- Paratransit services; and
- Transit management improvements.

UMTA intends to publish a formal cricular for the implementation of the Section 4(i) program. In the interim, proposals for the Section 4(i) program should follow administrative procedures set forth in the December 1, 1980, **Federal Register** notice (45 FR 79670). A list of major categories of innovation that should be considered for the section 4(i) program is available at UMTA headquarters and Regional Offices.

For purposes of evaluation, proposals should contain a detailed project description, budget, outline of benefits, other support or participation, and project continuation. A complete grant application is not needed at this time. Proposers are reminded that 4(i) project funding is now based on a 75 percent Federal and 25 percent local source of funds.

Proposers not selected for participation in earlier Section 4(i) announcements may, by submitting letters for of interest in lieu of new proposals, revise earlier submittals for consideration in Fiscal Year 1984.

Issued on: May 11, 1983.

Arthur E. Teele, Jr.,

Urban Mass Transportation Administrator.

[FR Doc. 83-13242 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-57-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Admministration.

ACTION: Notice

The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document consists of revised forms. The entries contain the following information: (1) The department or staff office issuing the form; (2) the title of the form; (3) the agency form number, if applicable; (4) how often the form must be filled out; (5) who will be required or asked to report; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form; and (8) an indication of whether section 3504(H) of Pub. L. 96-511 applies.

ADDRESSES: Requests for further information, including copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW., Washington DC, 20420 (202) 389-2146. Comments and questions about the items on this list should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Veterans Administration, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-6880.

DATE: Comments on the forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: May 12, 1983.

By direction of the Administrator.

Dominick Onorato,

Associated Deputy Administrator for Information Resources Management.

Revised Form

(1) Department of Medicine and Surgery.
(2) State Home Report and Statement of Federal Aid Claimed.
(3) VA Form 10-5588.
(4) Once per month.
(5) State veterans homes making claim for VA aid payments for care of eligible veterans.
(6) 540 per annum.
(7) 243 hours.
(8) Not applicable under 3504(H).

Revised Form

(1) Board of Veterans Appeals.
(2) Appeal to Board of Veterans Appeals.
(3) VA Form 1-9.
(4) On occasion.
(5) Appellants for VA benefits.
(6) 41,000 per annum.
(7) 41,000 hours.
(8) Not applicable under 3504(H).

[FR Doc. 83-13488 Filed 5-18-83; 8:45 am]

BILLING CODE 8320-01-M

Replacement Medical Center, Allen Park, Michigan; Intent To Prepare an Environmental Impact Statement

AGENCY: Veterans Administration.

ACTION: Notice of Intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Veterans Administration (VA) has identified the need to prepare an Environmental Impact Statement (EIS). To fulfill the requirements of Section 102(2)(c) of the National Environmental Policy Act, this Notice of Intent and initiation of the Scoping Process is being issued under Title 40, Code of Federal Regulations, § 1501.7.

FOR FURTHER INFORMATION CONTACT: Mr. William F. Sullivan, Director, Office of Environmental Affairs (005), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202-389-3316).

SUPPLEMENTARY INFORMATION:

1. Description of Proposed Action

The VA intends to study potential alternatives for resolving the problems associated with the existing VA Medical Center (VAMC) at Allen Park, Michigan. The existing facilities are functionally inefficient and deficient in the necessary space to provide modern health care delivery to eligible veterans.

2. Alternatives

Alternatives being examined and evaluated include the following: (1) Renovation of the existing VAMC Allen Park with minimal new construction; (2) a phased combination of renovation and significant new construction at the VAMC; (3) phased replacement of the existing VAMC on the same campus; (4) complete replacement of the VAMC on a new site to be acquired; and (5) no action.

The new site proposed for a replacement medical center is adjacent to the Wayne State University Medical School of the Detroit Medical Complex in midtown Detroit. The site consists of approximately 18.7 acres just north of the central business district and east of the Woodward Avenue corridor. The current use of the site is as single and multi-family residential and interspersed with vacant land that the City of Detroit has acquired as part of their renewal area. The final alternative to be discussed in the EIS will be the NO ACTION alternative. This alternative will consider the impacts of only standard operational maintenance at the existing Allen Park VAMC.

3. Scoping Process

The VA requests input from interested and concerned agencies and individuals for the purpose of identifying issues for consideration in the preparation of the EIS. Comments should be sent to Mr. William F. Sullivan, Director, Office of Environmental Affairs (005), 810 Vermont Avenue, NW., Washington, D.C. 20420.

4. Public and Private Participation in EIS Process

The issues and concerns identified during the scoping process will help determine the nature and extent of the impact analysis performed in the EIS. Participation of individuals, public and private organizations and local, State and Federal agencies are invited.

5. Timing

Tentative times have been established for the completion of the environmental process at the following milestones:

- Complete Scoping Process—June 1983.

• Availability of the draft EIS—March 1984.

• Availability of the draft EIS—September 1984.

• Completion of the Record of Decision—November 1984.

6. Request for Copies of the Draft EIS

For placement on the mailing list to receive a Draft EIS or for other VA environmental information, please contact the Office of Environmental Affairs at the above address.

Dated: May 10, 1983.
By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 83-13487 Filed 5-18-83; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 98
Thursday, May 19, 1983

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

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, June 3, 1983.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-713-83 Filed 5-17-83; 2:20 pm]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Wednesday, June 1, 1983.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Leverage—Proposed Rules Introducing Brokers—Final Rules

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-714-83 Filed 5-17-83; 2:19 pm]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, May 27, 1983.

PLACE: 2033 K Street, NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-715-83 Filed 5-17-83; 2:10 pm]

BILLING CODE 6351-01-M

4

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, May 26, 1983. 10 a.m.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. *Space Heaters—Revocation or Exemption Applications*
   The Commission will consider 23 applications from state and local jurisdictions for exemption from the preemptive effects of the Commission:s unvented gas-fired space heater safety standard. The Commission will consider various options including whether to grant or deny the applications or whether to defer the applications and direct the staff to draft a *Federal Register* notice initiating a rule-making proceeding that could result in a revocation of the standard.
2. *Mid-Year Review: Smoke Detector; PPPA Data Needs*
   The Commission will consider FY '83 resource issues relating to(1) Smoke Detector Project, and (2) PPPA data needs.

(For a recorded message containing the latest agenda information call 301–492–5709)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301–492–6800.

[S-709-83 Filed 5-17-83; 12:02 pm]

BILLING CODE 6355-01-M

5

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Tuesday, May 24, 1983.

LOCATION: Third Floor Hearing Room, 1111–18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

FY '84 Operating Plan
The Commission and the staff will discuss the operating plan for fiscal year 1984.

(For a recorded message containing the latest agenda information: call 301–492–5709)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301–492–6800.

[S-710-83 Filed 5-17-83; 12:02 pm]

BILLING CODE 6355-01-M

6

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, May 25, 1983.

LOCATION: Third Flor Hearing Room, 1111–18th Street NW., Washington, D.C.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

1. Enforcement Matter
The staff will brief the Commission on enforcement matter OS #5455.
2. Enforcement Matter
The staff will brief the Commission on enforcement matter OS #4600.

(For a recorded message containing the latest agenda information: call 301–492–5709)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207, 301–492–6800.

[S-711-83 Filed 5-17-83; 12:02 pm]

BILLING CODE 6355-01-M

7

FEDERAL ELECTION COMMISSION

Federal Register No. 684.

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, May 17, 1983 at 10 a.m.

CHANGE IN MEETING: The Executive Session scheduled for this date has been cancelled.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 19, 1983 at 10 a.m.

CHANGE IN MEETING: The following matter has been carried over from the open meeting or May 12, 1983:

Final Repayment Determination and Issuance of Statement of Reasons for the Reagan for President Committee

* * * * *

DATE AND TIME: Tuesday, May 24, 1983 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Personnel. Litigation. Audits.

* * * * *

DATE AND TIME: Thursday, May 26, 1983 at 2 p.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (Fith Floor)

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory Opinion #1983-12 J. Curtis Herge, Counsel to National Conservative Political Action Committee
Eligibility reports for candidates to receive Presidential primary matching payments
Proposed revisions to Presidential Election Campaign fund regulations (continued from meeting of 5-19-83, if necessary)
Explanation and justification governing collecting agents and joint fundraising (continued from meeting of 5-19-83, if necessary)
Finance Committee Report
Budget Execution Report-April
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S-721-83 Filed 5-17-83; 3:57 pm]
BILLING CODE 6715-01-M

8

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., May 26, 1983.

PLACE: Hearing Room One-1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED: 1. Docket No. 83-22: Equal Access Agreement in the United States/Republic of the Philippines Ocean Liner Trade (Agreement No. 10461)—Motion of proponents to suspend proceeding.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-708-83 Filed 5-17-83; 11:31 am]
BILLING CODE 6730-01-M

9

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 2:30 p.m., Tuesday, May 31, 1983.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Investigations 731-TA-131 and -132 [Preliminary] (Welded Carbon Steel Pipes and Tubes from the Republic of Korea and Taiwan)—briefing and vote.
5. Investigation 701-TA-190 [Final] (Nitrocellulose from France)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-719-83 Filed 5-17-83; 3:31 pm]
BILLING CODE 7020-02-M

10

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Thursday, June 2, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Petitions and complaints: a. Certain self-stripping electrical tap connectors (Docket No. 938).
2. Investigations 701-TA-195 and -196 [Final] (Stainless Steel Sheet, Strip, and Plate from the United Kingdom) and Investigations 731-TA-92 and -95 [Final] (Stainless Steel Sheet and Strip from the Federal Republic of Germany and France)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-720-83 Filed 5-17-83; 3:21 pm]
BILLING CODE 7020-02-M

11

NUCLEAR REGULATORY COMMISSION

DATE: Week of May 16, 1983 (revised) and Week of May 23, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Wednesday, May 18:

9:30 a.m.
Discussion/Possible Vote on Contested Issues in Callaway (Closed—Ex. 10) (Time and Date Change)
3 p.m.
Evaluation of Implications of Salem Event (Part I) (Continuation) (public meeting) (New Item)

Monday, May 23:

10:30 a.m.
Briefing on NRC Comments on EPA Proposed Title II Standards (Uranium Mill Trailings) (public meeting)

Tuesday, May 24:

10 a.m.
Briefing on Staff Revalidation of Management Competence at TMI-1 (public meeting)
2 p.m.
Discussion/Possible Vote on Full Power Operating License for McGuire-2 (public meeting) (*Postponed* from May 17)

Thursday, May 26:

10 a.m.
Oral Presidentations on Indian Point Emergency Planning and Preparedness (public meeting)

Friday, May 27:

10 a.m.
Briefing on Nuclear Plant Reliability Data System (NPRDS) (public meeting)
1:30 p.m.
Evaluation of Implications of Salem Event (Part II) (public meeting)

ADDITIONAL INFORMATION: Discussion of Steps to Decision in TMI-1 Restart scheduled for May 10, *cancelled.* Discussion of Management-Organization and Internal Personnel Matters scheduled for May 11, *cancelled.*

On May 12 the Commission voted 4-0 (Commissioner Gilinsky not present) to hold Affirmation of Commission Order Indicating Agreement with Licensing Board Order Declining to Terminate the Shoreham Operating License Proceeding, held that day. On May 12 the Commission voted 4-0 (Commissioner Gilinsky not present) to hold Affirmation of the Waste Confidence Order and Rule on Extended Spent Fuel Storage, to be held on May 13.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

Dated: May 13, 1983.

Walter Magee,
Office of the Secretary.

[S-707-83 Filed 5-16-83; 4:31 pm]
BILLING CODE 7590-01-M

12

POSTAL RATE COMMISSION

TIME AND DATE: 2 p.m., Thursday, May 26, 1983.

PLACE: Conference Room, Room 500, 2000 L St., NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Aggregate Letter Case. (Docket No. MC82-2)

(Closed pursuant to 5 U.S.C. 552b(c)(10))

CONTACT PERSON FOR MORE INFORMATION: Cyril J. Pittack, Acting Secretary, Postal Rate Commission, Room 500, 2000 L Street, N.W., Washington, D.C. 20268, Telephone (202) 254–5614.

[S–712–83 Filed 5–17–83; 1:58 pm]

BILLING CODE 7715–01–M

13

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of May 23, 1983, at 450 5th Street, N.W., Washington, D.C.

Open meetings will be held on Monday, May 23, 1983, at 2:00 p.m. and on Thursday, May 26, 1983, at 10:00 a.m. in Room 1C30.

Close meetings will be held on Tuesday, May 24, 1983, at 10:00 a.m. and on Wednesday, May 25, 1983, at 10:00 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Longstreth and Treadway voted to consider the items listed for the closed meetings in closed session.

The subject matter of the open meeting scheduled for Monday, May 23, 1983, at 2:00 p.m., will be:

The Commission, as part of its active oversight of private sector standard-setting activities, will meet with members of the Financial Accounting Standards Board ("FASB") regarding the Board's Conceptual Framework project and other items under active consideration by the FASB. The FASB's Conceptual Framework project is comprised of the four concepts statements issued to date plus several additional phases currently under development. The project is expected to provide a foundation of fundamental concepts to be used in the development of individual standards of accounting and reporting. For further information, please contact Clarence Staubs at (202) 272–2130.

The subject matter of the closed meeting scheduled for Tuesday, May 24, 1983, at 10:00 a.m., will be:

Formal orders of investigation.
Settlement of administrative proceeding of an enforcement nature.
Access to investigative files by Federal, State, or Self-regulatory authorities.
Litigation matters.
Institution of administrative proceeding of an enforcement nature.
Institution of injunctive action.
Opinion.

The subject matter of the closed meeting scheduled for Wednesday, May 25, 1983, at 10:00 a.m., will be:

Regulatory matter regarding financial institution.
Regulatory matter bearing enforcement implications.
Formal orders of investigation.
Litigation matter.
Institution of administrative proceedings of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, May 26, 1983, at 10:00 a.m., will be:

1. Consideration of a rule change submitted by the New York Stock Exchange, Inc. ("NYSE") which proposes to extend and expand the NYSE's Registered Representative Rapid Response Service. For further information, please contact William W. Uchimoto at (202) 272–2409.
2. Consideration of whether to allow, or under what conditions to allow, the use of letters of credit (1) as "cover", in lieu of margin, when establishing short options positions in foreign currency or stock index options; (2) as collateral for secured demand notes made by subordinated lenders contributing capital to broker-dealers; and (3) as margin deposits required by the Options Clearing Corporation for certain aggregate short or exercised options positions of participants. For further information, please contact Thomas V. Sjoblom at (202) 272–7379.
3. Consideration of whether to publish for comment a proposed rule that would require broker-dealers using predispute arbitration clauses in customer agreements to disclose that investors are not precluded by such clauses from recourse to the federal courts with respect to claims arising under the federal securities laws. The purpose of the proposed rule is to ensure that investors are aware of the availability of this recourse to the federal courts. For further information, please contact Robert A. Love at (202) 272–2792.
4. Consideration of whether to adopt amendments to Forms 1 and 1–A and Rule 6a–2 under the Securities Exchange Act of 1934. These forms and the rule govern application for, or exemption from, registration of a national securities exchange and the periodic amendments to the original registration statement. In addition, the Commission will consider adoption of amendments to its delegation of authority rules that will, if adopted, delegate to the Director of the Division of Market Regulation authority to exempt exchanges from certain filing requirements with respect to certain exchange affiliates and subsidiaries. For further information, please contact Alden S. Adkins at (202) 272–2418.
5. Consideration of petitions from Tax Analysts and Advocates, Stockholders Against the Government Burden and the American Economic Foundation for various amendments to expand the existing tax disclosure requirements of Regulation S–X. For further information, please contact Elizabeth Rader at (202) 272–2130.
6. Consideration of whether to propose for public comment Rule 205–3 under the Investment Advisers Act of 1940 which would permit registered investment advisers to enter into performance-based compensation arrangements with their clients provided certain conditions were met. For further information, please contact Forrest R. Foss at (202) 272–3029.
7. Consideration of whether (1) to adopt a technical amendment to Rule 24f–2 which would eliminate the requirement to file the annual notice pursuant to that Rule if the issuer has not sold any securities pursuant to Rule 24f–2 during the preceding fiscal year; and (2) to propose for comment two amendments to Rule 24f–2 under the Investment Company Act of 1940. The first amendment would require any issuer who has filed a declaration pursuant to that Rule to include a statement to that effect on all subsequent post-effective amendments along with a statement of when the issuer has filed or intends to file its Notice, or that the filing is unnecessary; the second would change the consequence for failure to file timely the required notice so that the issuer's declaration pursuant to Rule 24f–2 would terminate, but the issuer's registration statement would not terminate. For further information, please contact Gregory K. Todd, at (202) 272–7317.
8. Consideration of whether to issue a notice on an application filed by the mutual funds within the IDS Group ("Funds"), and Investors Diversified Services, Inc., the Funds' investment manager and principal underwriter, requesting an order pursuant to Section 17(d) of the Investment Company Act of 1940 ("Act") and Rule 17d–1 thereunder, permitting a proposed joint arrangement for allocating distribution expenses among the Funds, and pursuant to Section 6(c) of the Act, granting exemptions from Sections 22 (b), (c) and (d) of the Act and Rules 2a–4, 17d–1(a) and 22c–1 under the Act in connection with the proposed joint distribution arrangement. For further information, please contact Brion R. Thompson at (202) 272–3026.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bob Zutz at (202) 272–2091.

May 16, 1983.

[S-717-83 Filed 5-17-83; 2:26 pm]

BILLING CODE 8010-01-M

14

SYNTHETIC FUELS CORPORATION

ENTITY: United States Synthetic Fuels Corporation.

ACTION: Notice of Meeting.

SUMMARY: Interested members of the public are advised that a meeting of the Board of Directors of the United States Synthetic Fuels Corporation will be held on the date and at the time and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and Section 4 of the Corporation's Statement of Policy on Public Access to Board Meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting pursuant to Article II, Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and Sections 4 and 5 of said Policy.

MATTERS TO BE CONSIDERED:

Remarks by Chairmen
Approval of Minutes
Report of the President
Operations Report of the Executive Vice President
Standard Terms and Conditions for Lignite Solicitation
Progress Report on Development of Comprehensive Strategy
Organization of Committees of the Board: Delegation to Chairman; Amendment of System of Organization; Amendment of By-laws to Describe Officer Functions by Reference to System of Organization.
Officer Appointment and Compensation

Closed Session

Consideration of Request for Release of Exempt Minutes of Board of Directors' Meetings
Consideration of Coal Solicitations
Project Strength Reviews
Consideration of Projects Under Negotiation

In addition, the Board of Directors will consider such other matters as may properly be brought before the meeting

DATE AND TIME: May 26, 1983 at 10 (EDT).

PLACE: Williams Plaza Hotel, Tulsa, Oklahoma.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Office of General Counsel, (202) 822–6336.

Dated: May 17, 1983.

United States Synthetic Fuels Corporation.

Victor A. Schroeder,

President.

[S-716-83 Filed 5-17-83; 2:24 am]

BILLING CODE 0000-00-M

15

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1317]

TIME AND DATE: 7:30 p.m. (EDT), Tuesday, May 24, 1983.

PLACE: Chattanooga State Technical Community College, Student Center, Room 260, 4501 Amnicola Highway, Chattanooga, Tennessee.

STATUS: Open.

Agenda Item
Approval of minutes of meetings held on May 11, 1983.
B.—Purchase Awards
B1. Proposal J3-663301—Indefinite quantity term contract for automated office systems.
B2. Supplement to Contract No. 78P66-148567 with Silver King Mines for management services at TVA's Edgemont, South Dakota, uranium mill site and properties.
C—Power Items
C1. Removal of restrictions in deed to Murfreesboro, Tennessee, for Walterhill Dam which prevent development of hydroelectric potential at site by Middle Tennessee Electric Membership Corporation.
C2. Supplement to cooperative research agreement with The University of Tennessee at Knoxville for coal feeding and fluidization studies in the fluidized bed.
C3. Resolution relating to 1983 rate change.

DATED: May 17, 1983.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TV's Washington Office (202) 245–0101.

[S-718-83 Filed 5-17-83; 3:00 pm]

BILLING CODE 8120-01-M

federal register

Thursday
May 19, 1983

Part II

Environmental Protection Agency

Chemical Information Rules; Preliminary Assessment Information; Final Rule and Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 712

[OPTS-82004L; BH-FRL 2328-4]

Chemical Information Rules; Preliminary Assessment Information; Manufacturers Reporting; Amendment Adding ITC Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule adds 46 chemicals to the list for which manufacturers must submit Preliminary Assessment Information under section 8(a) of the Toxic Substances Control Act (TSCA). The Interagency Testing Committee (ITC) recommended these chemicals as candidates for testing in its Sixth through Ninth Reports.

EFFECTIVE DATE: This regulation becomes effective on June 20, 1983.

FOR FURTHER INFORMATION CONTACT: For further information on this rule or to obtain copies of the Manufacturer's Report Form: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M Street, SW., Washington, D.C. 20460. Toll free: (800-424-9065). In Washington, D.C. (554-1404). Outside the U.S.A.: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000-0420

I. Background

EPA issued the Preliminary Assessment Information rule under section 8(a) of the Toxic Substances Control Act. The rule was published in the **Federal Register** of June 22, 1982 (47 FR 26992). The rule required manufacturers of about 250 chemicals to report general production, use, and exposure information using the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710-35). EPA simultaneously proposed and solicited comment on three amendments, including the addition of these 46 chemicals for manufacturer reporting (June 22, 1982; 47 FR 27009).

This amendment to the rule requires manufacturers to submit preliminary assessment information on 46 chemicals. The Sixth through Ninth ITC Reports designated these 46 chemicals (among others) as priority candidates for testing under TSCA section 4. (Other chemicals designated in the Sixth through Ninth ITC Reports were included among those already listed on the Preliminary Assessment Information rule.)

II. Response to Comments

The Agency received five comments on the proposed addition of these 46 chemicals. Two comments requested deleting hexachloroethane (CAS No. 67-72-1), based on EPA's prior decision not to require testing of that chemical under TSCA section 4 (47 FR 18175; April 28, 1982). One comment requested deleting fluoroethene (75-02-5) and tetrafluoroethene (CAS No. 116-14-3), because EPA had already issued an Advance Notice of Proposed Rulemaking published in the **Federal Register** of October 30, 1981 about the testing being considered for fluoroalkenes (46 FR 53704). The comment also said that data collected under this rule would not be available in time to affect testing decisions. Two other comments requested that EPA delete any chemical for which EPA has made a testing decision under TSCA section 4. These commenters considered that there is no current need for preliminary assessment data if EPA has completed its testing decision. The commenters said that future regulatory needs for data are uncertain, and that future needs would be for data current at that future time.

The Agency does not agree with these comments. In most instances, EPA will use preliminary assessment data to be reported under this rule to determine the need for testing the subject chemicals under TSCA section 4. However, the data also have other important uses to EPA. Even where a testing decision has already been made, the reported data will be evaluated to insure that the prior decision was appropriate in the light of the more complete production, exposure and release information provided by the rule.

For example, EPA reported in April 1982, that section 4 testing of hexachloroethane is not warranted at this time, based on its limited exposure and release to the environment. However, if current exposure were to change significantly, this decision may need reconsideration. By placing hexachloroethane under the 8(a) rule, EPA would obtain current information on its production, uses, potential exposure and environmental releases and would be able to determine if exposure to it has changed.

In some cases, the reported data may be needed to assist in allocating testing costs. Test rule analyses currently are based on data collected by contractors, from public literature, or voluntarily submitted by manufacturers. Data from this rule will verify the accuracy of these data. When EPA makes a decision based on voluntary submissions from manufacturers, such as in the case of the fluoroalkenes, data from the Preliminary Assessment Information rule will provide a means of verifying that the voluntary submissions provide a complete picture of the chemical's production, uses, exposure potential, and release. However, if a manufacturer's voluntary submission meets the requirements in § 712.30 (a) (3), he need not submit an additional report.

In addition to section 4 decisions, data obtained under this rule will also be used to assess the need for regulatory controls under other sections of TSCA. In some cases, the data may suggest that review would be appropriate under a different statute, such as the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580, Oct. 21, 1976). The data will allow comparison among chemicals on the basis of similar information. The comparison will indicate whether priorities are consistent among testing and other regulatory decisions.

III. Who Must Report

Persons subject to the Preliminary Assessment Information rule are specified at 40 CFR 712.20 and 712.25. Additional description may be found in the June 22, 1982, issue of the **Federal Register** (47 FR 26992).

Generally, a manufacturer (or an importer) would submit a Preliminary Assessment Information Manufacturer's Report (EPA form 7710-35) for each of the 46 chemicals he manufactures. If he manufactures a chemical at more than one site, he would submit a form for each site. A manufacturer is exempt from reporting for an individual site if the site production of the listed substance was less than 500 kilograms during the reporting period.

A manufacturer is also exempt from reporting if he qualifies as a small business by meeting the following two criteria during the reporting period: Total annual parent company sales below $30 million, and total production of the listed chemical at the site below 45,000 kilograms. EPA has separately proposed a generic definition of small manufacturers for TSCA section 8 (a) rules (June 23, 1982; 47 FR 27206). If the final generic small manufacturers definition is issued before this rule is final, EPA plans to apply the generic definition to reporting under this rule.

EPA separately proposed that processors report under the limited circumstances when manufacturers cannot provide adequate data (June 22, 1982, 47 FR 27009). When processor reporting requirements are promulgated, processors will be subject to reporting

on any of these 46 chemicals for which manufacturers' data are inadequate.

IV. Time to Report

This amendment requires manufacturers (and importers) of the 46 chemicals to submit reports by August 17, 1983. This allows 60 days after the effective date of this rule to report.

V. Economic Impact

The cost estimates for a company to comply with the requirements of this proposal are based in part on estimates used in the final Preliminary Assessment Information Rule. One commenter said these estimates were too low. EPA considers its cost estimates to be both accurate and sufficiently current to support the rule. However, the original form filing costs have been increased by 23.3 percent to reflect inflation between development of the original proposal and late 1982.

The cost estimates presented in this analysis were current as of the fourth quarter of 1982. Although actual reporting under this rule will not occur until the latter part of 1983, we have not attempted to adjust the cost estimates to reflect this. The wide variations in the overall rate of price inflation experienced during the recent past prohibit development of accurate cost projections. Additionally, we would not expect actual costs incurred during 1983 to be greatly different from the figures used here.

Costs can be broken down into the following categories:

1. A fixed cost of $590 for a site to become familiar with the regulation and identify the chemicals to report.

2. A variable cost of $520 per report for a site to determine whether information should be claimed as confidential and to complete the form and certification requirements.

We estimate that 39 plant sites will submit 60 reports. This figure excludes plant sites which are exempted by the small business cutoff. Total reporting costs for the 46 chemicals listed in this amendment will approximate $54,200. (For a discussion of the method to estimate reporting costs, see "Economic Impact and Small Business Definition Analysis for the Final TSCA Section 8(a) Preliminary Assessment Information Rule," prepared by ICF, Inc., 1981.)

VI. Public Record

The public record for this rulemaking is a continuation of the record (OPTS-82004) for the Preliminary Assessment Information rule published in the June 22, 1982, issue of the **Federal Register** (47 FR 26992). All documents, including the index to this public record, are available for inspection in the OPTS Reading Room from 8:00 to 4:00 p.m. on working days (Rm. E-107, 401 M St., SW., Washington, D.C., 20460). This record includes basic information considered by the Agency in developing this rule.

VII. Regulatory Assessment Requirements

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., authorizes the Director of the Office of Management and Budget to review certain information collection requests by Federal agencies. The reporting provisions in this amendment were approved by OMB during the proposal stage (March 1982, under control number 2000-0420), along with two other amendments: automatic reporting on chemicals designated by the Interagency Testing Committee, and reporting requirements for processors of certain chemicals.

This rule requires manufacturers of 46 chemicals to complete the Preliminary Assessment Information Manufacturer's Report (EPA form 7710-35). The information to be submitted will be used by EPA to evaluate risks associated with the chemicals, as well as to determine whether the chemicals should be included in testing rules issued under section 4 of TSCA. In some cases the Agency may require processor follow-up reporting on a chemical when manufacturers' data on customer uses are inadequate.

B. Regulatory Flexibility Act

This amendment is consistent with the objectives of the Regulatory Flexibility Act (Pub. L. 96-354) because it will not have a significant economic impact on a substantial number of small entities. Under this rule, as for previous Preliminary Assessment Information proposed and final rules, manufacturers are "small" and thus exempt from the rule if they meet both of the following criteria:

1. Total annual sales taken together of all sites owned or controlled by the foreign or domestic parent company were below $30 million for the reporting period.

2. Total production of the listed substance for the reporting period was below 45,000 kilograms (100,000 pounds) at the plant site.

EPA consulted with the Small Business Administration, Size Standards Division, in developing this exemption.

C. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this regulation is not major because it does not have an effect of $100 million or more on the economy. It is expected to have a one-time cost of about $54,200. It does not have a significant effect on competition, costs or prices.

This proposed regulation has been submitted to the Office of Management and Budget for review as required by Executive Order 12291.

This proposal lists 46 chemicals for which manufacturers would submit one-page reports. Processors would report only when manufacturers are unable to provide adequate data.

List of Subjects in 40 CFR Part 712

Chemicals, Environmental protection, Reporting and recordkeeping requirements.

(Sec. 8, Pub. L. 94-469, 90 Stat. 2003 (15 U.S.C 2607))

Dated: May 10, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 712—[AMENDED]

Therefore, 40 CFR 712.30 is amended by adding paragraph (f) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(f) A Preliminary Assessment Information Manufacturer's Report must be submitted by August 17, 1983, for each chemical substance listed below.

CAS No.,	Chemical Name
67-72-1	Ethane, hexachloro-
75-02-5	Ethene, fluro-
95-70-5	1,4-Benzenediamine, 2-methyl-
95-80-7	1,3-Benzenediamine, 4-methyl-
95-83-0	1,2-Benzenediamine, 4-chloro-
98-56-6	Benzene, 1-chloro-4-(trifluoromethyl)-
108-71-4	1,3-Benzenediamine, 5-methyl-
116-14-3	Ethene, tetrafluoro-
137-09-7	Phenol, 2,4-diamino-, dihydrochloride
359-11-5	Ethene, trifluoro-
541-69-5	1,3-Benzenediamine, dihydrochloride
541-70-8	1,3-Benzenediamine, sulfate (1:1)
614-94-6	1,3-Benzenediamine, 4-methoxy-, dihydrochloride
615-28-1	1,2-Benzenediamine, dihydrochloride
615-45-2	1,4-Benzenediamine, 2-methyl-, dihydrochloride
615-46-3	1,4-Benzenediamine, 2-chloro-, dihydrochloride
615-50-9	1,4-Benzenediamine, 2-methyl-, sulfate (1:1)
677-21-4	1-Propene, 3,3,3-trifluoro-
1197-37-1	1,2-Benzenediamine, 4-ethoxy-
1477-55-0	1,3-Benzenedimethanamine

3663-23-8 Benzenediamine, 4-butyl-
5042-55-7 1,3-Benzenediamine, 5-nitro-
5131-58-8 1,3-Benzenediamine, 4-nitro-
5131-60-2 1,3-Benzenediamine, 4-chloro-
5307-02-8 1,4-Benzenediamine, 2-methoxy-,
5307-14-2 1,4-Benzenediamine, 2-nitro-
6219-67-6 1,3-Benzenediamine, 4-methoxy-, sulfate
6219-71-2 1,4-Benzenediamine, 2-chloro-, sulfate
6219-77-8 1,2-Benzenediamine, 4-nitro-, dihydrochloride
15872-73-8 Phenol, 2,4-diamino-6-methyl-
16245-77-5 1,4-Benzenediamine, sulfate (1:1)
18266-52-9 1,4-Benzenediamine, 2-nitro-, dihydrochloride
20103-09-7 1,4-Benzenediamine, 2,5-dichloro-
25376-45-8 Benzenediamine, ar-methyl-
39156-41-7 1,3-Benzenediamine, 4-methoxy-, sulfate (1:1)
42389-30-0 1,2-Benzenediamine, 5-chloro-3-nitro-
62654-17-5 1,4-Benzenediamine, ethanedioate (1:1)
65879-44-9 Phenol, 2,4-diamino-6-methyl-, hydrochloride
66422-95-5 Ethanol, 2-[2,4-diaminophenoxy]-, dihydrochloride
67801-06-3 1,3-Benzenediamine, 4-ethoxy-, dihydrochloride
68015-98-5 1,3-Benzenediamine, 4-ethoxy-, sulfate (1:1)
68239-80-5 1,3-Benzenediamine, 4-chloro-, sulfate (1:1)
68239-82-7 1,2-Benzenediamine, 4-nitro-, sulfate (1:1)
68239-83-8 1,4-Benzenediamine, 2-nitro-, sulfate (1:1)
68459-98-3 1,2-Benzenediamine, 4-chloro-, sulfate (1:1)
68986-84-7 1,3-Benzenediamine, ar-ethyl-ar-methyl-

[FR Doc. 83-13394 Filed 5-18-83; 8:45 am]
BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 712

[OPTS-82004K; BH-FRL 2325-5]

Preliminary Assessment Information; Addition of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to add chemicals designated or recommended for testing consideration in the Eleventh Report of the Interagency Testing Committee (ITC) to the Preliminary Assessment Information rule. The rule requires manufacturers of these chemicals to complete the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710-35). EPA will use the information submitted to evaluate risks associated with the chemicals, as well as to determine whether the chemicals should be included in testing rules issued under section 4 of the Toxic Substances Control Act (TSCA).

DATE: Comments must be submitted on or before July 5, 1983.

ADDRESS: Written comments should bear the document control number OPTS-82004K and should be submitted to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, D.C. 20460.

All written comments filed under this notice will be available for public inspection in Rm. E-107 at the address given above from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the U.S.A.: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000-0420

I. Background

In the **Federal Register** of June 22, 1982 (47 FR 26992), EPA issued the Preliminary Assessment Information Rule under section 8(a) of the Toxic Substances Control Act (TSCA). The rule requires manufacturers of certain chemicals to report general production, use, and exposure information using the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710-35).

The preamble to the rule explained that EPA would amend the list of chemicals subject to the Preliminary Assessment Information Rule when necessary to collect information on additional chemicals. This proposed amendment would add chemicals that ITC's Eleventh Report designated or recommended for EPA's testing consideration.

Under TSCA section 4(e), EPA must respond to ITC designates within 12 months by initiating rulemaking or publishing a notice explaining why such action is not being taken. EPA must also consider chemicals that ITC recommends for testing without statutory designation of a time period for EPA response.

The ITC's Eleventh Report, published in the **Federal Register** of December 3, 1982 (47 FR 54624), designated eleven individual chemicals for testing consideration and EPA response within 12 months. The Eleventh Report also recommended one group of chemicals, carbofuran intermediates, for testing consideration but without stating a given time period for EPA's response. The Report listed three carbofuran intermediates and their CAS numbers: Methallyl 2-nitrophenyl ether (13414-54-5); 7-Nitro-2,2-dimethyl-2,3-dihydrobenzofuran (13414-55-6); and 7-Amino-2,2-dimethyl-2,3-dihydrobenzofuran (68298-46-4). This rule lists these chemicals by their CAS numbers and CAS preferred names: Benzene, 1-[(2-methyl-2-propenyl)oxyl]-2-nitro- (13414-54-5); Benzofuran, 2,3-dihydro-2,2-dimethyl-7-nitro- (13414-55-6); 7-Benzofuranamine, 2,3-dihydro-2,2-dimethyl- (68298-46-4).

In the Eleventh Report, ITC recommended one additional group, trimethylbenzenes, that had been discussed in the ITC Tenth Report. The recommended trimethylbenzenes are: Benzene, 1,3,5-trimethyl- (108-67-8); Benzene, 1,2,3-trimethyl- (526-73-8); and Benzene, trimethyl- (25551-13-7). These chemicals were recommended but not designated for response within 12 months. (Another member of the group, 1,2,4-trimethylbenzene, CAS number 95-63-6, was separately designated in the Tenth ITC Report (May 25, 1982, 47 FR 22585). 1,2,4-Trimethylbenzene was included in the Preliminary Assessment Information Rule published on June 22, 1982 and is not subject to this proposal.)

EPA will use data from this rule to evaluate risks associated with listed chemicals, and to determine whether chemicals should be included in testing rules under TSCA section 4.

II. Who Would Report

Persons subject to the Preliminary Assessment Information rule are specified at 40 CFR 712.20 and 712.25. Additional description may be found in the June 22, 1982 issue of the **Federal Register** (47 FR 26992).

Generally, a manufacturer (or an importer) would submit a Preliminary Assessment Information Manufacturer's Report (EPA form 7710-35) for each of 17 chemicals he manufactures. If he manufactures a chemical at more than one site, he would submit a form for each site. A manufacturer is exempt from reporting for an individual site if the site production of the listed substance was below 500 kilograms during the reporting period.

A manufacturer is also exempt from reporting if he qualifies as a small business by meeting the following two criteria during the reporting period: total annual parent company sales below $30 million, and total production of the listed chemical at the site below 45,000 kilograms. EPA has separately proposed a generic definition of small manufacturers for TSCA section 8(a) rules (June 23, 1982; 47 FR 27206). If the final generic small manufacturers definition is issued before this rule is final, EPA plans to apply the generic definition to reporting under this rule.

EPA separately proposed that processors report under the limited circumstances when manufacturers cannot provide adequate data (June 22, 1982; 47 FR 27009). When processor reporting requirements are promulgated, processors would be subject to reporting on any of the 17 chemicals for which manufacturers' data are found to be inadequate.

III. Time To Report

The length of the reporting period for this amendment is based partly on information supplied in comments on the originally proposed Preliminary Assessment Information rule (February 29, 1980; 45 FR 13646). In those comments, manufacturers discussed how long it would take to perform various activities involved in preparing reports. The length of the reporting period is also based partly on EPA's experience with the timeliness of reports previously submitted under this rule.

The proposed rule published today requires manufacturers of 17 chemicals to submit reports 60 days after the effective date of the rule. EPA estimates that the maximum number of reports any site will have to submit is 5, with most firms submitting one or two reports per site.

IV. Economic Impact

The cost estimates for a company to comply with the requirements of this proposal are based on estimates used in the final Preliminary Assessment Information Rule. However, the original costs have been increased by 23.3 percent to account for the overall rate of price inflation in the period between development of the original proposal and late 1982. The cost estimates in this analysis were current as of the fourth quarter of 1982. Although actual reporting under this rule will not occur until the latter part of 1983, we have not attempted to adjust the cost estimates to reflect this. The wide variations in the overall rate of price inflation experienced during the recent past prohibit development of accurate cost projections. Additionally, we would not expect actual costs incurred during 1983 to be greatly different from the figures used there.

Costs can be broken down into the following categories:

1. A fixed cost of $590 for a site to become familiar with the regulation and identify the chemicals to report.

2. A variable cost of $520 per report for a site to determine whether information should be claimed as confidential and to complete the form and certification requirements.

We estimate that 26 plant sites operated by 23 companies will submit 43 reports under this rule. This figure excludes plant sites which are exempted by the small business cutoff. Total reporting costs for the 17 chemicals listed in this amendment are estimated to be $37,700. (For a discussion of reporting costs, see Economic Impact and Small Business Definition Analysis for the final TSCA Section 8(a) Preliminary Assessment Information Rule, prepared by ICF, Inc., 1981.)

V. Public Record

The public record for this proposed rulemaking is a continuation of the record (OPTS–82004) for the Preliminary Assessment Information rule published in the June 22, 1982, issue of the **Federal Register** (47 FR 26992). All documents, including the index to this public record, are available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. on working days (Rm. E–107, 401 M Street SW., Washington, D.C. 20460). This record includes basic information considered by the Agency in developing this proposed rule. The Agency will supplement the record with the following types of additional information as it is received.

1. All comments on this proposed amendment.

2. All relevant support documents and studies.

3. Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. (This does not include inter- or intra-agency memoranda unless specifically noted in the index of the rulemaking record.)

4. Minutes, summaries, or transcripts of any public meetings held to develop this rule.

5. Any factual information considered by the Agency in developing the rule.

EPA will identify the complete rulemaking record on or before the date of promulgation of the regulation, as prescribed by section 19(a)(3) of TSCA, and will accept additional material for inclusion in the record at any time between this notice and that date. The final rule will also permit persons to point out any errors or omissions in the record.

VI. Regulatory Assessment Requirements

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., authorizes the Director of the Office of Management and Budget to review certain information collection requests by Federal agencies. OMB approved the reporting provisions contained in this request and issued OMB control number 2000–0420.

This rule requires manufacturers of 17 chemicals to complete the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710–35). The information to be submitted will be used by EPA to evaluate risks associated with the chemicals, as well as to determine whether the chemicals should be included in testing rules issued under section 4 of TSCA. In some cases the Agency may require processor follow-up reporting on a chemcial when manufacturers' data on customer uses are inadequate.

B. Regulatory Flexibility Act

This amendment, if promulgated, will be consistent with the objectives of the Regulatory Flexibility Act (Pub. L. 96–354) because it will not have a significant economic impact on a substantial number of small entities. Under this proposal, as for previous Preliminary Assessment Information proposed and final rules, manufacturers are "small" and thus exempt from the rule if they meet both of the following criteria:

1. Total annual sales taken together of all sites owned or controlled by the foreign or domestic parent company were below $30 million for the reporting period.

2. Total production of the listed substance for the reporting period was below 45,000 kilograms (100,000 pounds) at the plant site. EPA consulted with the Small Business Administration, Size Standards Division, in developing this exemption.

C. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this regulation is not major because it does not have an effect of $100 million or more on the economy. It is expected to have a one-time cost of about $37,700. It does not have a significant effect on competition, costs or prices.

The reporting provisions in this proposed regulation have been submitted to the Office of Management and Budget as required by Executive Order 12291.

This proposal lists 17 chemicals for which manufacturers would submit one-page reports. Processors would report only when manufacturers are unable to provide adequate data.

List of Subjects in 40 CFR Part 712

Chemicals, Environmental protection, Reporting and recordkeeping requirements.

(Sec. 8, Pub. L. 94–469, 90 Stat. 2003 (15 U.S.C. 2607))

Dated: May 10, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 712—[AMENDED]

Therefore, it is proposed that 40 CFR 712.30 be amended by adding paragraph (g) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(g) A Preliminary Assessment Information Manufacturer's Report must be submitted 90 days after date of publication in the **Federal Register** for each chemical substance listed below:

CAS No. and Chemical name

77–58–7—Stannane, dibutylbis [[1-oxodocecyl]oxy]-
108–67–8—Benzene, 1,3,5-trimethyl-
140–66–9—Phenol, 4-(1,1,3,3-tetramethylbutyl)-
526–73–8—Benzene, 1,2,3-trimethyl-
646–06–0—1,3-Dioxolane
1185–81–5—Stannane, dibutylbis (dodecylthio)-
3319–31–1—1,2,4-Benzenetricarboxylic acid, tris-(2-ethylhexyl) ester

6422-86-2—1,4-Benzenedicarboxylic acid, bis-(2-ethylhexyl) ester
13414-54-5—Benzene, 1-[(2-methyl-2-propenyl)oxy]-2-nitro-
13414-55-6—Benzofuran, 2,3-dihydro-2,2-dimethyl-7-nitro-
25168-21-2—2-Butenoic acid, 4,4'-[(dibutylstannylene)bis(oxy)]bis[(4-oxo-, diisooctyl ester, (Z,Z)-
25168-24-5—Acetic acid, 2,2'-[(dibutylstannylene)bis(thio)]bis-, diisooctyl ester
25551-13-7—Benzene, trimethyl-
25852-70-4—Acetic acid, 2,2',2''-[(butylstannylidyne)tris(thio)]tris-, triisooctyl ester
26636-01-1—Acetic acid, 2,2'-[(dimethylstannylene)bis(thio)]bis-, diisooctyl ester
54849-38-6—Acetic acid, 2,2',2''-[(methylstannylidyne)tris](thio)]tris-, ,triisooctyl ester
68298-46-4—7-Benzofuranamine, 2,3-dihydro-2,2-dimethyl-

[FR Doc. 83-13305 Filed 5-18-83; 8:45 am]
BILLING CODE 6560-50-M

Reader Aids

Federal Register

Vol. 48, No. 98

Thursday, May 19, 1983

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	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, MAY

19693-19866.....2
19867-20032.....3
20033-20216.....4
20217-20402.....5
20403-20680.....6
20681-20890.....9
20891-21108.....10
21109-21296.....11
21297-21522.....12
21523-21876.....13
21877-22128.....16
22129-22286.....17
22287-22498.....18
22499-22700.....19

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....20417

3 CFR

Executive Orders:
May 5, 1855
(Revoked in part by PLO 6380).....22151
July 2, 1910
(Revoked in part by PLO 6377).....22149
August 25, 1915
(Revoked in part by PLO 6384).....22152
11157 (Amended by EO 12420).....21525
11735 (Amended by EO 12418).....20891
12123 (Amended by EO 12418).....20891
12155 (Amended by EO 12417).....20035
12316 (Amended by EO 12418).....20891
12417.....20035
12418.....20891
12419.....20893
12420.....21525
12421.....21879

Proclamations:
5057.....20033
5058.....21297
5059.....21299
5060.....21523
5061.....21877
5062.....22499

5 CFR

1320.....21109
2470.....19693
2471.....19693
2472.....19694

7 CFR

2.....20403, 21301
55.....20681
56.....20681
59.....20681
70.....20681
210.....20895, 20896
215.....20895, 20896
220.....20895, 20896
225.....20896
226.....20896, 21527
235.....20896
245.....20896
271.....22129
272.....20403, 22129
273.....20403, 22129
274.....22129
275.....22129
276.....22129
319.....20403
360.....20037
729.....20403
907.....20217, 21301
910.....20403, 21530
918.....21531
929.....22287
967.....21532
979.....20898, 21881
1040.....22287
1049.....19698
1131.....19699
1446.....21533
1464.....21109
1701.....20404, 21547
1942.....20217

Proposed Rules:
Ch. XVIII.....20425
21.....19884
27.....20715
28.....19721
29.....20720
52.....19884
226.....21587
989.....21147, 21339
1001.....20920
1004.....21961
1007.....21962
1013.....22303
1033.....22313
1036.....22313
1040.....20418
1065.....20424
1099.....20425
1120.....22318
1124.....22580
1125.....20058
1126.....22318
1132.....22318
1133.....20058
1136.....20925
1138.....22318
1139.....20929
1446.....21152, 22318

8 CFR

100.....20684
103.....20221
204.....20221
205.....20221
208.....20684
212.....20221, 20684
214.....19867, 20221, 20684, 22131
231.....21548
234.....20684
238.....20898
245.....20684

Proposed Rules:
214.....21583

7 21945
901 20903
Proposed Rules:
50 22284
61 19742
211 20765
254 22589

38 CFR

17 ..... 19714, 19878
36 22292
Proposed Rules:
3 21595
21 20939

39 CFR

10 21131
601 20408
3002 19878
Proposed Rules:
10 20949
447 21343
956 21343

40 CFR

52 ..... 19715, 19716, 19878, 20051, 20231, 20233, 21326 21579, 22294–22298, 22545
60 20693
61 20693
81 21947
86 22546
145 19717
180 ..... 20052–20055, 21131–21133
271 21953
712 ..... 21294, 22694
720 21722
Proposed Rules:
4 22335
52 ..... 19748, 19750, 19898, 19900, 20766, 21975, 22335
81 22336
124 21098
180 ..... 20950, 22337
192 20768
228 20440
261 22170
264 ..... 20440, 21101
265 20440
267 20440
270 21098–21103
271 21977
320 21598
712 22697
721 20668

41 CFR

Ch. 1 ..... 21580, 22555
Ch. 101 ..... 21327, 22149
3-3 20904
4-2 19718
9-7 22550
9-10 22550
14-1 21133
51-4 21328
101-11 22555
101 20056
Proposed Rules:
44-17 20441
101-41 21351
114-50 20768

42 CFR

57 20214
405 21254
Proposed Rules:
36 22171

43 CFR

Public Land orders:
2634 (Revoked in part by PLO 6379) 22151
6335 (Corrected by PLO 6383) 22152
6376 22149
6377 22149
6378 22150
6379 22151
6380 22151
6381 22151
6382 22152
6383 22152
6384 22152
6385 22153
Proposed Rules:
426 ..... 19900, 20768
1600 20364
4100 21820
8370 ..... 20630, 22462

44 CFR

64 ..... 20234, 20236, 20910, 21580, 21582
65 20694–20701
67 ..... 20409, 20912
70 20701–20713
Proposed Rules:
67 ..... 20443, 20444, 20769, 20770, 20950, 21351

45 CFR

Ch. XIX 22555
303 20237
650 19860
Proposed Rules:
1626 19750

46 CFR

Proposed Rules:
10 20770
30 19755
67 ..... 20249, 22591
151 19755
153 19755
157 20770

47 CFR

22 21329
73 ..... 19879, 19882, 20918, 20919, 21478, 22556
74 21478
81 ..... 21583, 22557
83 22557
Proposed Rules:
Ch. I 20771, 21351
2 21354
13 22591
21 ..... 19759, 22591
22 ..... 19759, 20952, 21354
23 ..... 19759, 22591
61 21356
73 ..... 19917, 20252, 20953–20966, 22173, 22591, 22600
74 ..... 19759, 22591
78 ..... 19759, 22591
81 ..... 19759, 22591
83 ..... 21599, 22591
87 ..... 19759, 22591
90 ..... 19759, 22591
94 ..... 19759, 22591
95 22591
150 19759

49 CFR

Ch. X 20919
25 20714
172 19719
175 19719
385 22565
565 22567
571 ..... 20237, 21955, 22567
574 22572
1033 20409
1039 20412
Proposed Rules:
100–179 (Ch. I) 20255, 20780
229 20257
391 22602
571 ..... 19760, 20259
574 19761
1309 20780
1310 20780

50 CFR

18 ..... 20614, 22446
32 21957
216 ..... 20614, 22446
403 ..... 20614, 22446
611 ..... 21336, 22153, 22299
661 21135
642 20415
662 22301
672 22299
675 ..... 21336, 22299
Proposed Rules:
17 ..... 20450, 21169, 21604, 22173
32 20100
227 20098
260 20261
611 21978
628 20102
646 21607
671 22602

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing May 18, 1983