

11-17-83  
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# Federal Register

Thursday  
November 17, 1983

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## Selected Subjects

### **Administrative Practice and Procedure**

Nuclear Regulatory Commission

### **Air Pollution Control**

Environmental Protection Agency

### **Animal Diseases**

Animal and Plant Health Inspection Service

### **Aviation Safety**

Federal Aviation Administration

### **Boycotts**

International Trade Administration

### **Bridges**

Coast Guard

Federal Highway Administration

### **Business and Industry**

Commerce Department

### **Energy Conservation**

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### **Generally Recognized as Safe (GRAS) Food Ingredient**

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### **Government Publications**

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Research and Special Programs Administration

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

## Selected Subjects

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### Milk Marketing Orders

Agricultural Marketing Service

### Pesticides and Pests

Environmental Protection Agency

### Postal Service

Postal Service

### Radio Broadcasting

Federal Communications Commission

### Surface Mining

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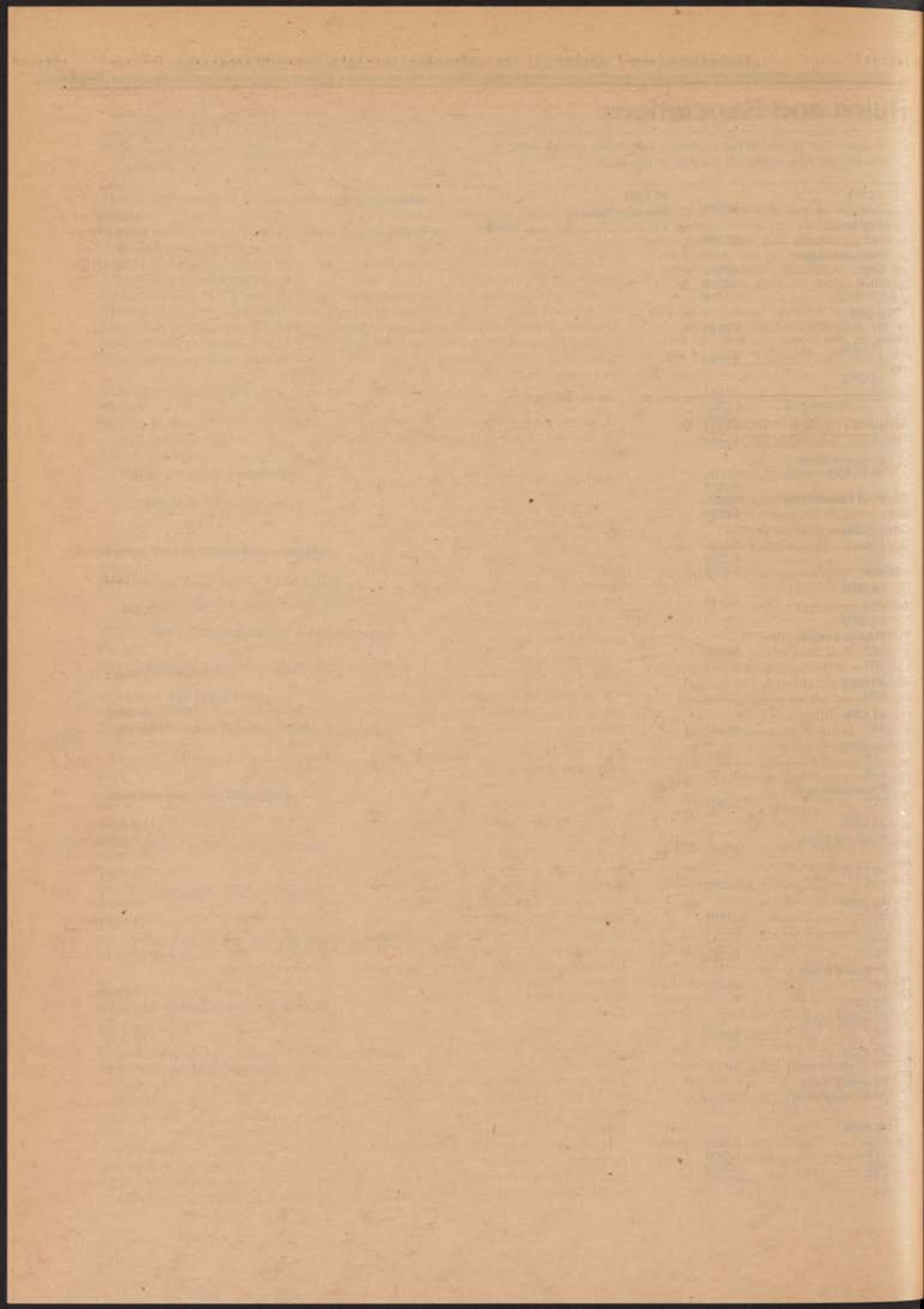


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# Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

### 1 CFR Part 3

#### Code of Federal Regulations Subscription Rate and Weekly Compilation of Presidential Documents Single Copy Price

**AGENCY:** Administrative Committee of the Federal Register.

**ACTION:** Final rule.

**SUMMARY:** The Administrative Committee of the Federal Register (ACFR) announces changes in the prices of certain publications. The annual subscription prices of the paper and microfiche editions of the *Code of Federal Regulations* are decreased to reflect lower production costs. The individual copy price of the *Weekly Compilation of Presidential Documents* is raised to fully recover production and distribution costs to the Government for sales copies.

**EFFECTIVE DATE:** November 17, 1983.

**FOR FURTHER INFORMATION CONTACT:** Frances D. McDonald at (202) 523-4534.

**SUPPLEMENTARY INFORMATION:** The Administrative Committee of the Federal Register, which establishes prices for Federal Register publications, has determined that the annual subscription price for the 50 Titles of the *Code of Federal Regulations* in paper edition shall be \$550 and in microfiche shall be \$200. These reduced subscription rates will begin with the 1984 edition of the CFR. This decrease in price represents lower Government Printing Office (GPO) costs in production of the CFR.

The ACFR has also determined that the price of a single copy of the *Weekly Compilation of Presidential Documents* shall be \$2.25. The new price will be effective beginning January 1, 1984.

The definition of major rule under E.O. 12291 and the definition of rule under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply to these changes in prices because they recover costs to the Government of the printing and distribution of these publications. The Regulatory Flexibility Act also does not apply because a notice of proposed rulemaking is not necessary in order to take these actions.

### List of Subjects in 1 CFR Part 3

Government publications, Federal Register publications, Subscription rates.

### PART 3—SERVICES TO THE PUBLIC

For the reasons set out in the preamble and under the authority given the Administrative Committee of the Federal Register by 44 U.S.C. 1506, Part 3 of Chapter I of Title 1 of the *Code of Federal Regulations* is amended as follows:

1. The authority citation for Part 3 reads as follows:

**Authority:** 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954-1958 Comp., p. 189.

2. Section 3.4 is amended by revising paragraphs (b)(4) and (7) to read as follows:

#### § 3.4 Subscriptions and availability of Federal Register publications.

\* \* \* \* \*

(b) \* \* \*

(4) *Code of Federal Regulations.* A complete bound set will be furnished by mail to subscribers for \$550 per year for the paper edition, or for \$200 per year for the microfiche edition. Subscription fees are payable in advance to the Superintendent of Documents. Individual copies of the code volumes are sold by the Superintendent of Documents at prices determined by the Superintendent under the general direction of the Administrative Committee.

\* \* \* \* \*

(7) *Weekly Compilation of Presidential Documents.* (i) Nonpriority mailing. Issues will be furnished by mail to subscribers for \$55 per year payable in advance to the Superintendent of Documents, Government Printing Office.

(ii) First-class mailing. Issues will be furnished to subscribers by first-class mail for \$96 per year payable in advance to the Superintendent of Documents,

Government Printing Office. Individual issues may be obtained for \$2.25 per copy from the Superintendent of Documents, Government Printing Office.

Robert M. Warner,  
*Chairman.*

Danford L. Sawyer,  
*Member.*

Ralph W. Tarr,  
*Member.*

Approved:

William French Smith,  
*Attorney General.*

Gerald P. Carmen,  
*Administrator of General Services.*

[FR Doc. 83-30852 Filed 11-16-83; #45 am]

BILLING CODE 1505-02-M

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 910

[Lemon Regulation 436, Amendment 1]

#### Lemons Grown in California and Arizona; Limitation of Handling

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Amendment to final rule.

**SUMMARY:** This action increases the quantity of California-Arizona lemons that may be shipped to the fresh market during the period November 6-12, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

**DATES:** Effective for the period November 6-12, 1983.

**FOR FURTHER INFORMATION CONTACT:** William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

**SUPPLEMENTARY INFORMATION:** This final rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a



substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met by telephone on November 9&10, 1983, to consider the current and prospective conditions of supply and demand and recommended an increase in the quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is improved.

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

#### List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

1. Section 910.736 Lemon Regulation 436 (48 FR 50877) is revised to read as follows:

#### § 910.736 Lemon Regulation 436.

The quantity of lemons grown in California and Arizona which may be handled during the period November 6, 1983, through November 12, 1983, is established at 240,000 cartons.

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

Dated: November 14, 1983.

**Russell L. Hawes,**

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

[FR Doc. 83-30982 Filed 11-16-83; 8:45 am]

BILLING CODE 3410-02-M

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 2

#### Deletion of Exception Filing Requirement for Appeal From Initial Decision; Consolidation of Responsive Briefs

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission is amending its regulations relating to appeals from an initial adjudicatory decision. Parties will be required to file a notice of appeal rather than exceptions to the initial decision. In addition, parties will be required to file a single responsive brief, regardless of the number of appellant briefs filed.

This amendment will reduce procedural requirements for appealing an initial decision and permit parties to the proceeding and the agency to focus better their litigative efforts.

**EFFECTIVE DATE:** December 19, 1983.

**FOR FURTHER INFORMATION CONTACT:** Trip Rothschild, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (202) 634-1465.

**SUPPLEMENTARY INFORMATION:** On June 29, 1983, the Nuclear Regulatory Commission published in the *Federal Register* (48 FR 29876) a notice of proposed rulemaking containing proposed amendments to 10 CFR Part 2. The Commission proposed to eliminate the provision in 10 CFR 2.762 that requires a party appealing an initial decision to file detailed exceptions to the decision with the Atomic Safety and Licensing Appeal Board ("Appeal Board"). Under the current rule each exception must state, without supporting argumentation, the single error of fact or law asserted. Under the proposal, the Commission would require the parties instead to file a notice of appeal which would simply identify the appellant and the decision being appealed.

The Commission noted in the Statement of Considerations that currently, parties who wish to appeal an initial decision must include in their



exceptions every possible claim of error to preserve their right to brief the issue. The Commission suggested that this exercise had minimal value because many exceptions are abandoned and not briefed by the appellant. The Commission expressed a concern that the investment of time and effort in the preparation of exceptions, as well as their review by the other parties and the Appeal Board, might be wasted. The Commission stated that its proposal might permit the parties and the agency to focus better their litigative efforts.

The Commission also proposed to limit the number of responsive briefs filed on appeal. In some NRC proceedings there are several appellants. Under current practice respondents may file a separate brief in response to each appellant's brief. The Commission proposed to require each responding party to file a single brief in response to all of the appellants' briefs. The date for filing the responsive brief would run from the date of the last filed appellant's brief. The purpose of this change would be to reduce the amount of paper before the Appeal Board. The Commission noted that it was particularly interested in comments on whether this proposal would preserve an adequate opportunity to respond in cases where there are many issues raised on appeal.

Finally, Commissioner Ahearne (who is no longer a Commissioner) sought comments on whether the rules should be changed to provide that only parties who have filed proposed findings of facts and conclusions of law with an Atomic Safety and Licensing Board ("Licensing Board") on an issue are entitled to appeal an adverse determination.

#### Summary of Public Comments and Commission Response

The Commission received nine comments. Seven of the commenters represented the nuclear industry; one is an intervenor in NRC proceedings; and the other commenter is a member of the public.

The proposal to eliminate exceptions received mixed reviews. Most commenters had no objection to the consolidation of responsive briefs; virtually all commenters advocated that only parties that had filed proposed findings of fact on an issue should be allowed to appeal a Licensing Board determination.

#### Elimination of Requirement To File Exceptions

The strongest statement of support for the proposed elimination of the filing of exceptions came from one commenter that asserted that it agreed with the reasoning contained in the Statement of Considerations accompanying the proposed rule. In support of its position, it declared that the Federal Energy Regulatory Commission had adopted many years ago similar appellate procedures which did not call for the filing of exceptions.

Some of the commenters expressed reservations about the elimination of the requirement to file exceptions because the current rule requires that appellants specify the precise error of fact or law which they are appealing. In the proposed rule there was no requirement that an appellant in its notice of appeal or in its brief in support of its appeal clearly identify the error of fact or law that is being appealed.

Some commenters who opposed adoption of the proposed rule stated that the filing of exceptions serves useful functions. They argued that the filing of exceptions requires the appellant to focus sharply the issues that will be appealed at the earliest possible time, promptly alerts the other parties to the issues which might be briefed on appeal, and permits the respondents to commence preparation of their responsive briefs at an early date. Some commenters also asserted that, if the problem with the current practice is that exceptions are not prepared in accordance with the NRC Rules of Practice because they fail to identify with requisite specificity the issues to be appealed, the solution is not to eliminate the practice because the review of such

pleadings has not been of value to NRC tribunals. Rather, the Appeal Board should refuse to accept inadequate exceptions.

In addition, some commenters did not agree with the Commission's assertion in the Statement of Considerations accompanying the proposed rule that, because parties sometimes request additional time to file an exhaustive list of exceptions, the filing of exceptions delays the appeal process. One commenter thought that the delay caused by the filing of exceptions was minimal. Others thought that if delay were a concern, the preferred solution would be for the Appeal Board to deny requests for an extension of time, absent an extremely strong showing of need.

The Commission has carefully considered these comments and has decided to adopt the proposed rule with minor modifications. The Commission is not convinced that the filing of exceptions serves a useful purpose. The Commission agrees that the Appeal Board could refuse to accept inadequate exceptions. However, the problem is not that the exceptions filed are deficient. Rather, it is that, often, exceptions which are fully adequate under the present rule are, nevertheless, of little use to the Appeal Board or the other parties. Because parties frequently list every conceivable error to preserve their right to brief the issue, many exceptions are later abandoned and never briefed. Accordingly, they do not provide the other parties or the Appeal Board with definitive knowledge of which issues will be briefed. Moreover, the filing of exceptions is not required to apprise the other parties of what the appellant's major concerns are likely to be. Generally after participating in a hearing, the respondents know which are the major issues of concern to the other parties. Thus, the failure to file exceptions should not eliminate a respondent's ability to begin preparation of a responsive filing at an early date. Moreover, the Appeal Panel has concluded that exceptions are not helpful to its review of appeals. Accordingly, on the whole the



investment of time and effort in the preparation and review of exceptions is largely wasted. Furthermore, in some cases the appeal process is delayed because extensions are granted to afford parties more time to file detailed exceptions in some of our more complex proceedings. Under the rule we are adopting today, any such delay would be eliminated.

The Commission expects that the elimination of the requirement to file exceptions will also permit the parties and the agency to focus better their litigative efforts. After an initial decision is issued, appellants will be able to devote more time to the preparation of their brief in support of their appeal because it will take far less time, in most cases, to file a notice of appeal than it does to file exceptions. This might improve the quality of briefs.

Therefore, the Commission has concluded that the elimination of the exception filing requirement should enhance both the quality and the efficiency of the appellate process.

In response to the comments the Commission has made one modification to the rule that was proposed. The Commission agrees with the commenters that it is important that the appellant clearly spell out the errors of fact or law so that the other parties and Appeal Board understand the nature of the dispute. In response to this concern, the Commission has revised 10 CFR 2.762(d) to provide that, in its brief, an appellant must clearly specify the errors of fact or law that are being advanced on appeal.

#### Consolidation of Responsive Briefs

Most of the commenters did not object to the Commission's proposal, although they asserted that in some of the more complex cases, where there are multiple appellants and multiple issues, it might not be feasible for a respondent to include all of its arguments within the seventy page limit for briefs prescribed by 10 CFR 2.762(e). Accordingly, they suggested that the Atomic Safety and Licensing Appeal Board be directed in this Statement of Considerations to grant requests to submit a pleading longer than seventy pages in those proceedings where there are many parties and issues. Other commenters opposed the rule because of a concern that a request to exceed the seventy-page limit might not be granted.

The Chairman of the Commission's Atomic Safety and Licensing Appeal Panel advised the Commission in a letter dated June 30, 1983, which is part of the docket of this proceeding, that in some proceedings the Appeal Board has issued orders limiting a party to one

responsive brief and that in those cases the parties did not object. Moreover, the Appeal Panel Chairman assured the Commission that, where appropriate, the Appeal Board would not hesitate to grant requests to exceed the seventy-page limit.

The Commission agrees with the Appeal Panel that limiting a respondent to a single responsive brief would improve the appellate process by reducing the amount of paper before Appeal Boards. The Commission expects Appeal Boards to grant requests to exceed the page limit in cases where there are many parties or issues and where the limit would deprive a respondent of an adequate opportunity to address the issues on appeal.

Several of the commenters suggested that the proposed rule be modified to provide that the respondent's brief be filed no later than 30 days after expiration of the period for filing appellants' briefs.

They noted that one party could file its brief well before the 30-day period for filing briefs closed and that the other parties who filed a notice of appeal might abandon their appeals and not file briefs. The respondent would not know that there was only one brief to respond to until the 30-day period expired. Under the proposed rule, in that situation its response brief would have been due 30 days after the first brief was filed. The respondent would thus find itself in the position of having to respond to the appellant's brief much earlier than anticipated.

The Commission agrees that such a situation would be unfair to the respondent and has modified 10 CFR 2.762(b) to provide that the time for filing respondent's brief is to be calculated from the date that the period for filing briefs expires for all appellants.

#### Filing of Proposed Findings as a Prerequisite to Filing an Appeal

The proposal that former Commissioner Ahearne sought comment on has also been proposed by NRC's Regulatory Reform Task Force. See SECY-82-447. The Commission is currently considering the proposal in the context of the other reforms proposed by the Task Force, and the comments received will be considered in that context. Accordingly, the Commission has decided to defer any action at this time on the proposal.

However, it should be noted that, under 10 CFR 2.754 of the Commission's present regulations, when the presiding officer directs that proposed findings be filed, a party may be deemed to be in default and found to have waived its

right to appeal on issues on which it fails to file proposed findings.

The Appeal Board has expressed the view that Licensing Boards should routinely direct the parties to file proposed findings. *Detroit Edison Company* (Enrico Fermi Atomic Power Plant, Unit 2), ALAB-709, 17 NRC 17, 24 (1983).

#### Paperwork Reduction Act Statement

The collection of information these final rules contain is exempt from the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3518(c)(1)).

#### Regulatory Flexibility Statement

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that these rules will not have a significant economic impact on a substantial number of small entities. Small entities which appeal initial Commission decisions may experience some cost saving as a result of these rules.

#### List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

Under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the following amendments to 10 CFR Part 2 are published as a document subject to codification.

#### PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for Part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552. (Sec. 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955 as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200-2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246



(42 U.S.C. 5846). Sections 2.600-2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a-2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770 also issued under 5 U.S.C. 557. Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.806 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85-258, 71 Stat. 579, as amended (42 U.S.C. 2039). Appendix A also issued under sec. 6, Pub. L. 91-580, 84 Stat. 1473 (42 U.S.C. 2135).

2. In § 2.719, paragraphs (c) and (d) are revised to read as follows:

#### § 2.719 Separation of functions.

(c) In any adjudication for the determination of any application for initial licensing, other than a contested proceeding, the presiding officer may consult (1) the staff and (2) members of the panel appointed by the Commission from which members of atomic safety and licensing boards are drawn: *Provided, however,* That in adjudications in which an appeal from the initial decision may be taken to the Atomic Safety and Licensing Appeal Board, the presiding officer shall not consult any member of the Atomic Safety and Licensing Appeal Panel on any fact in issue.

(d) Except as provided in paragraph (c) of this section and § 2.780(e), in any case of adjudication, no officer or employee of the Commission who has engaged in the performance of any investigative or prosecuting function in the case or a factually related case may participate or advise in the initial or final decision, except as a witness or counsel in the proceeding. Where an initial or final decision is stated to rest in whole or in part on fact or opinion obtained as a result of a consultation or communication authorized by paragraph (c) of this section or § 2.780(e), the substance of the communication shall be specified in the record in the proceeding and every party must be afforded an opportunity to controvert the fact or opinion. If the parties have not had an opportunity to controvert such fact or opinion prior to the filing of the decision, a party may controvert the fact or opinion by filing an appeal from the initial decision, or a petition for reconsideration of a final decision, clearly and concisely setting forth the information or argument relied on to show the contrary.

3. In § 2.721, paragraph (c) is revised to read as follows:

#### § 2.721 Atomic safety and licensing boards.

(c) In a proceeding in which an appeal from the initial decision may be taken to the Atomic Safety and Licensing Appeal Board, the Commission will not designate any members of the Appeal Panel as members or alternates of the Atomic Safety and Licensing Board established to preside in such proceeding.

4. In § 2.743, paragraph (i)(2) is revised to read as follows:

#### § 2.743 Evidence.

##### (i) Official Notice.

(1) \*\*\*

(2) If a decision is stated to rest in whole or in part on official notice of a fact which the parties have not had a prior opportunity to controvert, a party may controvert the fact by filing an appeal from an initial decision or a petition for reconsideration of a final decision clearly and concisely setting forth the information relied upon to show the contrary.

5. In § 2.760, paragraphs (a), (b)(1), and (c)(4) are revised to read as follows:

#### § 2.760 Initial decision and its effect.

(a) After hearing, the presiding officer will render an initial decision which will constitute the final action of the Commission forty-five (45) days after its date when it authorizes the issuance or amendment of a license or limited work authorization for a facility, or thirty (30) days after its date in any other case, unless an appeal is taken in accordance with § 2.762 or the Commission directs that the record be certified to it for final decision.

(b) Where the public interest so requires, the Commission may direct that the presiding officer certify the record to it without an initial decision, and may—

(1) Prepare its own initial decision, which will become final unless a notice of appeal is filed; or

(c) \*\*\*

(4) The time within which a notice of appeal from the decision and a supporting brief may be filed, the time within which briefs in support of or in opposition to an appeal filed by another party may be filed and, in the case of an initial decision which may become final in accordance with paragraph (a) of this section, the date when it may become final.

6. In § 2.761, paragraphs (a)(1) and (c)(1) are revised to read as follows:

#### § 2.761 Expedited decisional procedure.

(a) \*\*\*

(1) All parties stipulate that the initial decision may be omitted and waived their rights to file a notice of appeal, to request oral argument, and to seek judicial review;

(c) \*\*\*

(1) All parties stipulate that the initial decision may be made effective immediately and waive their rights to file a notice of appeal, to request oral argument, and to seek judicial review;

7. Section 2.762 is revised to read as follows:

#### § 2.762 Appeals to the Commission from initial decisions.

(a) *Notice of Appeal.* Within ten (10) days after service of an initial decision, any party may take an appeal to the Commission by filing a notice of appeal. The notice shall specify—

- (1) the party taking the appeal; and
- (2) the decision being appealed.

(b) *Filing Appellant's Brief.* Each appellant shall file a brief supporting its position on appeal within thirty (30) days (40 days if Commission staff is the appellant) after the filing of notice required by paragraph (a) of this section.

(c) *Filing Responsive Brief.* Any party who is not an appellant may file a brief in support of or in opposition to the appeal within thirty (30) days after the period has expired for the filing and service of the brief of all appellants. Commission staff may file a responsive brief within forty (40) days after the period has expired for the filing and service of the briefs of all appellants. A responding party shall file a single responsive brief regardless of the number of appellants' briefs filed.

(d) *Brief Content.* A brief in excess of ten (10) pages shall contain a table of contents, with page references, and a table of cases (alphabetically arranged), statutes, regulations, and other authorities cited, with references to the pages of the brief where they are cited.

(1) An appellant's brief must clearly identify the errors of fact or law that are the subject of the appeal. For each issue appealed, the precise portion of the record relied upon in support of the assertion of error must also be provided.

(2) Each responsive brief must contain a reference to the precise portion of the record which supports each factual assertion made.

(e) *Brief Length.* A party shall not file a brief in excess of seventy (70) pages in length, exclusive of pages containing the table of contents, table of citations and any addendum containing statutes, rules, regulations, etc. A party may request an increase of this page limit for



good cause. Such a request shall be made by motion submitted at least seven (7) days before the date upon which the brief is due for filing and shall specify the enlargement requested.

(f) *Certificate of Service.* All documents filed under this section must be accompanied by a certificate reflecting service upon all other parties to the proceeding.

(g) *Failure to Comply.* A brief which in form or content is not in substantial compliance with the provisions of this section may be stricken, either on motion of a party or by the Commission on its own initiative.

8. Section 2.763 is revised to read as follows:

#### § 2.763 Oral argument.

In its discretion the Commission may allow oral argument upon the request of a party made in a notice of appeal or brief, or upon its own initiative.

9. In § 2.764, paragraphs (a) and (b) are revised to read as follows:

#### § 2.764 Immediate effectiveness of initial decision directing issuance or amendment of construction permit or operating license.

(a) Except as provided in paragraphs (c) through (f) of this section, or as otherwise ordered by the Commission in special circumstances, an initial decision directing the issuance or amendment of a construction permit, a construction authorization, or an operating license shall be effective immediately upon issuance unless the presiding officer finds that good cause has been shown by a party why the initial decision should not become immediately effective, subject to the review thereof and further decision by the Commission upon notice of appeal filed by any party pursuant to § 2.762 or upon its own motion.

(b) Except as provided in paragraphs (c) through (f) of this section, or as otherwise ordered by the Commission in special circumstances, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, notwithstanding the filing of a notice of appeal, shall issue a construction permit, a construction authorization, or an operating license, or amendments thereto, authorized by an initial decision, within ten (10) days from the date of issuance of the decision.

10. In § 2.770, paragraphs (a) and (b)(3) are revised to read as follows:

#### § 2.770 Final decision.

(a) The Commission will ordinarily consider the whole record on review, but may limit the issues to be reviewed

and consider only findings and conclusions that were briefed after the filing of a notice of appeal.

(b) \* \* \*

(3) The ruling on each material issue; and

11. In § 2.771, paragraph (a) is revised to read as follows:

#### § 2.771 Petition for reconsideration.

(a) A petition for reconsideration of a final decision may be filed by a party within ten (10) days after the date of the decision. No petition may be filed with respect to an initial decision which has become final through failure to file a notice of appeal.

12. In Appendix A, paragraph (b)(3) of Section VI and paragraphs (d) and (e) of Section IX are revised to read as follows:

Appendix—A Statement of General Policy and Procedure: Conduct of Proceedings for the Issuance of Construction Permits and Operating Licenses for Production and Utilization Facilities for Which a Hearing Is Required Under Section 189a of the Atomic Energy Act of 1954, as Amended.<sup>1</sup>

#### VI. Posthearing Proceedings, Including the Initial Decision

(b) \* \* \*

(3) The appropriate ruling, order, or denial or relief, with the effective date and time within which a notice of appeal from the initial decision may be filed;

#### IX. Licensing Proceedings Subject to Appellate Jurisdiction of Atomic Safety and Licensing Appeal Board

(d)(1) Appeals to the Appeal Board from initial decisions, or designated portions thereof, are initiated by the filing of a notice of appeal within 10 days of the issuance and service of the initial decision.

(2) A brief in support of the appeal must be filed by the appellant within 30 days thereafter (40 days in the case of the staff).

(3) A responsive brief may be filed by any other party within 30 days (40 days in the case of the staff) after the period has expired for the filing and service of the briefs of all appellants. A responding party shall file a single responsive brief regardless of the number of appellant's briefs filed. The prescribed time limits are subject to being lengthened or shortened in a particular case, either on motion of a party or by the Appeal Board on its own initiative (10 CFR 2.711). The time limits are also subject to the provisions of 10 CFR 2.710 relating to service by mail.

<sup>1</sup> In the event of any conflict between the provisions of this appendix and any section of this part, the section governs.

(4) There must be strict compliance with the time limits prescribed for the filing of the notice of appeal and briefs by the rules of practice or by an order of the Appeal Board which extends or shortens those limits in the particular case. Absent a showing of extraordinary and unanticipated circumstances, motions for extensions of time must be received by the Appeal Board at least 1 day prior to the date upon which the document in question is then due for filing. In no circumstances will a document be accepted by the Appeal Board on an untimely basis unless it is accompanied by a motion for leave to file it out of time, which similarly must be founded upon extraordinary and unanticipated circumstances.

(5) Every brief in excess of 10 pages shall contain a table of contents, with page references, and a table of cases (alphabetically arranged), statutes, regulations, and other authorities cited with references to the pages of the brief where they are cited.

(6) No brief is to exceed 70 pages in length unless leave to file a brief of a specified greater length has been previously sought and granted (10 CFR 2.762(e)). In this connection, inasmuch as the Appeal Board has available to it the entire record of the proceeding, extended quotations in a brief from the record are neither required nor desirable. A summary is preferable, accompanied by explicit references to the record sources.

(7) Notices of appeal and briefs which in form or content are not in substantial compliance with the requirements imposed by the rules of practice are subject to being stricken.

(e) The holding of oral argument, whether or not specifically requested by a party, is within the Appeal Board's discretion (10 CFR 2.763). Where a notice of appeal has been filed, the Appeal Board routinely will consider whether the case should be calendared for oral argument. This consideration normally will take place following the receipt of all briefs. Oral argument will be directed if at least one member of the Appeal Board votes in favor of it. If oral argument is to be held, an order will be issued by the Appeal Board which will set the specific date and location, as well as the time allotted to each of the parties. In some instances, the order may also restrict the scope of the oral argument to one or more specified issues. It is anticipated that oral arguments will be conducted in either Washington, D.C., or Bethesda, Md.

Dated at Washington, DC, this 10th day of November 1983.

For the Nuclear Regulatory Commission,  
Samuel J. Chilk,  
Secretary of the Commission.



## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 FR Part 39

[Docket No. 83-CE-76-AD; Amdt. 39-4769]

## Airworthiness Directives; Beech Model 77 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD), applicable to Beech Model 77 airplanes which requires reinforcement of the rudder balance weight attach brackets. Failures of these brackets have occurred which may cause loss of rudder control or flutter of this control surface and a resulting accident. The reinforcement will strengthen the brackets and prevent separation of the rudder balance weight.

**DATES:** Effective date: November 22, 1983.

**Compliance:** As prescribed in the body of the AD.

**ADDRESSES:** Beech Service Instructions No. 1256, unrevised, applicable to this AD may be obtained from Beech Aircraft Corporation, Wichita, Kansas 67201. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

**FOR FURTHER INFORMATION CONTACT:** Don Campbell, Aerospace Engineer, Airframe Branch, ACE-120W, Wichita Aircraft Certification Office (ACO), Room 238, Terminal Building, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 269-7005, FTS 752-7005.

**SUPPLEMENTARY INFORMATION:** Complete failure of the rudder balance weight attach brackets has occurred on two Beech Model 77 airplanes. Such failure can result in loss of rudder control or flutter of this control surface. Either condition may cause an accident. Beech has incorporated a reinforcement on the rudder balance weight attach brackets on airplanes now being manufactured. They have also issued Beech Service Instruction No. 1256 which makes available Kit 77-4006-1S containing parts and instructions for reinforcing or repairing these brackets on field airplanes.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, and AD is being issued requiring reinforcement of the rudder balance

weight attach brackets on certain Beech Model 77 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, 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 the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

**Beech:** Applies to Model 77 (serial numbers WA-1 through WA-312) airplanes, certificated in any category.

**Compliance:** Required within the next 25 hours time-in-service after the effective date of this AD, unless already accomplished. To prevent loss of rudder control or flutter of the rudder, accomplish the following:

(a) Install the balance weight attach bracket reinforcements provided in Beech Kit 77-4006-1S as identified in Beech Service Instructions No. 1256.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where the AD may be accomplished.

(c) An equivalent means of compliance with this AD may be used, if approved, by the Manager, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 269-7000.

This amendment becomes effective on November 22, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-499, January 12, 1983); § 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

**Note—**The FAA has 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 regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

Issued in Kansas City, Missouri, on November 4, 1983.

John E. Shaw,  
Acting Director, Central Region.

[FR Doc. 83-30921 Filed 11-16-83; 8:45 am]

BILLING CODE 4910-13-M

## 14 CFR Parts 71 and 73

[Airspace Docket No. 83-AWP-4]

## Alteration of Restricted Areas R-2516 and R-2517

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** These amendments alter the descriptions of Restricted Areas R-2516 and R-2517 located in the vicinity of Vandenberg Air Force Base (AFB), CA. These alterations do not change the current exterior boundaries of R-2516 or R-2517. This action realigns the boundary between R-2516 and R-2517 across the entrance of the Santa Ynez River, thereby increasing flight safety for operations in the Vandenberg terminal area while providing additional security for the missile launch missions at Vandenberg. Also, the amendment to Section 71.151, Continental Control Area, was inadvertently omitted from the proposal and is added at this time.

**EFFECTIVE DATE:** January 19, 1984.

**FOR FURTHER INFORMATION CONTACT:** Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8628.

## SUPPLEMENTARY INFORMATION:

## History

On August 22, 1983, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to alter the descriptions of Restricted Areas R-2516 and R-2517 located in the vicinity of Vandenberg AFB, CA (48 FR 38006). This modification relocated the common boundary between R-2516 and R-2517 across the mouth of the Santa Ynez River to conform with the Vandenberg local flying regulations. The alteration did not change the existing exterior boundaries of either restricted area. The security of the missile launch site was to be increased by restricting all flying south of the Santa Ynez River at Vandenberg. Interested parties were invited to participate in this rulemaking proceeding by submitting written



comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, and inadvertently omitting the amendment from Section 71.151 of the Federal Aviation Regulations (14 CFR Part 71), Continental Control Area, this amendment is the same as that proposed in the notice. Sections 71.151 and 73.25 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3A dated January 3, 1983.

#### The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations alter the descriptions of Restricted Areas R-2516 and R-2517 located in the vicinity of Vandenberg AFB, CA. This alteration does not change the current exterior boundaries of R-2516 or R-2517.

#### List of Subjects in 14 CFR Parts 71 and 73

Continental control area, Restricted areas, Aviation safety.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.151 and § 73.25 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73), is amended, effective 0901 g.m.t., January 19, 1984, as follows:

#### § 71.151

R-2516 [New]  
R-2517 [New]

#### § 73.25

*R-2516 Naval Missile Facility Point Arguello, CA [Revised]*

Boundaries. Beginning at lat. 35°00'00" N., long. 120°42'00" W.;

to lat. 34°54'00" N., long. 120°33'00" W.;  
to lat. 34°50'00" N., long. 120°32'00" W.;  
to lat. 34°46'00" N., long. 120°27'00" W.;  
to lat. 34°42'00" N., long. 120°30'00" W.;  
to lat. 34°42'00" N., long. 120°40'00" W.;  
thence 3 NM from and parallel to the shoreline to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. Western Space and Missile Center, Vandenberg AFB, CA.

Using agency. Western Space and Missile Center (WSMC)/SE, Vandenberg AFB, CA. Telephone (C)(805)866-4472/4508; Autovon 276-4472/4508.

*R-2517 Naval Missile Facility Point Arguello, CA [Revised]*

Boundaries. Beginning at lat. 34°42'00" N., long. 120°40'00" W.;

to lat. 34°42'00" N., long. 120°30'00" W.;  
to lat. 34°39'00" N., long. 120°31'00" W.;  
to lat. 34°35'00" N., long. 120°32'00" W.;  
to lat. 34°25'00" N., long. 120°27'00" W.;  
to lat. 34°24'00" N., long. 120°30'00" W.;  
thence 3 NM from and parallel to the shoreline to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. Western Space and Missile Center, Vandenberg AFB, CA.

Using agency. Western Space and Missile Center (WSMC)/SE, Vandenberg AFB, CA. Telephone (C)(805)866-4472/4508; Autovon 276-4472/4508.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) [Revised, Pub. L. 97-449, January 12, 1983]); and 14 CFR 11.69)

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

Issued in Washington, D.C., on November 9, 1983.

B. Keith Potts,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 83-30919 Filed 11-16-83; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Parts 71 and 75

[Airspace Docket No. 83-AAL-4]

#### Alteration of VOR Federal Airways and Jet Routes—Alaska

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** These amendments alter several VOR Federal Airways and a Jet Route in the vicinity of Anchorage, AK. The new Sparrevohn, AK, VORTAC was commissioned in October of 1983 and the establishment of VOR Federal Airways will greatly enhance and improve en route navigation in an area where air traffic control radar service is not provided. In addition, VOR Federal Airway V-498, mentioned in the Notice of Proposed Rule Making, has been omitted from this Final Rule.

**EFFECTIVE DATE:** January 19, 1984.

**FOR FURTHER INFORMATION CONTACT:** Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

#### SUPPLEMENTARY INFORMATION:

##### History

On August 29, 1983, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to alter the descriptions of V-319, V-508 and V-498, located in the vicinity of Anchorage, AK. Also, realign Jet Route J-501 between Anchorage and Bethel, AK, by adding the new Sparrevohn, AK, VORTAC (48 FR 39079). The Sparrevohn VORTAC was commissioned in October 1983 and has been added to the descriptions of routes where necessary. However, after further consideration and analysis of additional information, the FAA has decided that the extension of V-498 as mentioned in the NPRM, does not meet air traffic control operational requirements and, therefore, has been omitted from this final rule. This action enhances en route navigation, aids air traffic control procedures, and increases safety. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, and the omission of V-498, these amendments are the same as that proposed in the notice. Sections 71.125 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3A dated January 3, 1983.

##### The Rule

These amendments to Parts 71 and 75 of the Federal Aviation Regulations alter several VOR Federal Airways and a Jet Route in the vicinity of Anchorage, AK. The new Sparrevohn, AK, VORTAC was commissioned in October of 1983, and this action adds Sparrevohn to the descriptions of V-319, V-508, and Jet Route J-501. The description of VOR Federal Airway V-498 has been omitted from this action.

#### List of Subjects in 14 CFR Parts 71 and 75

VOR Federal airways, Jet routes, Aviation safety.

#### Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, § 71.125 and § 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) are amended, effective 0901 GMT, January 19, 1984, as follows:

#### § 71.125

*V-319 [Amended]*

By deleting the words "and Anchorage 130° radials" and substituting the words "and



Anchorage 130° radials; Sparrevohn, AK; to Bethel, AK."

**V-508 [Amended]**

By deleting the words "to Kenai, AK," and substituting the words "to Kenai, AK; Sparrevohn, AK; to Aniak, AK."

**§ 75.100**

**J-501 [Amended]**

By deleting the words "Sparrevohn, AK, NDB;" and substituting the words "Sparrevohn, AK;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) [Revised, Pub. L. 97-449, January 12, 1983]); and 14 CFR 11.69)

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

Issued in Washington, D.C., on November 9, 1983.

**B. Keith Potts,**

*Manager, Airspace—Rules and Aeronautical Information Division.*

[FR Doc. 83-30918 Filed 11-16-83; 8:45 am]

**BILLING CODE 4910-13-M**

**DEPARTMENT OF COMMERCE**

**Office of the Secretary**

**15 CFR Part 17a**

**Cooperative Generic Technology Program Procedures**

**AGENCY:** Office of the Secretary, Department of Commerce.

**ACTION:** Final rule revocation.

**SUMMARY:** Part 17a of this title was issued to prescribe procedures for issuing grants for cooperative generic technology centers. Since no funds have been appropriated for such grants, Part 17a of Title 15 is obsolete and is revoked.

**EFFECTIVE DATE:** November 17, 1983.

**FOR FURTHER INFORMATION CONTACT:**

Lansing R. Felker, Director, Industrial Technology Partnerships Division, Herbert C. Hoover Building, Room 4816,

U.S. Department of Commerce, Washington, D.C. 20230; (202) 377-1094.

**SUPPLEMENTARY INFORMATION:** On May 12, 1982, the Commerce Department published for public comment in the *Federal Register* (47 FR 20316) notice of the cancellation of the Cooperative Generic Technology Program. At that time, proposed rules were issued which set out procedures for the provision of non-grant technical services to the private sector in establishing cooperative R&D activities. Since those proposed rules have been made obsolete by the development of the Industrial Technology Partnership Program within the Department of Commerce, there is no further need for either the existing or proposed rules contained in Part 17a of Title 15.

**PART 17a—[REMOVED]**

Accordingly, Part 17a is revoked. New regulations governing related Commerce activities under the Industrial Technology Partnerships program are being issued concurrently with this action.

Dated: November 4, 1983.

**D. Bruce Merrifield,**

*Assistant Secretary for Productivity, Technology and Innovation.*

[FR Doc. 83-30978 Filed 11-16-83; 8:45 am]

**BILLING CODE 3510-18-M**

**15 CFR Part 19**

**Promotion of Private Sector Industrial Technology Partnerships**

**AGENCY:** Office of Productivity, Technology and Innovation (OPTI), Commerce.

**ACTION:** Final rule.

**SUMMARY:** This new part sets forth the OPTI programs for promotion of private sector Industrial Technology Partnerships which will enhance the productivity and international competitiveness of the private sector. This part also sets forth procedures by which interested persons in the private sector may obtain the assistance available under these programs. The level of Departmental support will diminish beginning in fiscal year 1985, which begins October 1, 1984.

**EFFECTIVE DATE:** November 17, 1983.

**FOR FURTHER INFORMATION CONTACT:**

Lansing R. Felker, Director, Industrial Technology Partnerships Program, Herbert C. Hoover Building, Room 4816,

U.S. Department of Commerce, Washington, D.C. 20230, Telephone (202) 377-1094.

**SUPPLEMENTARY INFORMATION:** The purpose of this Part 19 is to set forth the OPTI programs for promotion of private sector Industrial Technology Partnerships and procedures by which interested persons in the private sector may obtain the assistance available under these programs. The goal of this assistance is to encourage private sector research and development which will enhance the productivity and international competitiveness of the private sector.

Because this part reflects the current OPTI program, it is intended to supersede Part 17a of Title 15, CFR, entitled "Cooperative Generic Technology Program."

Because this part involves matters solely within subsection (a)(2) of Section 553 of Title 5, United States Code, the requirements of that section and of the Regulatory Flexibility Act do not apply to the issuance of this rule.

Issued: November 4, 1983.

**D. Bruce Merrifield,**

*Assistant Secretary for Productivity, Technology and Innovation.*

**List of Subjects in 15 CFR Part 19**

Business and industry, Commercialization, Cooperative R and D, Industrial innovation, Industrial technology, Joint R and D, Partnerships, Private financing of R and D, R and D financing, R and D limited partnerships, Science and technology, Technological innovation, Technology.

Part 19 is added to 15 CFR Subtitle A as follows:

**PART 19—PROMOTION OF PRIVATE SECTOR INDUSTRIAL TECHNOLOGY PARTNERSHIPS**

**Sec.**

- 19.1 Purpose.
- 19.2 Definitions.
- 19.3 Assistance to industrial technology partnerships.
- 19.4 Antitrust considerations.
- 19.5 Coordination/cooperation with other Federal agencies.
- 19.6 Proprietary data.
- 19.7 Amendment of procedures.

**Authority:** 15 U.S.C. 1512 and 3710.

**§ 19.1 Purpose.**

The purpose of this part is to establish procedures under which the Department of Commerce will provide assistance for the establishment by the private sector of Industrial Technology Partnerships (as defined in § 19.2).



**§ 19.2 Definitions.**

(a) *Industrial Technology Partnerships (ITPs)*. As used in this subpart, ITPs include research and development limited partnerships (RDLPs) and cooperative R&D arrangements of companies, non-profit organizations, and Federal agencies or some combination thereof.

(b) *Research and Development Limited Partnership (RDLP)*. In general, the RDLP is a type of business organization to raise venture capital from the private sector to fund specified research and development projects. Additional characteristics are as follows:

(1) *Establishment in General*. An RDLP can be established by an existing firm, or by an independent entrepreneur, to finance specified research and development projects. It can effectively finance both small and large scale projects. It is established by a partnership agreement tailored to the particular projects to be funded.

(2) *Classes of Partners*. In general, a partnership agreement establishing an RDLP will provide for two classes of partners, as follows:

(i) *The General Partner* or partners provide the management for the partnership, obtain funding, make arrangements for the conduct of research, and ultimately either manufacture any new products resulting from the research and development or license out the resulting technology; and

(ii) *The Limited Partners* invest in the partnership, bear most or all of the financial risk, share in the financial success from proceeds of manufacture, royalties or other paybacks, and receive tax benefits, but exercise no active management role in the partnership.

**§ 19.3 Assistance to industrial technology partnerships.**

(a) *General*. The types of assistance available to Industrial Technology Partnerships (ITPs) are described in the following subsections. Additional assistance which is specific to Research and Development Limited Partnerships (RDLPs) is described in paragraph (f) of this section.

(b) *Workshops*. Upon request, the Secretary may hold workshops with representatives from the private sector and government in order to further the objectives of this part. Such workshops are designed to explore interest in specific potential ITPs. They will be structured to avoid antitrust problems.

(c) *Clearinghouse*. The Department's experience with Industrial Technology Partnerships, notably RDLPs, indicates that numerous potential participants in

RDLPs, especially General Partners, need access to specialized information. Accordingly, the Department will develop and maintain a list of specific public and private sector specialists in such categories as venture capitalists, tax accountants, legal specialists, university and non-profit laboratories, brokers, technical and economic feasibility analysts, and proprietary information specialists (especially in patents). Persons wishing to be included in the list or wishing to receive a copy of the list should write to the following address:

Industrial Technology Partnerships Program,  
Herbert C. Hoover Building, Room 4816, Box  
B, U.S. Department of Commerce,  
Washington, D.C. 20230.

Inclusion on the list is voluntary, and is free of charge to all parties, as is receipt of the list. The Department of Commerce, however, makes no representation about the qualifications, experience or ability of any individual identified in these lists.

(d) *Small business*. The Department is aware of the significant contributions of technology-related small business to the economic health of the Nation. Accordingly, the Department shall identify sources of information for them on innovation services and resources including, for example: technologies available for licensing; markets for new technology-based products and services; financing; techniques and incentives for innovation; organizations providing feasibility testing and demonstration services; and information on production and distribution methods. This assistance may be supplemented by the list of referrals described in paragraph (c) of this section.

(e) *Patent licensing*. To assist industrial technology partnerships, the Patent Licensing Program of the National Technical Information Service (NTIS) will provide ITPs with current announcements of the availability of licenses to use government-owned technology (on an exclusive or non-exclusive basis). Write to:

David T. Mowry, Director, Center for the  
Utilization of Federal Technology, NTIS, 5285  
Port Royal Road, Springfield, Virginia 22101.

(f) *Additional assistance for Research and Development Partnerships (RDLPs)*. The Department has no funds available for direct financial support for the establishment or operation of any ITP. Anyone wishing to apply for any of the services listed below should direct their inquiry to:

Industrial Technology Partnerships Program,  
Herbert C. Hoover Building, Room 4816, Box

B, U.S. Department of Commerce,  
Washington, D.C. 20230.

(1) *Introductory training*. The Department will accept a limited number of businesspersons, academicians and other persons for purposes of providing introductory training in the concept of RDLPs. Such training will be tailored to the needs of the trainee, wherever possible. Travel and other expenses of the trainees will be borne by the trainees.

(2) *Information on RDLPs*. The Department will make available information on research and development limited partnerships. A fee may be charged for the printing costs of Departmental publications.

(3) *Data bases*. The Department will provide after May, 1984 as available, technical and marketing data on specific technologies, which may be useful to potential general partners in drafting business plans.

**§ 19.4 Antitrust considerations.**

The Department of Commerce will offer no opinion on the antitrust merits of the formation of any industrial technology partnership. The Secretary, upon request, may seek the Attorney General's opinion as to whether proposed joint research activities would violate any of the antitrust laws.

**§ 19.5 Coordination/cooperation with other Federal agencies.**

Where relevant, the Department may seek the cooperation of other Federal agencies and laboratories that may be of assistance to industrial technology partnerships.

**§ 19.6 Proprietary data.**

All persons making a request under this part are cautioned that data submitted to the Department may be available for dissemination under the Freedom of Information Act. The Department would, however, withhold any information it deemed proprietary on the basis of the provision of 5 U.S.C. 552(b)(4). The Department will consult with the submitter of any data requested under the Freedom of Information Act prior to the release of such information, if the data is clearly marked "Proprietary" or "Company-Confidential."

**§ 19.7 Amendment of procedures.**

The right to amend or withdraw these procedures is expressly reserved.

[FR Doc. 83-30885 Filed 11-16-83; 8:45 am]

BILLING CODE 3510-10-M



**International Trade Administration**  
**15 CFR Part 369**

**Restrictive Trade Practices or Boycotts**

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Interpretation.

**SUMMARY:** The Department wishes to clarify the application of its antiboycott regulations to several situations involving directives or instructions which appear frequently in letters of credit, purchase orders or other shipping or sale documents.

**EFFECTIVE DATE:** November 17, 1983.

**FOR FURTHER INFORMATION CONTACT:**

Paulette Moore, Compliance Policy Division, Office of Antiboycott Compliance, U.S. Department of Commerce (202/377-4550).

**SUPPLEMENTARY INFORMATION:** The antiboycott regulations prohibit knowing agreements to comply with certain prohibited requests and requirements of boycotting countries, regardless of how these terms are stated (§ 369.2(a)-(d)). Similarly, the reporting rules require that a boycott-related "solicitation, directive, legend, or instructions that asks for information or that asks that a United States person take or refrain from taking a particular action" be reported (§ 369.6(a)(1)). Questions have frequently arisen about how particular requirements in the form of directives or instruction are viewed under the antiboycott regulations, and we believe that it will add clarity to the regulations to provide a written interpretation of how three of these terms are treated under the law. The terms in question appear frequently in letters of credit, but may also be found on purchase orders or other shipping or sale documents. The terms are as follows:

- The words "Persian Gulf" cannot appear on the document;
- Certify that goods are of U.S.A. origin and contain no foreign parts;
- Legalization of documents by any Arab consulate except Egyptian consulate permitted.

**List of Subjects in 15 CFR Part 369**

Boycotts, Foreign trade, Reporting and recordkeeping requirements, Restrictive trade practices, Trade practices.

**Interpretation**

The principal author of this interpretation is Paulette J. Moore, Compliance Officer, Compliance Policy Division, Office of Antiboycott Compliance.

**PART 369—[AMENDED]**

The following appendix is added to Part 369 as Supplement 10.

**Interpretations of Part 369**

**Supplement No. 10.**

**Appendix—Interpretations**

(a) The words "Persian Gulf" cannot appear on the document. This term is common in letters of credit from Kuwait and may be found in letters of credit from Bahrain. Although more commonly appearing in letters of credit, the term may also appear in other trade documents.

It is the Department's view that this term reflects an historical dispute between the Arabs and the Iranians over geographic place names which in no way relates to existing economic boycotts. Thus, the term is neither prohibited nor reportable under the Regulations.

(b) Certify that goods are of U.S.A. origin and contain no foreign parts. This term appears periodically on documents from a number of Arab countries. It is the Department's position that the statement is a positive certification of origin and, as such, falls within the exception contained in 369.3(b) for compliance with the import and shipping document requirements of a boycotting country. Even though a negative phrase is contained within the positive clause, the phrase is a non-exclusionary, non-blacklisting statement. In the Department's view, the additional phrase does not affect the permissible status of the positive certificate, nor does it make the request reportable (369.6(a)(5)(iii)).

(c) Legalization of documents by any Arab consulate except Egyptian Consulate permitted. This term appears from time to time in letters of credit but also may appear in various other trade documents requiring legalization and thus is not prohibited, and a request to comply with the statement is not reportable. Because a number of Arab states do not have formal diplomatic relations with Egypt, they do not recognize Egyptian embassy actions. The absence of diplomatic relations is the reason for the requirement. In the Department's view this does not constitute an unsanctioned foreign boycott or embargo against Egypt under the terms of the Export Administration Act. Thus the term is not prohibited, and a request to comply with the statement is not reportable.

(50 U.S.C. Appendix 2401 *et seq.*)

Dated: November 10, 1983.

**William V. Skidmore,**

*Director, Office of Antiboycott Compliance.*

FR Doc. 83-30879 Filed 11-14-83; 2:11 pm

**BILLING CODE 3510-DS-M**

**FEDERAL TRADE COMMISSION**

**16 CFR Part 305**

**Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Ranges of Comparability for Dishwashers**

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Trade Commission amends its Appliance Labeling Rule by revising the ranges of comparability used on required labels for dishwashers.

Under the rule, each required label on a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. These ranges, which show the highest and lowest energy costs or efficiencies for the various size or capacity groupings of the appliances covered by the rule, are published in the Federal Register by the Commission no more often than annually, and are called "ranges of comparability." The figures to be used on the ranges are provided by the Commission after an analysis of data submitted by appliance manufacturers, who derive the energy costs or efficiencies of their appliances by following test procedures prescribed by the Department of Energy ("DOE"). One element used in calculating the ranges is the representative average unit cost of the energy used by the appliances, which is calculated annually by DOE. Because this average cost usually changes annually, and because appliance models are constantly being added, changed, or dropped by manufacturers, the ranges of comparability are likely to change from year to year. This has been the case with the ranges for dishwashers, and this notice publishes the new range figures, which, under §§ 305.10, 305.11 and 305.14 of the rule, must be used in the labeling and advertising of dishwashers beginning February 15, 1984.

**EFFECTIVE DATE:** February 15, 1984.

**FOR FURTHER INFORMATION CONTACT:** James Mills, 202-376-2891, or Lucerne D. Winfrey, 202-376-2805, Attorneys, Division of Enforcement, Federal Trade Commission, Washington, D.C. 20580.

**SUPPLEMENTARY INFORMATION:** Section 324 of the Energy Policy and Conservation Act of 1975 (EPCA)<sup>1</sup>

<sup>1</sup> Pub. L. 94-163, 89 Stat. 871 (Dec. 22, 1975).



required the Federal Trade Commission to consider labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information of for at least thirteen categories of appliances: (1) Refrigerators and refrigerator-freezers; (2) freezers; (3) dishwashers; (4) clothes dryers; (5) water heaters; (6) room air conditioners; (7) home heating equipment, not including furnaces; (8) television sets; (9) kitchen ranges and ovens; (10) clothes washers; (11) humidifiers and dehumidifiers; (12) central air conditioners; and (13) furnaces. Under the statute, DOE is responsible for developing test procedures that measure how much energy the appliances use. In addition, DOE is required to determine the representative average cost a consumer pays for the different types of energy available.

On November 19, 1979, the Commission issued a final rule<sup>2</sup> covering seven of the thirteen appliance categories: refrigerators and refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners and furnaces.

The rule requires that energy efficiency ratings or energy costs and related information be disclosed on labels and fact sheets and in retail sales catalogs for all covered products manufactured on or after May 19, 1980. Certain point-of-sale promotional materials must disclose the availability of energy cost or energy efficiency rating information. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of the DOE test procedures.

Pursuant to § 305.8 of the rule, manufacturers submitted reports to the Commission by January 21, 1980. These reports contained information on the estimated annual cost or energy efficiency rating for the seven categories of appliances derived from tests performed pursuant to the DOE test procedures. The reports also contained the model, the number of tests performed on each model, and the capacity of each model. From that information, the Commission compiled and published<sup>3</sup> ranges of comparability for each product, as required by § 305.10 of the rule.

Section 305.8(b) of the rule requires that manufacturers, after filing this

initial report, shall report annually by specified dates for each product type.<sup>4</sup> The data submitted by manufacturers is based, in part, on the representative average unit cost of the type of energy used to run the appliances tested. According to § 305.9 of the rule, these average energy costs, which are provided by DOE, will be periodically revised by the Commission, but not more often than annually. Because the costs for the various types of energy appear to be increasing steadily, and because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information in line with these changes, the Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually), if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%.

The new figures for the estimated annual costs of operation for dishwashers, which were calculated using the 1983 representative average energy costs published by DOE on January 25, 1983<sup>5</sup> have been submitted and have been analyzed by the Commission. New ranges based upon them are herewith published.

In consideration of the foregoing, the Commission publishes the following ranges of comparability for use in the labeling and advertising of dishwashers beginning February 15, 1984.

#### PART 305—[AMENDED]

Appendix C to Part 305 is revised to read as set forth below:

##### Appendix C—Dishwashers

###### RANGES OF ESTIMATED YEARLY ENERGY COSTS

| Ranges of comparability | Electrically heated water |                  | Natural gas heated water |                  |
|-------------------------|---------------------------|------------------|--------------------------|------------------|
|                         | Low                       | High             | Low                      | High             |
| Compact                 | ( <sup>1</sup> )          | ( <sup>1</sup> ) | ( <sup>1</sup> )         | ( <sup>1</sup> ) |
| Standard                | \$54.00                   | \$90.00          | \$27.00                  | \$52.00          |

<sup>1</sup>No data submitted.

##### List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling.

<sup>4</sup>Reports for clothes washers are due by March 1; reports for water heaters, room air conditioners and furnaces are due by May 1; reports for dishwashers are due by June 1; reports for refrigerators, refrigerator-freezers and freezers are due by August 1.

<sup>5</sup>48 FR 3409.

Reporting and recordkeeping requirements.

Authority: Sec. 324 of the Energy Policy and Conservation Act, (Pub. L. 94-163) (1975), as amended by the National Energy Conservation Policy Act (Pub. L. 95-619) (1978), 42 U.S.C. 6294; Sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553.

Emily H. Rock,

Secretary.

[FR Doc. 83-30933 Filed 11-16-83; 8:45 am]

BILLING CODE 6750-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 650

#### Bridges, Structures, and Hydraulics; Discretionary Bridge Criteria

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

**SUMMARY:** The FHWA is issuing this document which includes a rating factor for use in selecting bridges to be funded under the Discretionary Bridge Program. The rating factor was developed in accordance with the criteria specified by Section 161 of the Surface Transportation Assistance Act of 1982 (STAA of 1982). The rating factor will allow a more formalized process for selecting discretionary bridge projects.

**EFFECTIVE DATE:** December 19, 1983.

**FOR FURTHER INFORMATION CONTACT:** Mr. John J. Ahlskog, Chief, Design and Inspection Branch, Bridge Division, Office of Engineering and Operation, (202) 472-7697, or Ms. Ruth R. Johnson, Office of the Chief Counsel, (202) 426-0781, 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:** On January 6, 1983, the President signed into law the STAA of 1982 (Pub. L. 97-424, 96 Stat. 2027). Section 161 requires the Secretary of Transportation to develop a selection process for discretionary bridges authorized to be funded under Section 144(g) of Title 23, United States Code, Discretionary Bridge Program. The selection process is to include a formula resulting in a rating factor based on the following criteria:

1. Sufficiency Rating (SR)—Computed as illustrated in Appendix A of the Recording and Coding Guide of the Structure Inventory and Appraisal of the

<sup>2</sup> 44 FR 60466, 16 CFR Part 305 (November 19, 1979).

<sup>3</sup> 45 FR 13998 (March 3, 1980), 45 FR 19520 (March 25, 1980), 45 FR 26036 (April 17, 1980), 46 FR 3829 (January 16, 1981).



Nation's Bridges, USDOT/FHWA (latest edition);<sup>1</sup>

2. Average Daily Traffic (ADT)—Using the most current value from the national bridge inventory data;

3. Average Daily Truck Traffic (ADTT);

4. Defense Highway System Status (D);

5. The State's unobligated balance of funds received under Section 144 of Title 23, United States Code, and the total funds received under Section 144 of Title 23, United States Code;

6. Total Project Cost (TPC); and

7. Special consideration should be given to bridges closed to all traffic or restricted to loads less than ten tons. Other unique considerations and the need to administer the program from a balanced national perspective should also be considered.

The discretionary bridge funds are being used to finance the replacement or rehabilitation of deficient high-cost, Federal-aid system bridges. House Report 95-1485<sup>2</sup> to accompany the 1978 STAA states that it is the intent of Congress that only Federal-aid system bridges be funded with discretionary bridge funds. Funding priority will be given to continuation of those discretionary bridges already begun under the Discretionary Bridge Program. Section 161 specifies that after the issuance of a final regulation, new bridge projects eligible for the Discretionary Bridge Program will only include those with a rating factor of 100 or less, based on a scale of zero to infinity.

In consideration of the foregoing, the FHWA published a notice of proposed rulemaking (NPRM) on May 23, 1983, (48 FR 22938) under Docket No. 83-6 and invited public comments until July 7, 1983. Comments were received from State governments (18), counties (2), cities, (2) a consultant (1), and a member of Congress (1).

The comments, with few exceptions, supported the establishment of a formalized selection procedure for discretionary bridge projects.

Although many of the commentors did not support specific parts of the Rating Factor as written, many did support the individual components. Most of the adverse comments were directly related to specific bridges submitted for the discretionary bridge program. Many objected to only one portion of the criteria and offered specific comments for consideration. Comments received were grouped for similarity and are

discussed by regulation section, broken down into individual items in the section where applicable.

#### Section 650.703 Eligible projects.

##### Summary of Comments

One commentor suggested that the following phrase be added to the end of § 650.703(b)—"except as provided in Section 650.709." Another commentor, although generally agreeing with the criteria, stated that the \$10 million requirement and traffic volume factor would exclude his thinly populated State from participation in the program. One comment was received objecting to the statement in the NPRM that the procedure was not anticipated to have a significant economic impact as two of the State's three candidates would not be eligible. Another comment was received that the Rating Factor (RF) should only be used to determine eligibility, not priority.

##### Discussion

The \$10 million threshold, or twice the sum apportioned annually to a State, whichever is less, is established by legislation and would require new legislation to revise. The RF eligibility upper limit of 100 was established in the legislation.

The RF will be used both as an eligibility criterion and a basic priority ranking. It is intended that once eligibility is established, the special considerations section would be reviewed and utilized for possible revisions to the basic priority ranking. The RF items used are basically those considered in past years for reviewing discretionary bridge candidates with priority consideration given to bridges with legislative history. Most bridges which will not meet the 100 plateau of the RF would most likely not have been recommended for the program in previous years.

#### Section 650.707 Rating Factor

##### General

As mentioned earlier, most commentors naturally assessed the proposed RF as it would affect their specific discretionary bridge program candidates. As a result, suggestions and recommendations were quite varied from complete agreement with the RF to total rejection. The wide diversity of comments received were all carefully reviewed and evaluated for impact on the overall program and the intent of the Congress. Comments on the components of the RF will be appraised individually.

#### Essentiality Component—SR/ADT Comments Received

Several comments stated that the formula was much too heavily reliant and weighted on average daily traffic (ADT) and average daily truck traffic (ADTT) and very biased toward deficient bridges with high traffic volumes. One commentor believes that the factors are weighted inappropriately and would not result in a nationally balanced discretionary bridge program because the ADT\* (ADT + ADTT) portion of the formula favors States with high traffic volumes so as to practically exclude rural bridges. Another comment stated that the excessive emphasis on ADT\* appears to give overwhelming advantage to metropolitan areas and Eastern States.

Some commentors took the opposite viewpoint with agreement that the RF appears fair and rightly addresses bridges with a cost more than \$10 million and high traffic volumes, with the treatment of trucks in the ADT\* factor, and with the use of SR and ADT\* as the principal elements. One commentor noted that the essentiality component was very appropriate. Comments were received recommending that the ADTT be more explicit for posted bridges to indicate that the ADTT submitted should represent the truck volume which would use the bridge if load limits permitted its use. One comment recommended that the ADT\* should be per lane of traffic to allow 2-lane structures to compete favorably with multilane structures.

Several commentors recommended that the essentiality component consist solely of the SR as a means of giving more balance to the evaluation. Again, comments with the opposite viewpoint were received. One commentor believes that the SR is very poor, if not an inadequate method of determining structural integrity since a small change in the evaluation of the overall condition of the substructure or superstructure could produce a large variation in the SR. Two comments were received recommending that more emphasis should be placed on the actual deterioration as evaluated by the structural condition ratings. A suggested variation used the structural adequacy portion of the SR in conjunction with the overall SR. One comment noted that the proposed RF is extremely sensitive to low SR numbers with a SR of less than 10 being very subjective. It was recommended that a minimum value of 10 be used for the essentiality component rather than the proposed minimum value of 1.0 for the SR.

<sup>1</sup> Available from the FHWA at the address above.  
<sup>2</sup> H.R. Rep. No. 1485, 95th Cong., 2d Sess., page 19 (1978).



### Discussion

The FHWA evaluation of the comments indicates support for both reducing the effect of ADT\* on the RF and retaining it as an important part of the component. Based on a review of all comments received, the ADT\* of the essentiality component has been removed. Removal of this portion of the formula necessitates the adjustment of the 10 constant used in the formula to a value of one. This is necessary to provide for the program eligibility criteria of a 100 maximum rating factor value. The SR, sanctioned by American Association of State Highway and Transportation Officials (AASHTO), has been in use for some time as a means of establishing relative rankings for replacement or rehabilitation under the Highway Bridge Replacement and Rehabilitation Program (HBRRP). The FHWA believes the established SR as proposed is an essential part of the RF and the support for the SR outweighs the negative response. Therefore, it will remain as one of the principal parts of the RF as originally proposed. The use of a minimum value of 1.0 for the SR was established to provide for the "0" SR which would not give proper evaluation. The FHWA believes the use of "1.0" as the minimum SR is appropriate particularly since candidates submitted for the program include none with a SR between "0" and "1".

The FHWA agrees that the ADT\* needs clarification in that both the ADT and ADTT should indicate the volume of traffic which would use the bridge if it was not load posted or closed. In addition, the volume should be the average annual daily traffic, not weekend peaks or summer months. The definition has been expanded to include the comments noted.

### Defense Component—10/D

#### Comments Received

Several specific comments were received recommending a lesser percent reduction for defense highway bridges. Although recognizing the importance of the defense highway system, some commentors suggested a reduction range of 10 to 30 percent rather than the 50 percent in the proposed rating factor as a more reasonable representation of defense highway significance. One commentor suggested that the defense component penalizes cities. Another believes that an extremely narrow definition is applied to the defense component and that some bridges should be given a high defense rating even though they are not formally on the Nation's defense network, particularly main routes in an urban area. Two

commentors believe the defense highway network should be reevaluated.

#### Discussion

The FHWA believes the defense highway system must be recognized as an important part of the RF. One way to recognize this importance is to assign it a value relative to its importance. The FHWA agrees that a reduction in the effect of "D" on the overall RF is warranted and can be accomplished with a recognition of the importance of the defense highway network. Therefore, the defense component has been modified to D=1 for a non-defense highway bridge and 1.5 for a defense highway bridge. The constant 10 is omitted as noted earlier. The FHWA does not agree with the recommendation that some bridges not on the defense network should be assigned a higher defense rating. If a State should adjust its defense highway system network, the data and RF would be recalculated accordingly.

### Cost-Effectiveness Component—TPC/ADT

#### Comments Received

Comments varied from agreement with the cost-effectiveness component to disagreement that the component is workable and a suggestion for its removal or replacement. Other comments stated that the component penalizes higher cost bridges and appears to be an inconsistency since the higher the project cost the greater the

multiplier. Comments suggested that the TPC be used differently to provide a more equitable distribution since it seems to penalize those bridges that require major upgrading or replacement, and a rural bridge with relatively low ADT would not have a high effectiveness component, even though it may be the only available route when compared to an urban area with other parallel bridges and a high ADT. Comments were received recommending that total funds received should be included. One commentor suggested that a more reasonable method would be to compare TPC with the unobligated balance of HBRRP funds.

#### Discussion

With requests for funds far exceeding the annual authorization, the FHWA believes that the total project cost should be considered in evaluating applicants for the program in an effort to use the money effectively. One way to consider its use is to evaluate the cost for each user of the bridge. This procedure was included in the proposed rating factor to measure the relative cost of the project for each vehicle using it daily. This component is not intended to pit rural bridges versus urban bridges but rather to measure the utilization of the limited amount of funds in a cost-effective manner by comparing costs and the volume of traffic using the bridge. The FHWA believes the component as written in the proposed RF serves this purpose and retains it in the formula.

$$\text{HBRRP Fund Use component—1} + \frac{\text{Unobligated HBRRP Balance}}{\text{Total HBRRP Funds Received}}$$

#### Comments Received

Several commentors objected to using the unobligated balance for various reasons such as States accumulating several years of apportioned funds to replace a large bridge, unfair to local governments who have no control over a State's unobligated balance, it takes time to advance bridge projects to meet increased funds, and it gives too little incentive to States with large apportionments to dedicate any part of apportioned funds to eligible discretionary program bridges. One respondent did not object to measuring unobligated balance divided by the total funds received but suggested a second factor that reflects which States are receiving the most bridge money. One

suggested this component be revised or not incorporated until fiscal year 1985 while another recommended that the unobligated balance be based on the low balance of the last 2 years as a minimum. A recommendation was received to replace the fund use component by an ability to finance or the ratio of the States annual HBRRP apportionment to the total project cost. With the opposite viewpoint, a comment was received that the HBRRP unobligated balance component was not weighted sufficiently as it made little sense to provide discretionary funds to States having difficulty obligating apportioned funds. It was suggested that the last one or two fiscal year total funds be used as the denominator rather than the last 4 years.



To ensure that the rating factors between States are equitable and comparable and to prevent manipulation for best time to submit candidates, it was suggested that a specific date be established for use of the unobligated balance.

#### Discussion

Regardless of the reasons for unobligated State balances of HBRRP funds, the fact remains that the \$10 million criterion for activation of this component is a sizable sum. It is recognized that the reasons for large unobligated balances are important in individual instances and that it is the State's responsibility to select the projects for funding with apportioned bridge funds. However, since it is the individual State's prerogative, the availability of such a sum should be reflected in the formula. The wide range of comments seems to indicate a middle ground is provided in the proposed component. Therefore, this component remains as originally proposed. However, the FHWA agrees that a specific date should be established for determining the unobligated HBRRP funds and the description of the last term of the RF has been revised to indicate June 30 will be the specified date.

#### Section 650.709 Special Considerations Comments Received

Comments generally supported the use of special considerations in the overall selection process. Comments varied from a statement that it is very important that the special considerations provision be retained and that it recognizes the practical real world situation but with a hope that it is not relied upon to the extent that the RF itself seldom comes into play, to one comment that geographical concerns are left to be remedied by the special considerations clause. This same commentor noted that this factor has the effect of prompting more reliance on the political process than before, which is opposite to the objective of the formula process. Another commentor believes that closed and posted bridges and other unique situations should enter directly into the RF. Comments were received that heavily loaded commercial vehicles were not adequately considered and the impact of wider and longer trucks on certain primary routes should also be included under special considerations.

Specific comments supported priority consideration for projects previously begun with discretionary bridge funds and funding commitments should be carried forward with the project fully

funded regardless of the phase of work. One commentor did not believe priority should be given to continuation and completion of projects unless construction has begun.

Several other specific items were mentioned for inclusion in either the RF itself or special considerations, such as one comment that the RF is deficient in that it does not include a factor for exposure to navigational hazards.

The one item receiving more than one comment was that detour lengths and accessibility to a particular area (6 comments) were not given enough consideration.

#### Discussion

It is impossible to explicitly mention each individual item which could be considered in evaluating projects for funding selection. Each State or local government may have a special situation unique to it. Therefore, these special items must be provided with the application for the program for consideration the same as other unique situations and updated if the situation changes.

The special consideration for closed or load posted bridges does give extra emphasis for the larger and heavier trucks now permitted on certain highway routes. The FHWA believes that consideration of the adverse effects of closed or load posted bridges is

properly located under special considerations rather than in the RF formula.

The FHWA believes that priority consideration for previously funded projects regardless of the program phase is necessary for the orderly processing of projects to completion. A priority project selected earlier in the program should continue to be a priority project until fully funded for completion.

In developing the original proposal and again based on the comments received, the use of detour length was reviewed for inclusion in either the RF or under the special considerations section, even though detour length was not mentioned in Section 161. Detour length is one factor used in computing the basic sufficiency rating for each bridge. The concerns of those commenting that the RF was weighted toward urban bridges because ADT<sup>1</sup> was used twice and detour length was not specifically included has been responded to with the removal of one ADT<sup>1</sup>.

The FHWA believes that only those items designated in Section 161 should be used in both the RF and special considerations.

#### Summary

Based on an indepth review of all comments received, the rating factor is revised as follows:

$$RF = SR \times \frac{1}{D} \times \frac{TPC}{ADT} \times 1 + \frac{\text{Unobligated HBRRP Balance}}{\text{Total HBRRP Funds Received}}$$

which can be rewritten as:

$$RF = \frac{SR}{D} \times \frac{TPC}{ADT} \times 1 + \frac{\text{Unobligated HBRRP Balance}}{\text{Total HBRRP Funds Received}}$$

The major revisions are:

1. ADT<sup>1</sup> used only once,
2. Constant of 10 removed, and
3. Value of 1.5 used for D if the bridge carries a designated defense highway.

Some clarifying comments have been added to the regulation as noted earlier.

Since States would be under no obligation to submit bridge projects for discretionary bridge funds and because the rating factor criteria merely formalizes existing selection procedures for the continuation of an ongoing program, it is not anticipated that this proposal will have a significant

economic effect. Accordingly, a full regulatory evaluation is not required. For the foregoing reasons and under the criteria of the Regulatory Flexibility Act, it is certified that this proposal will not have a significant economic impact on a substantial number of small entities.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant proposal under the regulatory policies and procedures of the Department of Transportation.

In consideration of the foregoing, and under the authority of 23 U.S.C. 144, 315,



49 CFR 1.48(b), and section 161, Pub. L. 97-424, 96 Stat. 2097, the FHWA amends Part 650 of Title 23 of the Code of Federal Regulations by adding Subpart G as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

#### List of Subjects in 23 CFR Part 650

Bridges, Grant programs—  
transportation, Highways and roads.

Issued on: November 8, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

### PART 650—BRIDGES, STRUCTURES, AND HYDRAULICS

#### Subpart G—Discretionary Bridge Candidate Rating Factor

Sec.

650.701 Purpose.

650.703 Eligible projections for discretionary bridge funds.

650.705 Application for discretionary bridge funds.

650.707 Rating factor.

650.709 Special considerations.

Authority: 161, Pub. L. 97-424, 96 Stat. 2097; 23 U.S.C. 144, 315; 49 CFR 1.48(b).

#### Subpart G—Discretionary Bridge Candidate Rating Factor

##### § 650.701 Purpose.

The purpose of this regulation is to describe a rating factor used as part of a selection process of allocation of discretionary bridge funds made available to the Secretary of Transportation under 23 U.S.C. 144.

##### § 650.703 Eligible projects.

(a) Deficient highway bridges on Federal-aid highway system roads may be eligible for allocation of discretionary bridge funds to the same extent as they are for bridge funds apportioned under 23 U.S.C. 144, provided that the total project cost for a discretionary bridge candidate is at least \$10 million or twice the amount of 23 U.S.C. 144 funds apportioned to the State during the fiscal year for which funding for the candidate bridge is requested.

(b) After the effective date of this regulation for the discretionary bridge candidate rating factor, only candidate bridges not previously selected with a computed rating factor of 100 or less will be eligible for consideration.

##### § 650.705 Application for discretionary bridge funds.

Each year through its field offices, the FHWA will issue an annual call for discretionary bridge candidate submittals including updates of previously submitted but not selected projects. Each State is responsible for submitting such data as required for candidate bridges. Data requested will include structure number, funds needed by fiscal year, total project cost, current average daily truck traffic and a narrative describing the existing bridge, the proposed new or rehabilitated bridge and other relevant factors which the State believes may warrant special consideration.

##### § 650.707 Rating factor.

(a) The following formula is to be used in the selection process for ranking discretionary bridge candidates:

$$\text{Rating Factor (RF)} = \frac{\text{SR}}{\text{D}} \times \frac{\text{TPC}}{\text{ADT}}$$

$$\times \left[ 1 + \frac{\text{Unobligated HBRRP Balance}}{\text{Total HBRRP Funds Received}} \right]$$

The lower the rating factor, the higher the priority for selection and funding.

(b) The terms in the rating factor are defined as follows:

SR is Sufficiency Rating computed as illustrated in Appendix A of the Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, USDOT/FHWA (latest edition); (If SR is less than 1.0, use SR = 1.0);

ADT is Average Daily Traffic in thousands taking the most current value from the national bridge inventory data;

ADTT is Average Daily Truck Traffic in thousands (Pick up trucks and light delivery trucks not included);

For load posted bridges, the ADTT furnished should be that which would use the bridge if traffic were not restricted.

The ADTT should be the annual average volume, not peak or seasonal.

D is Defense Highway System Status

D = 1 if not on defense highway

D = 1.5 if bridge carries a designated defense highway

The last term of the rating factor expression includes the State's unobligated balance of funds received under 23 U.S.C. 144 as of June 30 preceding the date of calculation, and the total funds received under 23 U.S.C. 144 for the last four fiscal years ending with the most recent fiscal year of the FHWA's annual call for discretionary bridge candidate submittals; (if unobligated HBRRP balance is less than \$10 million, use zero balance);

TPC is Total Project Cost in millions of dollars;

HBRRP is Highway Bridge Replacement and Rehabilitation Program;

ADT is ADT plus ADTT.

(c) In order to balance the relative importance of candidate bridges with very low (less than one) sufficiency ratings and very low ADT's against candidate bridges with high ADT's, the minimum sufficiency rating used will be 1.0. If the computed sufficiency rating for a candidate bridge is less than 1.0, use 1.0 in the rating factor formula.

(d) If the unobligated balance of HBRRP funds for the State is less than \$10 million, the HBRRP modifier is 1.0. This will limit the effect of the modifier on those States with small apportionments or those who may be accumulating funds to finance a major bridge.

##### § 650.709 Special considerations.

(a) The selection process for new discretionary bridge projects will be based upon the rating factor priority ranking. However, although not specifically included in the rating factor formula, special consideration will be given to bridges that are closed to all traffic or that have a load restriction of less than 10 tons. Consideration will also be given to bridges with other unique situations, and to bridge candidates in States which have not previously been allocated discretionary bridge funds.

(b) The need to administer the program from a balanced national perspective requires that the special



cases set forth in paragraph (a) of this section and other unique situations be considered in the discretionary bridge candidate evaluation process.

(c) Priority consideration will be given to the continuation and completion of bridge projects previously begun with discretionary bridge funds.

[FR Doc. 83-30986 Filed 11-16-83; 8:45 am]

BILLING CODE 4910-22-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Secretary

#### 24 CFR Part 841

[Docket No. R-83-1016]

### Public Housing Development, Revision of Requirements

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of announcement of effective date for final rule.

**SUMMARY:** This notice announces the effective date for the final rule published in the *Federal Register* on October 17, 1983 (48 FR 46980) that prohibited Public Housing Agencies (PHAs) from transferring existing PHA-owned, city, county or State-assisted projects to the public housing program under the U.S. Housing Act of 1937, except with the prior written approval of the Assistant Secretary for Public and Indian Housing. The effective date provision of the rule stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, and announced that future notice of the effectiveness of the rule would be published in the *Federal Register*. Thirty calendar days of continuous session of Congress have expired since the rule was published.

**DATE:** The effective date for the final rule published October 17, 1983 (48 FR 46980), is November 16, 1983.

**FOR FURTHER INFORMATION CONTACT:** Raymond W. Hamilton, Director, Public Housing Development Division, Office of Public Housing, Office of the Deputy Assistant Secretary for Public and Indian Housing, Room 4232, Department of Housing and Urban Development, Washington, D.C. 20410 (202) 426-0938. [This is not a toll-free number.]

Dated: November 10, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83-30986 Filed 11-16-83; 8:45 am]

BILLING CODE 4210-32-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 916

### Public Hearing and Public Comment Period on the Status of the Kansas Permanent Regulatory Program

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

ACTION: Schedule of public hearing and public comment period.

**SUMMARY:** On May 31, 1983, the Director, OSM, announced that he had reason to believe that Kansas may not be implementing, administering, maintaining or enforcing its approved program to regulate surface coal mining and reclamation operations (48 FR 24073). By that notice, the Director also announced that he would hold an informal conference with Kansas officials to discuss the status of implementation of the State's program. The informal conference was held on June 16, 1983, in Pittsburg, Kansas. Because the Director still has reason to believe that Kansas is not adequately implementing, administering, maintaining or enforcing its approved program, OSM has now scheduled a public hearing and public comment period to provide an opportunity for interested persons to express their concerns on the implementation of the Kansas program in accordance with the provisions of 30 CFR 733.12(d).

This notice sets forth the purpose, dates, times and locations for both the public hearing and the public comment period during which interested persons may submit written comments and data on the implementation of the Kansas permanent regulatory program. The rules and procedures governing public participation at the hearing are also contained in this notice.

**DATES:** OSM has scheduled a public hearing on December 16, 1983 to be held at the address below, beginning at 10:00 a.m. Persons wishing to testify at the public hearing are urged to contact Mr. Richard Rieke, Field Office Director, at the address and telephone number shown under "FOR FURTHER INFORMATION CONTACT" by December 15, 1983 so they may be placed on the speakers' agenda.

Public comments must be received before 4:00 p.m. on December 30, 1983 in order to be considered in the Director's findings on the status of the Kansas permanent regulatory program.

**ADDRESSES:** The public hearing on the status of the Kansas permanent regulatory program will be held at:

Ramada Inn and Tower, 420 East Sixth Street, Topeka, Kansas 66601.

Written comments should be sent to: Kansas City Field Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

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, Room 5315, 1100 L Street, NW., Washington, D.C. 20240; Telephone: (202) 343-4728

Office of Surface Mining, Kansas City Field Office, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri; Telephone: (816) 374-5527

Kansas Mined Land Conservation and Reclamation Board, 107 W. 11th Street, P.O. Box 1418, Pittsburg, Kansas 66762

#### FOR FURTHER INFORMATION CONTACT:

Carl C. Close, Special Assistant to the Assistant Director, Program Operations and Inspection, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone: (202) 343-4225;

or

Richard Rieke, Kansas City Field Office Director, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64102; Telephone: (816) 374-5527

**SUPPLEMENTARY INFORMATION:** On March 11, 1983, the Director, OSM, notified the Kansas Governor that he had reason to believe that the State may not be implementing, administering, maintaining or enforcing its approved program to regulate surface coal mining and reclamation operations (see Administrative Record No. KS-247). The Director cited problems in Kansas' program implementation in several areas, including permitting, inspection and enforcement, administrative procedures and records, civil penalty assessment and bond release. A more detailed account of the Director's concerns over the status of Kansas' implementation of its program can be found in the May 31, 1983 *Federal Register* at 48 FR 24073.

On April 14, 1983, the Governor responded to the Director's March 11, 1983 letter by offering assurances of Kansas' intent to administer and enforce its regulatory program (KS-258). On May 6, 1983, the Kansas Corporation Commission (KCC) requested an informal conference with OSM under the provisions of 30 CFR 733.12(c) (KS-250). The Director agreed to Kansas' request and subsequently held an



informal conference with Kansas officials on June 16, 1983 in Pittsburg. On May 31, 1983, the Director notified the public of the informal conference (48 FR 24073). A transcript of the informal conference has been placed in the Administrative Record (KS-254).

At the informal conference, OSM requested the KCC to provide additional information on many of OSM's concerns. The KCC submitted additional information on July 30, August 30 and September 30, 1983 (KS-255, 257 and 259). A meeting was held between OSM and the State on November 10, 1983, to discuss OSM's concerns and the State's progress in resolving problems.

Based on the information Kansas provided at the informal conference and on the dates above, the Director still has reason to believe that Kansas may be unable to implement, administer, maintain or enforce its program. The Director's rationale is based on the following concerns:

1. *Permitting:* Although the State has taken a number of steps, the Director continues to have reason to believe that KCC is: (a) Making inadequate completeness determinations on permit applications; (b) conducting inadequate technical review of permit applications; and (c) not making written findings on the critical categories of information required in the permit application. OSM is also concerned that the Mined Land Conservation and Reclamation Board's (the Board) approved staffing plan has not yet been met and that this is a contributing factor to the problems associated with permit review.

2. *Inspection and Enforcement:* OSM identified certain problems in the Board's inspection and enforcement actions including: (a) Board inspectors have not cited all violations which have been observed during State inspections; (b) State inspections are not adequately documented, evidence is not gathered, and inspections do not include a complete review of all applicable performance standards; (c) the Board has not always responded appropriately to OSM ten-day notices; (d) the civil penalty assessment procedures must be followed; and (e) the Board's staff is not handling properly all citizens complaints.

3. *Bond Release:* OSM is concerned that the Board is releasing performance bonds for operations that do not meet the required performance standards. OSM requested that the Board provide procedures for bond release and assurances that bonds will not be released before applicable performance standards are met. Kansas responded on August 30, 1983, by citing its approved bond release regulations and stating

that all future bond releases shall be in accordance with its rules.

4. *Administrative Procedures and Records:* While some progress has been made, OSM is concerned that the Board has not created or maintained adequate administrative record procedures or tracking systems for such matters as permit application reviews, citizen complaints, ten-day notices from OSM, enforcement actions, civil penalty assessments, and bonding. OSM asked the MLCRB to develop and maintain tracking systems for these matters. On September 30, 1983, the State indicated that it has established tracking logs for telephone conversations and is working toward the goal of centralizing all permit records.

The Director recently notified the Governor of Kansas that he still has reason to believe that Kansas continues to have problems in adequately implementing, administering, maintaining or enforcing its program. A copy of the Director's letter will be placed in the administrative record.

In accordance with the procedures contained in 30 CFR 733.12(d), OSM will hold a public comment period and a public hearing to provide interested parties and opportunity to express their concerns on the implementation of the Kansas program. The public comment period begins today and ends at 4:00 p.m. on December 30, 1983. OSM is particularly interested in the public's views and concerns on the State's ability to implement its program, and on possible actions Kansas and OSM should pursue to resolve identified problems. Members of the public are encouraged to examine all of the documents in the administrative record.

Subsequent to the public hearing and review of all available information including the hearing transcript, written presentations and written comments, the Director will publish his findings on the status of Kansas' program implementation in accordance with the provisions of 30 CFR 733.12(e).

#### Hearing Rules

The scope of the public hearing will include permitting, inspection, enforcement, bond release, administrative procedures and records, and all other matters relevant to the issues of whether a full or partial Federal program should be implemented in the State of Kansas.

At the public hearing on December 16, 1983, parties wishing to comment on the status of Kansas' implementation of its program will be asked to register for placement on the speakers' agenda. The hearing will begin at 10:00 a.m. The hearing will continue until all persons

scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and who wish to do so will be heard at the end of the scheduled speakers. Persons not scheduled to testify but wishing to do so assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard. Written comments, data, or other relevant information may be submitted to supplement or in lieu of an oral presentation at the hearing.

In addition, the Director has prescribed the following hearing format and rules of procedure.

1. The hearing shall be informal and follow legislative procedures.  
2. Participants should register to speak.

3. Based on the number of speakers in attendance, each participant may be limited to 10 minutes.

4. Participants will be called in the order in which they register.

Dated: November 10, 1983.

James R. Harris,  
Director, Office of Surface Mining.

[FR Doc. 83-30953 Filed 11-16-83; 8:45 am]

BILLING CODE 4310-05-M

#### 30 CFR Part 936

#### Public Hearing and Public Comment Period on the Status of the Oklahoma Permanent Regulatory Program

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

**ACTION:** Schedule of public hearing and public comment period.

**SUMMARY:** On May 25, 1983, the Director, OSM, announced that he had reason to believe that Oklahoma may not be implementing, administering, maintaining or enforcing its approved program to regulate surface coal mining and reclamation operations (48 FR 23414). By that notice, the Director also announced that he would hold an informal conference with Oklahoma officials to discuss the status of implementation of the State's program. The informal conference was held on June 15, 1983, in Oklahoma City, Oklahoma. Because the Director still has reason to believe that Oklahoma is not adequately implementing, administering, maintaining or enforcing its approved program, OSM has now scheduled a public hearing and public comment period to provide an opportunity for interested persons to express their concerns on the implementation of the



Oklahoma program in accordance with the provisions of 30 CFR 733.12(d). In addition, because of apparently improper actions by ODOM related to permitting, OSM is considering substituting Federal enforcement of State permits in situations where OSM determines that the State has not complied with the requirements of its program. The public hearing being announced today will also focus on this matter.

This notice sets forth the purposes, dates, times and locations for both the public hearing and the public comment period during which interested persons may submit written comments and data on the implementation of the Oklahoma permanent regulatory program and on the Federal enforcement of State permits as set forth below. The rules and procedures governing public participation at the hearing are also contained in this notice.

**DATES:** OSM has scheduled a public hearing on Wednesday, December 21, 1983, to be held at the address below. Persons wishing to testify at the public hearing are urged to contact Mr. Robert L. Markey, Field Office Director, at the address and telephone number shown under "FOR FURTHER INFORMATION CONTACT" by Tuesday, December 20, 1983, so they may be placed on the speakers' agenda.

Public comments must be received before 4:00 p.m. on Friday, December 30, 1983, in order to be considered in the Director's findings on the status of the Oklahoma permanent regulatory program.

**ADDRESSES:** A public hearing on the status of the Oklahoma permanent regulatory program will be held on Wednesday, December 21, 1983, beginning at 9:00 a.m. at: Quality Inn, 2300 E. Shawnee St., Muskogee, Oklahoma. Telephone: (918) 683-6551.

Written comments should be sent to: Office of Surface Mining, Room 3432, 333 West Fourth Street, Tulsa, Oklahoma 74103

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, Room 5315, 1100 L Street, NW., Washington, D.C. 20240; Telephone: (202) 343-4728

Office of Surface Mining, Tulsa Field Office, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103; Telephone: (918) 581-7927

Oklahoma Department of Mines, Suite 107, 4040 N. Lincoln, Oklahoma City, Oklahoma 73105; Telephone: (405) 521-3659

#### FOR FURTHER INFORMATION CONTACT:

Carl C. Close, Special Assistant to the Assistant Director, Program Operations and Inspection, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone: (202) 343-4225;

or

Robert L. Markey, Tulsa Field Office Director, Office of Surface Mining, Room 3432, 333 West Fourth Street, Tulsa, Oklahoma 74103; Telephone: (918) 581-7927

**SUPPLEMENTARY INFORMATION:** On March 10, 1983, the Director, OSM, notified the Oklahoma Department of Mines (ODOM) that he had reason to believe that the State may not be implementing, administering, maintaining or enforcing its approved program to regulate surface coal mining and reclamation operations (See OK-458). The Director cited problems in Oklahoma's program implementation in several areas including the designation of lands as unsuitable for mining, permitting, inspection and enforcement, administrative procedures and records, and Oklahoma's ability to meet its conditions of approval. A more detailed account of the Director's concerns over the status of Oklahoma's implementation of its program can be found in the May 25, 1983 Federal Register at 48 FR 23414.

On April 14, 1983, ODOM responded to the Director's March 10, 1983 letter by providing additional written information (OK-461). On April 17, 1983, ODOM requested an informal conference with OSM under the provisions of 30 CFR 733.12(c). See OK-465. The Director agreed to Oklahoma's request, notified the public on May 25, 1983 (48 FR 23414), and subsequently held an informal conference with Oklahoma officials on June 15, 1983 in Oklahoma City. A transcript of the informal conference has been placed in the Administrative Record (OK-483).

At the informal conference, OSM requested ODOM to provide additional information on many of OSM's concerns. ODOM submitted additional information on July 14, 1983 (OK-521), August 25, 1983 (OK-508) and November 8, 1983 (OK-522).

Meetings were held between OSM and the State on October 5 and 12, 1983, to discuss OSM's concerns and the State's progress in resolving problems (OK-517 and OK-520).

Based on the information Oklahoma has provided, the Director still has reason to believe that Oklahoma may be unable to implement, administer, maintain or enforce its program. The Director's rationale is based on the

following concerns which remain unresolved:

1. *Permitting:* Based on the information received from the State to date, and an OSM technical review of a sample of recently issued State permits, the Director, OSM, continues to have reason to believe that ODOM is: (a) Not processing permit applications in accordance with the provisions of Oklahoma's program; (b) allowing the processing of applications for new mines to take precedence over applications for existing mine operations that are operating under interim permits; (c) issuing permits to applicants with unabated violations; (d) not establishing adequate bond amounts or criteria for doing so (including developing suitable bond forms); (e) not making the required site-specific written findings to support permit decisions or findings which reflect amendments to permit applications; and (f) not acting on permit applications in cases where an applicant was requested to provide additional information but fails to do so. In view of Oklahoma's permitting problems, OSM is considering whether to exercise its authority under 30 CFR 733.12(f)(3) to substitute Federal enforcement of specific State permits in situations where ODOM has not taken adequate steps to bring its permits into compliance with the requirements of its program as approved by the Secretary of the Interior.

2. *State actions on petitions to designate lands as unsuitable for mining:* On March 10, 1983, OSM notified the State that OSM had received information from a citizen group called Citizens Concerned for the Environment (CCE) that ODOM failed to process an unsuitability petition in accordance with the provisions of its approved program. OSM has made a prima facie determination that ODOM may have violated its rules when it rejected an unsuitability petition on procedural grounds. The unsuitability petition concerned lands that were proposed to be mined by the P&K Co., Ltd. ODOM rejected the unsuitability petition and decided to approve the company's permit application. The State has been advised by OSM of the need to reassess its actions on both the rejection of the CCE unsuitability petition and the approval and issuance of the P&K Co., Ltd. permit. Specifically, OSM has requested ODOM to suspend the P&K permit in order that all mining cease on the lands included in CCE's unsuitability petitions until such time as ODOM renders a final decision on the reconsideration of the petitions. ODOM has not suspended or revoked the P&K



permit nor has it completed its proceedings on the unsuitability petitions. In addition, OSM has conducted several oversight inspections of the P&K Co., Ltd.'s site. While the permitting and unsuitability issues remain unresolved, OSM's oversight inspections indicate that performance standards have been violated on the lands already disturbed. In several instances, OSM has had to notify ODOM of apparent violations in order to get ODOM to take necessary actions to bring the operator into compliance with Oklahoma's program.

3. *Inspection and Enforcement:* OSM has identified certain problems in ODOM's inspection and enforcement actions including information supplied by ODOM and from OSM oversight inspections causing OSM to have reason to believe that: (a) Operators who did not file a timely or complete permanent program permit application are continuing to mine under initial regulatory program permits; (b) ODOM inspectors have overlooked violations which should have been cited during State inspections; (c) ODOM has not taken follow-up actions on outstanding notices of violation and cessation orders that it has previously issued; (d) ODOM has not responded adequately to many ten day notices issued by OSM; (e) ODOM is not meeting the required standards for frequency of complete and partial inspections; (f) ODOM inspectors have terminated or vacated violations which were not abated; (g) ODOM has allowed violations to remain unabated beyond the abatement deadline established by the State; (h) ODOM has not adequately defended its inspection and enforcement actions during administrative reviews; and (i) that ODOM is not properly implementing the escrow requirements of its program.

4. *Administrative Procedures and Records:* Although there is evidence that some progress has been made, the Director still has reason to believe, based on documents ODOM has provided, that ODOM has not created or maintained adequate administrative record procedures or tracking systems for such matters as permit application reviews, unsuitability petitions, citizen complaints, ten day notices from OSM, enforcement actions, civil penalty assessments, and bonding. The degree of Oklahoma's success in resolving OSM's concerns in this area will be explored at the public hearing.

5. *Conditions of Approval:* The Director's March 10, 1983, letter to the Governor of Oklahoma expressed concerns about the State's ability to meet the Secretary's four conditions of

approval by the May 15, 1983, deadline. ODOM has since submitted program amendments on May 13, 1983, to address its conditions of approval. OSM is conducting a review of those program amendments and announced a public comment period for that purpose by separate notice in the June 3, 1983 *Federal Register* (48 FR 24828). A decision on these program amendments will be announced in the *Federal Register* separately.

The Director has recently notified the Governor of Oklahoma that he still had reason to believe that Oklahoma is not implementing, administering, maintaining or enforcing its program. A copy of the Director's letter will be placed in the administrative record shortly.

In accordance with the procedures contained in 30 CFR 733.12(d), OSM will hold a public comment period and a public hearing to provide interested parties an opportunity to express their concerns on the implementation of the Oklahoma program. The public comment period begins today and ends at 4:00 p.m. on December 30, 1983. OSM is particularly interested in the public's views and concerns on the State's ability to implement its program, and on possible actions Oklahoma and OSM should pursue to resolve identified problems. Members of the public are encouraged to examine all of the documents in the administrative record.

Subsequent to the public hearing and review of all available information including the hearing transcript, written presentations and written comments, the Director will publish his findings on the status of Oklahoma's program implementation in accordance with the provisions of 30 CFR 733.12(e).

#### Hearing Rules

The scope of the public hearing will include permitting, bonding, inspections, enforcement, unsuitability proceedings, administrative procedures and records, program conditions and all other matters relevant to the issues of whether a full or partial Federal program or Federal enforcement should be implemented in the State of Oklahoma.

At the public hearing on December 21, 1983, parties wishing to comment on the status of Oklahoma's implementation of its program or the possible Federal enforcement of State permits will be asked to register for placement on the speaker's agenda. The hearing will begin at 9:00 a.m. and will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard at the end of the scheduled speakers. Persons

not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard. Written comments, data, or other relevant information may be submitted to supplement or in lieu of an oral presentation at the hearing.

In addition, the Director has prescribed the following hearing format and rules of procedure.

1. The hearing shall be informal and follow legislative procedures.
2. Based on the number of speakers in attendance, each participant may be limited to 10 minutes.
3. Participants will be called in the order in which they register.

**Authority:** Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

**Dated:** November 10, 1983.

**James R. Harris,**  
Director, Office of Surface Mining.

[FR Doc. 83-30954 Filed 11-16-83; 8:45 am]

**BILLING CODE 4310-05-M**

#### POSTAL SERVICE

##### 39 CFR Part 111

#### Undeliverable-as-Addressed Third-Class Mail

**AGENCY:** Postal Service.

**ACTION:** Final rule

**SUMMARY:** This rule amends postal regulations governing the handling of undeliverable-as-addressed third-class mail which bears the endorsement "Address Correction Requested." The rule eliminates weight as a criterion for determining what method will be used to provide change of address information. It gives the Postal Service the flexibility either to return the mailing piece endorsed to show the correct address or to send the customer a change of address notice. This flexibility is necessary because the most efficient way to render this service often depends upon the size of the post office and the volume of mail, which the individual postmaster is best able to evaluate.

**EFFECTIVE DATE:** December 19, 1983.

**FOR FURTHER INFORMATION CONTACT:** Ernest J. Collins, (202) 245-4749.

**SUPPLEMENTARY INFORMATION:** On October 23, 1981, the Postal Service published for comment in the *Federal Register* (46 FR 51940) proposed changes to Parts 159 and 693 of the Domestic Mail Manual (DMM), dealing with undeliverable-as-addressed third-class



mail. Interested persons were invited to submit written comments concerning the proposed changes on or before November 23, 1981.

Written comments were received from nine individuals and organizations. Oral comments were received from three individuals.

Six commenters said they would oppose a rule that permitted a photocopy system of address correction to be used that was not designed to include a legible copy of the original mailing piece with the name, address, and keyline information, or one that did not include keyline information on a handwritten Form 3547.

The Postal Service agrees that address correction information must be legible and must include data elements that the mailer needs and pays for. If the information is illegible or is incomplete, the mailer may, under the provision of section 147.2, Domestic Mail Manual, apply for and receive a refund for such address correction service information.

The Postal Service intends to provide customers with accurate and useful address correction information. While we are aware of certain service deficiencies in this area, we do not consider them so serious as to warrant abandoning use of the address correction notice as the primary means of furnishing address correction service information. The Postal Service is continuing efforts to upgrade the service. For example, the lead article of the June 16, 1983, Postal Bulletin stressed the need for providing clear, complete address correction information, particularly when photocopy processes are used.

One commenter thought there was a conflict between the proposed rule entitled "Undeliverable-as-Addressed Third-Class Mail" which was published in the October 23, 1981, issue of the *Federal Register*, and the solicitation of comments in advance of proposed rulemaking entitled "Changes in Handling of Undeliverable-as-Addressed Mail" which was published in the October 29, 1981, issue of the *Federal Register*. We think the comments are mistaken or at least premature. The October 23 notice was concerned with the manner in which address correction service for third-class mail would be provided. The October 29 notice, on the other hand, was concerned with a possible comprehensive revision of address correction service for all classes of mail and is still under consideration.

Two comments suggested combining the change made here with changes that may be made as a result of publishing the "Changes in Handling of

Undeliverable-as-Addressed Mail" solicitation. Since the purpose of the present change is to correct a current problem, we choose to attempt now to remedy that problem, rather than wait for a comprehensive revision that was the subject of the solicitation.

Two other commenters believed the proposed rule should be withdrawn because, they said, there is virtually no proof that the change is cost justified from either a United States Postal Service or mail users' point of view. Because of the variety of sizes of post offices involved, the different volumes of mail handled, and the availability of equipment used to provide address correction information, a procedure may be cost effective at one post office and not at another. While weight is a primary factor at small offices which utilize manual methods, there are many offices where there are clear-cut cost advantages between computer based and photocopy methods. The Postal Service, therefore, must have the discretion of determining which procedure is to be used.

Another commenter correctly stated that the proposed rule did not require the Postal Service to return a piece weighing up to one ounce if the sender wanted that service. The proposed rule, he thinks, should provide for the return of third-class pieces weighing up to four ounces for the 25 cent address correction service fee, since he considers the charge for a piece of third-class mail weighing between one and two ounces excessive in that the sender would have to pay 62 cents for the return of the piece and address correction service. Another commenter opposed having to pay the single piece third-class rate plus the address correction service fee for pieces that weigh more than one ounce.

The Postal Service treats address correction and the return of mail as two separate services. Accordingly, a mailer must determine, when the mailing is being prepared, which services he wishes to have in consideration of the cost to him, and endorse his mail accordingly.

If a mailer wants undeliverable-as-addressed mail returned, he may use the endorsement "Return Postage Guaranteed." The mailer is not required to pay for an address correction service that is not requested. If a sender does not want a piece of mail which weighs more than one ounce returned, but wants the addressee's new address or the reason the piece was undeliverable-as-addressed, he need only endorse the piece "Address Correction Requested."

The original intent of the proposal was to change postal regulations

concerning address correction service so that undeliverable-as-addressed third-class mail would not have to be returned where the address correction fee was less than the regular postage for the returned piece. In reviewing the comments the drafters of the proposal become more aware of the various methods utilized by post offices to provide address correction service. In addition to using Postal Service forms, various post offices use other methods of providing address correction service, such as making and sending photocopies of undeliverable pieces. The Postal Service is also considering the use of methods by which large volume mailers could be provided the information on magnetic tape. The exact method used is often not determined by the characteristics of the mail, or its weight, but by the size of the post office and possibly the volume of mail sent by the customer. It was not the intent of the proposal to limit the use of more efficient or effective methods of providing the service. For this reason, the regulation has been revised to eliminate the weight of the piece as a determining factor and to provide flexibility to the post office to determine the method to be used in providing address correction information.

In view of the above considerations, the Postal Service hereby adopts the following changes to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (39 CFR 111.1).

#### List of Subjects in 39 CFR Part 111

Postal Service.

#### Part 159—Undeliverable Mail

1. In part 159, revise footnote N of Exhibit 159.151 to read as follows: "Returned endorsed with reason for nondelivery. Address correction fee is collected."

#### Part 693—Address Correction

2. In part 693, revise a-e to read as follows:

##### 693 Address Correction

a. If a piece bears the endorsement *Address Correction Requested*, the mailer will be provided the new address or reason for nondelivery. This may be done by use of an address correction notice such as Form 3579, *Undeliverable 2nd, 3rd, 4th class matter*, or by returning the mail endorsed to show the new address or reason for nondelivery. (Lightweight pieces of less than an ounce will generally be returned.)

b. If a piece bearing the words *Address Correction Requested, Return*



*Postage Guaranteed, or Address Correction Requested Forwarding and Return Postage Guaranteed* must be returned to the sender by the post office of original address because the piece cannot be forwarded, an address correction notice will be affixed to the piece, and the piece will be returned to the sender for a fee (see 612.2) plus postage at the appropriate single piece rate (see 611.1).

c. If a piece bearing the words *Address Correction Requested, Address Correction Requested Return Postage Guaranteed, or Address Correction Requested Forwarding and Return Postage Guaranteed* is forwarded to the addressee in compliance with either the sender's or addressee's guarantee to pay forwarding postage (see 159.212) the forwarding post office will utilize an address correction notice to furnish the sender with the new address for a fee (see 612.2).

d. Mail which qualifies for a single piece fourth-class rate under the provisions of 611.12 will be returned at that rate if the mailer's endorsement includes the name of the fourth-class rate. For example, if a third-class piece qualifies for mailing at the special fourth-class rate for books, the endorsement would be: *Special Fourth-Class Rate: Forwarding and Return Postage Guaranteed*

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

[39 U.S.C. 401(2), 404(a)(2)]

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-30940 Filed 11-16-83; 8:45 am]

BILLING CODE 7710-12-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[FL-001; AD-FRL-2349-4]

### Approval and Promulgation of Implementation Plans; Florida; Testing and Research Programs Rule

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today disapproves the Florida Testing and Research Programs rule. The rule would allow industry

variances from approved emission limits for a period of up to two years, subject to renewal by the Florida Department of Environmental Regulation (FDER), without going through the normal State Implementation Plan (SIP) revision procedure. EPA's disapproval of the rule means that Florida must continue to submit such variances for the Agency's approval as SIP revisions.

DATE: This action is effective December 19, 1983.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit,  
Library Systems Branch,  
Environmental Protection Agency, 401  
M Street, SW., Washington, D.C.  
20460;

Environmental Protection Agency,  
Region IV, Air Management Branch,  
345 Courtland Street, NE., Atlanta,  
Georgia 30385;

Office of the Federal Register, 1100 L  
Street, NW, Rm. 8401, Washington,  
D.C.; and

Bureau of Air Quality Mgmt., Twin  
Towers Office Building, 2900 Blair  
Stone Road, Tallahassee, Florida  
32301.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Barry Gilbert, Air Management  
Branch, EPA Region IV at the above  
address and telephone number 404/881-  
3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: Section 403.061(18), Florida Statutes, authorizes the Department of Environmental Regulation to "encourage and conduct studies, investigations, and research relating to pollution and its causes, effects, prevention, abatement, and control." To implement this authority, FDER adopted Section 17-1.585, Florida Administrative Code establishing a procedure by which the Department can authorize air pollution sources to conduct testing and research programs. The rule was submitted by FDER on April 7, 1980, for approval as a plan revision. It would allow industry variances from the Federally approved SIP emission limits for two years, subject to renewal by FDER. The State would not submit such variances for EPA's review and approval, as is presently done with other variances from the Florida plan.

Under the rule, a source must petition FDER for authority to conduct a test or research program and identify any rules or permit conditions that might be violated. A public hearing must be held on each petition and FDER, at its discretion, can issue an order authorizing the proposed test. The rule

states that any order so issued must contain conditions sufficient to assure that the test will not result in violations of State or Federal ambient air quality standards, Prevention of Significant Deterioration (PSD) increments, Federal New Source Performance Standards (NSPS), or National Emissions Standards for Hazardous Air Pollutants (NESHAPS). The order can authorize emissions in excess of existing emission limiting standards or other conditions different from those contained in applicable rules and permits for up to two years. The order may be renewed.

On October 1, 1982, at 47 FR 43404, EPA proposed to disapprove Florida's testing and research rule, because it is inconsistent with the requirements for SIP processing set forth in Section 110 of the Clean Air Act and from regulations and policy guidance which implement the statutory requirements.

In response to EPA's notice of proposed disapproval, the Agency received two public comments. The first commenter stated that EPA's proposed rulemaking would hinder state flexibility in adopting research and testing programs; that it would discourage such programs because of the possibility of enforcement of existing SIP emission limitations; and that regular EPA processing of SIP revisions is too time-consuming. The second commenter held that EPA's proposed rulemaking interpreted Section 110(i) of the Clean Air Act too stringently; that the disapproval would be inconsistent with the rationale of EPA's "bubble policy"; and that EPA's disapproval action would conflict with the goals of regulatory reform.

EPA has carefully considered these comments and offers the following response. EPA disagrees with the first commenter's concerns, disapproval of this rule does not unduly limit state flexibility to adopt a testing and research rule. FDER could adopt SIP revisions setting individual limits for sources electing to participate in testing and research programs and submit this rule to EPA for its approval as part of the "applicable" SIP. A similar regulation was approved by EPA for Carolina Power and Light Company and Duke Power Company at 45 FR 55425 (August 20, 1980). This particulate matter SIP revision allowed North Carolina utilities a variance from existing SIP limits while the utilities conducted a research and testing program over a three-year period. The revision granted each unit of the Duke and Carolina Power and Light power systems a higher individual emission limit than the particulate SIP and thus



protected such units from enforcement of the original particulate matter SIP limits. This type of SIP revision would address the first commenter's concerns about the potential imposition of penalties during the pendency of a testing and research program. Furthermore, in view of EPA's implementation of several programs to speed up considerably the processing of SIP revisions, the commenter's concern regarding the time-consuming nature of SIP processing should be alleviated.

EPA disagrees with the second commenter's contention that the Agency is interpreting Section 110(i) of the Clean Air Act too strictly. The "plain meaning" of the statute itself bars modification of a SIP except by means specified in that statute and regulations promulgated thereunder. Section 110(d) of the Clean Air Act states that the "applicable (state) implementation plan" is that plan or "most recent revision thereof" which has been approved by the EPA Administrator pursuant to Section 110(a) of the Act or promulgated by the EPA Administrator pursuant to Section 110(c) of the Act. 40 CFR 51.8 (1981) underscores the point that revisions of a state implementation plan are not considered part of an "applicable implementation plan" until approved by EPA under authority of Section 110 of the Clean Air Act. *See, also, Train v. Natural Resources Defense Council, Inc.*, 421 U.S. 60 (1975). Under the rule, if FDER does not submit such research and testing variances to EPA for its approval as a state implementation plan revision, then such variances as a matter of Federal law are not part of the "applicable implementation plan" for Florida. This practice would raise the problem of sources having to comply with differing state and Federal regulatory requirements and possibly subject such sources to suits aimed at enforcement of the "applicable implementation plan"—those applicable air pollution control regulations previously approved by EPA. Furthermore, Section 110(i) of the Clean Air Act expressly forbids the state or EPA from modifying an applicable implementation plan except by means of specified orders, suspensions, exemptions or EPA action on a plan revision pursuant to Section 110(c) or Section 110(a)(3) of the Clean Air Act. Any orders adopted pursuant to the testing and research rule would conflict with these statutory and regulatory requirements.

Sections 110(a)(2)(B), 110(a)(3), and 110(i) contemplate an implementation

plan composed of a system of emission limitations, to be approved by EPA. EPA would approve such a system—and any subsequent revisions—based on a technical demonstration that the system of limitations attains and maintains the NAAQS and PDS increments. EPA is disapproving the Florida regulation because it does not specify emission limitations that assure protection of the standards and increments.

Under EPA's Emissions Trading policy, 47 FR 15076 (April 7, 1982), EPA will approve as SIP revisions a limited class of State rules, despite their failure to specify emission limitations. In place of specific emission limitations, these "generic rules" outline, step-by-step, the applicable substantive and procedural criteria, technical factors, and modeling procedures that the State must use to determine whether a specific emission limitation is fully protective of the standards and increments, consistent with the Clean Air Act. In approving such a carefully tailored "generic rule," EPA in essence approves in advance an array of acceptable SIP emission limitations, consistent with the requirements of Section 110.

The Florida Testing and Research Rule (F.A.C. 17-1.585) fails to satisfy the criteria for a "generic rule" as listed in EPA's Emissions Trading policy, 47 FR 15076, 15084.

First, EPA currently limits its approval of "generic rules" to those which involve bubble trades, where an increase in emissions is counterbalanced by an equivalent decrease elsewhere. Thus, unlike the Florida rule, the applicable net baseline emissions do not increase. Second, "generic rules" must specify carefully tailored, "replicable" procedures (as discussed above) which only produce emission limitations that protect the standards and increments. The Florida rule does not include specific decision-making procedures such as the particular modeling input and techniques that the State will be using. In sum, the Florida rule fails to provide EPA with adequate assurance that the resulting variances will protect air quality and will not require further review as SIP revisions.

Finally, the action taken today does not conflict with the goals of regulatory reform. As noted above, EPA's implementation of several programs for the processing of SIP submittals should enable industry to effectively utilize a testing and research program which is consistent with the respective statutory and regulatory requirements of Section 110 of the Clean Air Act, and 40 CFR

51.8. For all the above reasons, EPA today is disapproving this SIP revision. This action is effective December 19, 1983.

FDER may meet EPA's objections to rule F.A.C. 17-1.585 by formally submitting to EPA as SIP revisions any variances or orders issued pursuant to F.A.C. 17-1.585. New sources must meet all applicable PSD and new source review requirements including best available control technology or lowest achievable emission rate.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in proceedings to enforce its requirements. (See 307 sec. (b)(2).)

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region IV office (see address above).

#### List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: November 9, 1983.

William D. Ruckelshaus,  
Administrator.

#### PART 52—[AMENDED]

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

##### Subpart K—Florida

A new § 52.527 is added as follows:

##### § 52.527 Control strategy: General.

(a) Since the testing and research rule (FAC 17-1.585) submitted by the Florida Department of Environmental Regulation on April 7, 1980, as a revision of the plan does not meet the requirements of Section 110 of the Clean Air Act and the requirements of section 51.8 of this chapter, it is disapproved, and is not part of the plan.

(b) [Reserved].

[FR Doc. 83-30955 Filed 11-16-83; 6:45 am]

BILLING CODE 6560-50-M



## 40 CFR Part 180

[PP 0000/R610; PH-FRL 2471-6]

## Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Thiabendazole

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; corrections.

**SUMMARY:** This document corrects and restores tolerances on certain raw agricultural commodities for residues of the fungicide thiabendazole.

**EFFECTIVE DATE:** November 17, 1983.

**FOR FURTHER INFORMATION CONTACT:** Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Environmental Protection Agency, Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202; (202-557-1900).

**SUPPLEMENTARY INFORMATION:** Pesticide tolerances for residues of the fungicide thiabendazole (2-(4-thiazolyl) benzimidazole) in or on certain raw agricultural commodities from preharvest and post-harvest uses or combinations of such uses were established under 40 CFR 180.242.

In the Federal Register of July 9, 1980 (45 FR 46073), 40 CFR 180.242(a) was revised. In the process, the listing "Sweet potatoes (post-h to sweet potatoes intended only for use as seed)" at 0.02 part per million (ppm) was inadvertently omitted. Also, listings for the commodities "Bananas" and "Bananas, pulp" inadvertently omitted "pre-h" in the parenthetical description. The current "(post-h)" should read "(pre-h and post-h)" for both listings.

This document restores the tolerances for the above commodities as established and correctly indicated in 40 CFR 180.242(a) before the revision of July 9, 1980.

Dated: October 14, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

## PART 180—[AMENDED]

Therefore, 40 CFR 180.242 is corrected in paragraph (a), to read as follows:

## § 180.242 Thiabendazole; tolerances for residues.

(a) \* \* \*

| Commodity                  | Parts per million |
|----------------------------|-------------------|
| Bananas (pre-h and post-h) | 3                 |

| Commodity                                                               | Parts per million |
|-------------------------------------------------------------------------|-------------------|
| Bananas, pulp (pre-h and post-h)                                        | 0.4               |
| Sweet potatoes (post-h to sweet potatoes intended only for use as seed) | 0.02              |

[FR Doc. 83-30857 Filed 11-16-83; 8:45 am]

BILLING CODE 5660-50-M

## 40 CFR Part 761

[OPTS-62033; TSH-FRL 2471-8]

## Toxic Substances Control Act; Statement of Policy for Compliance and Enforcement of PCB Storage for Disposal Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Statement of policy.

**SUMMARY:** This notice announces the Agency's policy on compliance and enforcement of storage for disposal regulations under the polychlorinated biphenyl (PCB) rule (40 CFR Part 761). The regulations prescribe a one year time limit on storage of PCB articles or PCB containers prior to their eventual disposal. EPA reminds the regulated community of the one year time limit on storage, which began on January 1, 1983, and is enunciating its policy to insure adherence to the regulations. EPA will not extend the one year time limit to allow PCB waste generators or disposal facilities additional time to store and dispose of PCB waste. EPA will allocate liability for failure to meet the one year disposal deadline between the waste generator and disposer.

**FOR FURTHER INFORMATION CONTACT:** Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460. Toll free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

## SUPPLEMENTARY INFORMATION:

## I. Background

Section 6(e) of the Toxic Substances Control Act (TSCA) requires EPA to control the manufacture, processing, distribution in commerce, use, disposal and marking of PCBs. EPA issued the PCB Disposal and Marking Rule which was published in the Federal Register of February 17, 1978 (43 FR 7150). Clarifying amendments to this rule were published in the Federal Register of August 2, 1978 (43 FR 33918). The Disposal and Marking Rule and the technical amendments to the rule were

incorporated into one regulation in the PCB Ban Rule, published in the Federal Register of May 31, 1979 (44 FR 31514), and recodified in the Federal Register of May 6, 1982 (47 FR 19527).

40 CFR 761.65(a) limits storage of PCBs designated for disposal to one year. This requirement also states that "any PCB Article or PCB Container stored for disposal before January 1, 1983, shall be removed from storage and disposed of . . . before January 1, 1984. Any PCB Article or PCB Container stored for disposal after January 1, 1983, shall be removed from storage and disposed of . . . within one year from the date it was first placed into storage."

The one year limit is intended to ensure prompt disposal of PCBs. However, some waste generators or intermediate waste handlers may store PCB waste for long periods of time (up to 12 months) before sending it to the disposal facility for ultimate disposal. As a result, disposal facilities which receive the waste may not have sufficient time to dispose of the waste within the one year time limit.

EPA will allow facilities receiving waste a year after being put into storage by the generator an additional 90 days after receipt to dispose of the wastes without incurring enforcement liability. Because representatives of the two approved, landbased commercial incinerators have provided technical data showing that PCB waste is disposed of within 90 days after receipt by the facility, EPA has determined that 90 days are sufficient lead-time for the disposer to receive and dispose of PCB waste. Therefore, if a generator delivers waste to a disposal facility with ninety days or more remaining in the one year deadline, the disposer is responsible for destroying the material before the deadline.

The liability shifts to the generator if the material is delivered to the disposal facility with less than ninety days remaining in the one year allowed for disposal after storage. The disposer, however, will share in the liability if he does not dispose of the waste within 90 days from the date it is received at the disposal facility.

## II. Compliance and Enforcement

EPA will direct its enforcement efforts to ensure compliance with the requirements of the PCB disposal regulations. EPA intends to take actions to ensure that all facilities subject to the requirements store, handle and dispose of PCBs properly. Persons who are subject to these regulations should be aware that failure to comply with these



regulations properly may subject them to civil or criminal sanctions.

Copies of this policy can be obtained from the TSCA Assistance Office identified under "For Further Information Contact" in this notice.

(15 U.S.C. 2601)

Dated: November 7, 1983.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

(FR Doc. 83-30960 Filed 11-16-83; 8:45 am)

BILLING CODE 6560-50-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 83-245; RM-4288]

#### TV Broadcast Station in New Orleans, Louisiana; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** Action taken herein assigns UHF television Channel 49 to New Orleans, Louisiana, as its seventh commercial television service, in response to a request from Millard V. Oakley.

**EFFECTIVE DATE:** January 20, 1984.

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

**FOR FURTHER INFORMATION CONTACT:** Nancy V. Joyner, Mass Media Bureau (202) 634-6530.

#### List of Subjects in 47 CFR 73

Television broadcasting.

#### Report and Order; Proceeding Terminated

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (New Orleans, Louisiana); MM Docket No. 83-245, RM-4288.

Adopted: October 20, 1983.

Released: November 14, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 14694, published April 5, 1983, issued in response to a request filed by Millard V. Oakley ("petitioner"), proposing the assignment of UHF television Channel 49 to New Orleans, Louisiana, as that community's seventh commercial television service. Petitioner filed comments reaffirming his intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. New Orleans (population 557,482),<sup>1</sup> in Orleans Parish (population 557,482) is located at the mouth of the Mississippi River on the Gulf of Mexico. Currently, it is assigned commercial television Channels 4 (WWL-TV), 6 (WDSU-TV), 8 (WVUE-TV), 20 (WULT-TV), 28 (WGNO-TV), and 38 (construction permit pending), as well as noncommercial educational Channels \*12 (WYES-TV) and \*32 (WLAE-TV).

3. In light of the fact that the assignment could provide a seventh commercial TV service to New Orleans, we believe that the public interest would be served by assigning UHF television Channel 49 as requested. Channel 49 can be assigned to New Orleans in conformity with the applicable mileage requirements of §§ 73.610 and 73.698 of the Commission's Rules.

4. Accordingly, pursuant to the authority contained in section 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 0.281 of the Commission's Rules, it is ordered, That effective January 20, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as follows:

| City            | Channel No.                                 |
|-----------------|---------------------------------------------|
| New Orleans, La | 4+, 6, 8-, *12, 20-, 26, *32+, 38+, and 49. |

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

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau (202) 634-6530.

Federal Communications Commission.

Roderick R. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

(FR Doc. 83-30940 Filed 11-16-83; 8:45 am)

BILLING CODE 6712-01-M

### 47 CFR Part 73

[MM Docket No. 83-405; RM-4298; 83-591; RM-4432]

#### TV Broadcast Stations in Oklahoma City, Oklahoma; Norman, Oklahoma; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** This action assigns UHF Television Channel 46 to Norman,

<sup>1</sup> Population figure was extracted from the 1980 U.S. Census Advance Report.

Oklahoma, as its first television assignment in response to a petition filed by Daystar Broadcasting Corporation. In addition, UHF Television Channel 62 is assigned to Oklahoma City, Oklahoma, as its tenth television assignment in response to a petition filed by David Allen Crabtree.

**EFFECTIVE DATE:** January 20, 1984.

**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

Television broadcasting.

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Oklahoma City, Oklahoma), MM Docket No. 83-405, RM-4298, and amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Norman, Oklahoma) MM Docket No. 83-591, RM-4432.

#### Report and Order; Proceedings Terminated

Adopted: October 19, 1983.

Released: November 14, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has before it (1) the *Notice of Proposed Rule Making* (48 Fed. Reg. 20957, published May 10, 1983) issued in response to a petition for rule making filed by David Allen Crabtree ("Crabtree") proposing to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules, by assigning UHF television Channel 61 to Oklahoma City, Oklahoma, as its tenth television assignment (MM Docket No. 83-405) and (2) the *Notice of Proposed Rule Making* (48 Fed. Reg. 30181, published June 30, 1983) issued in response to a petition for rule making filed by Daystar Broadcasting Corporation ("Daystar") proposing to amend the TV Table of Assignments by assigning UHF television Channel 56 to Norman, Oklahoma, as its first television assignment (MM Docket No. 83-591). Crabtree and Daystar filed comments in response to the *Notice* in Docket 83-405. The Association of Maximum Service Telecasters, Inc. ("AMST") and Daystar filed comments in response to the *Notice* in Docket 83-591. Daystar filed reply comments in both dockets, and AMST filed reply comments in Docket 83-591.

2. As set forth in the *Notice* in Docket 83-591, Daystar requested the assignment of UHF TV Channel 46 to Norman, Oklahoma. However, because Channel 46 would be short spaced to the pending rule making in Docket 83-405 to assign Channel 61 to Oklahoma City, and because an assignment of Channel



56 to Norman would meet all spacing requirements to existing and pending assignments, provided a site restriction was imposed, the *Notice* in Docket 83-591 proposed to assign Channel 56 to Norman in lieu of Channel 46. These two proceedings were not consolidated because there was no conflict in the proposal.

3. Crabtree restates his intention to apply for a television station in Oklahoma City and otherwise resubmits his petition for rule making. Daystar notes that its proposal to assign Channel 46 to Norman is mutually exclusive with the proposal set forth in the *Notice* in Docket 83-405 to assign Channel 61 to Oklahoma City. Although claiming that its proposal for a first assignment to Norman would better serve the public interest than a tenth assignment to Oklahoma City, Daystar suggests a counterproposal to assign Channel 62 or any other Channel to Oklahoma City, which would not interfere with Channel 46 at Norman, in lieu of Channel 61.

4. AMST notes that the permittee on Channel 52 at Oklahoma City applied for a minor change in facilities which, if granted, would create short spacing to the site restricted assignment of Channel 56 at Norman. Without favoring either the proposal for the facilities change or the proposal to assign Channel 56 to Norman, AMST requests that the Commission act to eliminate such short spacing.

5. Daystar, in its comments in Docket 83-591, restates its intention to apply for a television station at Norman provided there are no site restrictions imposed and urges the assignment of Channel 56 to that community without the site restriction set forth in the *Notice*. According to Daystar, Norman merits its own television station. Although preferring Channel 46, Daystar states that Channel 56 is acceptable if no site restriction were imposed. In this regard, it claims that the site restriction would force it to operate on the south side of Norman, whereas the antenna orientation of the Norman audience is north, toward Oklahoma City's antenna farm, resulting in a detriment to any small community station operating at Norman. As an alternative, Daystar suggests a site restriction to the north for Channel 61 instead and claims that this alternative would be preferable.

6. In its reply comments, Daystar alternatively proposes to (1) assign Channel 46 to Norman, (2) assign Channel 62 to Oklahoma City, and (3) grant the modification requested for Channel 52 at Oklahoma City. According to Daystar, this alternative conforms to the Rules without the necessity of any site restrictions. In its

reply comments, AMST agrees with this proposed solution.

7. It appears that, by assigning Channel 46 to Norman, and by substituting Channel 62 for Channel 61 at Oklahoma City, no site restriction would be necessary. Further, the license for Channel 52 could be modified without creating short spacings. Thus, we find that this proposal is preferable. As a result, Norman could receive its first local TV station, and Oklahoma City could receive its tenth.

8. 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 January 20, 1984, the TV Table of Assignments (§ 73.606(b) of the Commission's Rules) is amended as follows for the communities listed:

| City                 | Channel No.                                      |
|----------------------|--------------------------------------------------|
| Norman, Okla.        | 46—                                              |
| Oklahoma City, Okla. | 4—, 5, 9—, *13, 14—, 25—, 34—, 43+, 52, and 62+. |

9. It is further ordered, that these proceedings are terminated.

10. For further information concerning this proceeding, contact Joel Rosenberg, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-30941 Filed 11-16-83; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Parts 172 and 173

[Docket No. HM-166-O; Amdt. Nos. 172-86, 173-169]

#### Deletion of Certain Commodity Entries

**AGENCY:** Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** These amendments: (1) Delete certain entries from the Hazardous Materials Table (Table), § 172.101, and (2) change certain sections in Part 173 which are necessary because of the deletions in the Table.

The reason for this action is to remove entries from the Table which are vague, unnecessary, or which describe materials that present such a minimal

hazard that they may not meet the definition of a hazardous material.

**EFFECTIVE DATE:** These amendments are effective September 30, 1984, however, compliance with the regulations as hereby amended is authorized as of November 7, 1983.

#### FOR FURTHER INFORMATION CONTACT:

Irving R. Abis, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 400 7th Street, S.W., Washington, D.C. 20590, (202) 472-2726.

**SUPPLEMENTARY INFORMATION:** On June 3, 1982 the MTB published Notice No. 82-4 (47 FR 24157) under Docket HM-166-O which proposed to delete 171 entries from the Hazardous Materials Table, § 172.101, and to remove or amend sections in Part 173 of the Hazardous Materials Regulations (HMR) which are associated with some of the entries which were proposed for deletion. The public comment period ended on August 2, 1982. The MTB received 40 comments to HM-166-O. The comments were carefully considered by the MTB. On the basis of comments received, some of the entries proposed to be removed are retained. The MTB believes that the result of this amendment will be to reduce the volume of regulation, making the HMR easier to use and less burdensome on the regulated public. The following is a discussion of the most significant comments.

The majority of the commenters were either in favor of the proposal, or in favor of the proposal except as it affects the specific proper shipping name of a material offered for transportation by the commenter. Five commenters were against the proposal in its entirety.

One commenter contends that the MTB failed to specify an alternative proper shipping name to be used in the event that a shipping name is deleted. The MTB disagrees. It is the shipper's responsibility to identify and classify the hazardous materials that are being offered for transportation. In order for the MTB to specify an alternate proper shipping name to an entry that is being removed, information would have to be supplied regarding the properties of the material to determine if they meet the definition of a hazard class. For example, the proper shipping name "Rubber curing compound" is one of the entries being removed from the Table. In order for the MTB to suggest an alternate proper shipping name for this commodity, technical data would have to be supplied, e.g., does the commodity meet the definition of a flammable solid.



One commenter suggested that by eliminating certain proper shipping names and by substituting the generic equivalent, the MTB would be creating problems for emergency response personnel. The MTB does not agree. The use of a vague proper shipping name does not increase the ability of emergency response personnel to do their job.

One commenter suggested that if commodities were deleted from the Table and not deleted from international regulations, this would create a problem of dual descriptions for shippers that ship a commodity both domestically and internationally. ICAO descriptions are presently accepted for descriptions of domestic shipments by air and IMO descriptions as listed in § 172.102 are permitted if part of the transportation of the material is by vessel. Also, it should be pointed out that, since § 172.102 was adopted in 1980, no petition has been received to broaden the applicability of that section to domestic surface shipments.

Several commenters objected to the deletion of the proper shipping names: "Drugs, n.o.s."; "Medicines, n.o.s."; and "Cosmetics, n.o.s." The arguments set forth by these commenters are that the use of a proper shipping name such as "Flammable liquid, n.o.s.", for these commodities could be confusing to the carrier and might frustrate transportation. While the MTB does not agree that these entries are more appropriate than a more specific entry (including a generic class n.o.s. entry), they are retained in the Table at this time.

One commenter objected to the removal of the proper shipping name "Gas drips", on the basis that the name gas drips conveys an important message to emergency response personnel. The commenter pointed out that gas drips are testing samples from pipelines, and have a distinctive mercaptan smell. The shipping name gas drips conveys this information to emergency response personnel and could prevent a possible overreaction in an incident where the mercaptan smell is present. The MTB agrees with the commenter and the proper shipping name, "Gas drips" is retained in the Table.

Three commenters objected to the removal of the proper shipping name "Acid, sludge" on the basis that it is not a vague name, that it is a term that is widely understood in industry and, therefore, should be retained in the Table. The MTB disagrees. The three commenters who objected to the deletion of this proper shipping name also disagreed as to what constitutes

acid, sludge. Several commenters also objected to the deletion of the proper shipping name, "Resin, solution" on similar grounds, that it is a term widely understood in industry and, therefore, it should be retained in the Table. Again the commenters disagreed as to what constitutes resin solution, and MTB has removed the entry because it is vague. Also, the entry "Resin, solution", Flammable liquid which was inadvertently left out of the notice, has been removed.

Two commenters suggested that the informational entry, "Film, photographic", should be retained because it is useful. The MTB disagrees. Safety film is not considered a hazardous material. The type of film that does meet the definition of a hazardous material is the nitrocellulose based film which is no longer manufactured. In a comment to Docket number HM-8, Notice 71-13, the Eastman Kodak Company stated that it had not produced nitrate based film since 1949. It is true that some nitrate based film may be in transportation to and from film archives; however, the proper shipping name, "Film (nitrocellulose)" is being retained in the Hazardous Materials Table. The MTB believes that thirty-four years is a long enough period of time to inform the shipping public that safety film is not subject to the provisions of the Hazardous Materials Regulations.

Several commenters objected to the removal of the following proper shipping names:

| Entry               | Hazard Class       |
|---------------------|--------------------|
| Coal tar distillate | Combustible liquid |
| Coal tar distillate | Flammable liquid   |
| Coal tar light oil  | Combustible liquid |
| Coal tar light oil  | Flammable liquid   |
| Coal tar naphtha    | Combustible liquid |
| Coal tar naphtha    | Flammable liquid   |
| Coal tar oil        | Combustible liquid |
| Coal tar oil        | Flammable liquid   |

The commenters point out that these shipping names are widely used in industry and, therefore, should be retained. The MTB agrees that the proper shipping name, "Coal tar distillate" should be retained, however, the other proper shipping names in the coal tar group should be deleted because Coal tar distillate is descriptive of all these commodities.

Several commenters objected to the removal of the following entries:

| Entry              | Hazard class       |
|--------------------|--------------------|
| Lighter fluid      | Flammable liquid   |
| Naphtha distillate | Combustible liquid |
| Naphtha distillate | Flammable liquid   |
| Naphtha solvent    | Combustible liquid |
| Naphtha solvent    | Flammable liquid   |
| Petroleum naphtha  | Combustible liquid |

The basis for these objections is that they are commonly used shipping names

and, therefore, should be retained in the Table. Upon consideration of these comments, the MTB has retained the entries for "Naphtha" and for "Petroleum naphtha" in the Table because it believes that these proper shipping names are descriptive of all of these commodities.

One commenter objected to the deletion of the proper shipping names, "Hydrocarbon gas, liquefied" and "Hydrocarbon gas, nonliquefied", on the basis that they are more descriptive than an n.o.s. entry. The MTB believes that liquefied petroleum gas is the same as hydrocarbon gas, liquefied. However, since there is not an entry for petroleum gas, nonliquefied, the MTB believes it is appropriate to retain the entries for hydrocarbon gas.

Several commenters objected to the deletion of the entry, "Denatured alcohol" because of the possible confusion between denatured alcohol and other types of alcohol, including potable alcohols. The MTB agrees with these commenters and has retained the proper shipping name, "Denatured alcohol" in the Table. However, the MTB believes that the proper shipping name, "Rum, denatured", should be deleted because the proper shipping name "Denatured alcohol" includes "Rum, denatured".

One commenter objected to the deletion of the proper shipping name "Potassium fluoride solution", because a description under the n.o.s. category would not be adequate to provide proper product definition due to specific properties of that commodity. The MTB agrees, the proper shipping name "Potassium fluoride solution" is retained in the Table.

One commenter objected to the deletion of the entry, "Crude oil", because the proper shipping name is widely used in industry and is more appropriate than an n.o.s. entry. The MTB agrees with the commenter and has retained the entry in the Table.

Several commenters objected to the deletion of the proper shipping names, "Boiler compound, liquid" and "Water treatment compounds". The bases for these objections are that they are commonly used names and that there are packaging exceptions for these commodities which the commenters fear would be lost. The MTB believes that these proper shipping names are too vague to be useful, however, the packaging exceptions which exist for these commodities are retained in Part 173.

Several commenters expressed concern that changing proper shipping







| + E A<br>W | Hazardous materials<br>descriptions and proper<br>shipping names                                                               | Hazard class          | Identification<br>number | Label(s) required<br>(if not excepted) | Packaging       |                               | Maximum net quantity in<br>one package          |                        | Water shipments      |                          |                                                                                                                                               |
|------------|--------------------------------------------------------------------------------------------------------------------------------|-----------------------|--------------------------|----------------------------------------|-----------------|-------------------------------|-------------------------------------------------|------------------------|----------------------|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
|            |                                                                                                                                |                       |                          |                                        | Excep-<br>tions | Specific<br>require-<br>ments | Passenger<br>carrying<br>aircraft or<br>railcar | Cargo only<br>aircraft | Cargo<br>ves-<br>sel | Pass-<br>enger<br>vessel | Other requirements                                                                                                                            |
| (1)        | (2)                                                                                                                            | (3)                   | 3(a)                     | (4)                                    | 5(a)            | 5(b)                          | 6(a)                                            | 6(b)                   | 7(a)                 | 7(b)                     | 7(c)                                                                                                                                          |
| A W        | Burlap bags, used and<br>unwashed, or not<br>cleaned.                                                                          | ORM-C                 |                          | None                                   | 173.505         | 173.930                       | No limit                                        | No limit               | 1                    | 1                        | Keep cool.                                                                                                                                    |
| W          | Burlap cloth ( <i>hessian</i> )                                                                                                | ORM-C                 |                          | None                                   | 173.505         | 173.931                       |                                                 |                        | 1,2                  | 1,2                      | Keep dry. Stow away<br>from organic<br>liquids.                                                                                               |
|            | Burnt fiber                                                                                                                    | Flammable solid       | NA 1372                  | Flammable solid                        | None            | 173.169                       | Forbidden                                       | Forbidden              | 1,2                  | 1,2                      | Separate from<br>flammable gases<br>liquids, oxidizing<br>materials, or<br>organic peroxides.                                                 |
|            | Carbon remover, liquid                                                                                                         | Flammable liquid      | UN 1132                  | Flammable liquid                       | 173.118         | 173.119                       | 1 quart                                         | 10 gallons             | 1,2                  | 1                        |                                                                                                                                               |
|            | Charcoal, activated                                                                                                            | Flammable solid       | UN 1362                  | Flammable solid                        | 173.162         | 173.162                       | 25 pounds                                       | 200 pounds             | 1,3                  | 1,3                      |                                                                                                                                               |
|            | Charcoal screening, wet                                                                                                        | Forbidden             |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                                                               |
|            | Charcoal, wet                                                                                                                  | Forbidden             |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                                                               |
|            | Cigar and cigarette lighter<br>fluid. See Lighter fluid.                                                                       |                       |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                                                               |
|            | Coal tar light oil                                                                                                             | Combustible<br>liquid | NA1137                   | None                                   | 173.118a        | None                          | No limit                                        | No limit               | 1,2                  | 1,2                      |                                                                                                                                               |
|            | Coal tar light oil                                                                                                             | Flammable liquid      | NA1136                   | Flammable liquid                       | 173.118         | 173.119                       | 1 quart                                         | 10 gallons             | 1,2                  | 1                        |                                                                                                                                               |
|            | Coal tar naptha                                                                                                                | Combustible<br>liquid | NA2553                   | None                                   | 173.118a        | None                          | No limit                                        | No limit               | 1,2                  | 1,2                      |                                                                                                                                               |
|            | Coal tar naptha                                                                                                                | Flammable liquid      | NA2553                   | Flammable liquid                       | 173.118         | 173.119                       | 1 quart                                         | 10 gallons             | 1,2                  | 1                        |                                                                                                                                               |
|            | Coal tar oil                                                                                                                   | Combustible<br>liquid | NA1137                   | None                                   | 173.118a        | None                          | No limit                                        | No limit               | 1,2                  | 1,2                      |                                                                                                                                               |
|            | Coal tar oil                                                                                                                   | Flammable liquid      | NA1136                   | Flammable liquid                       | 173.118         | 173.119                       | 1 quart                                         | 10 gallons             | 1,2                  | 1,2                      |                                                                                                                                               |
|            | Coir. See Fibers.                                                                                                              |                       |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                                                               |
|            | Cologne spirits (alcohol)                                                                                                      | Flammable liquid      | NA1170                   | Flammable liquid                       | 173.118         | 173.125                       | 1 quart                                         | 10 gallons             | 1,2                  | 1                        |                                                                                                                                               |
|            | Columbian spirits (wood<br>alcohol)                                                                                            | Flammable liquid      | NA1230                   | Flammable liquid                       | 173.118         | 173.125                       | 1 quart                                         | 10 gallons             | 1,2                  | 1                        |                                                                                                                                               |
| W          | Cotton batting                                                                                                                 | ORM-C                 |                          | None                                   | 173.505         | 173.970                       |                                                 |                        | 1,2                  | 1,2                      | Keep dry. Stow away<br>from vegetable or<br>animal oils. See<br>176.900 to 176.904                                                            |
| W          | Cotton batting dross. See<br>Cotton batting.                                                                                   |                       |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                                                               |
| W          | Cotton, burnt. See Burnt<br>cotton.                                                                                            |                       |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                                                               |
| W          | Cotton seed hull fiber or<br>shavings, pulp, or cut<br>liners. See Cotton<br>batting.                                          |                       |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                                                               |
|            | Cotton sweepings. See<br>Cotton waste.                                                                                         |                       |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                                                               |
|            | Cotton wadding. See<br>Cotton batting.                                                                                         |                       |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                                                               |
| W          | Cotton waste                                                                                                                   | ORM-C                 |                          | None                                   | 173.505         | 173.975                       |                                                 |                        | 1,2                  | 1,2                      | Keep dry. Stow away<br>from vegetable or<br>animal oils. See<br>176.900 to 176.904.                                                           |
|            | Cotton waste, oily (with<br>more than 5% of<br>animal or vegetable oil).                                                       | Flammable solid       | UN1364                   | Flammable solid                        | 173.167         |                               | Forbidden                                       | Forbidden              | 1,2                  | 1,2                      | Separate from<br>flammable gases or<br>liquids, oxidizing<br>materials, or<br>organic peroxides                                               |
|            | Creosote, coal tar                                                                                                             | Combustible           | NA1993                   | None                                   | 173.118a        | None                          | No limit                                        | No limit               | 1,2                  | 1,2                      |                                                                                                                                               |
|            | Creosote oil. See<br>Creosote, coal tar.                                                                                       |                       |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                                                               |
|            | Crude nitrogen fertilizer<br>solution (more than<br>25.5 p.s.i.g.).                                                            | Nonflammable<br>gas   | NA1043                   | Nonflammable<br>gas                    | 173.308         | 173.304<br>173.314            | Forbidden                                       | 300 pounds             | 1,3                  | 1,3                      |                                                                                                                                               |
|            | Dead oil. See Creosote,<br>coal tar.                                                                                           |                       |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                                                               |
|            | Dressing, leather                                                                                                              | Combustible<br>liquid | NA1142                   | None                                   | 173.118a        | None                          | No limit                                        | No limit               | 1,2                  | 1,2                      |                                                                                                                                               |
|            | Dressing, leather                                                                                                              | Flammable liquid      | NA1142                   | Flammable liquid                       | 173.118         | 173.119                       | 1 quart                                         | 10 gallons             | 1,2                  | 1                        |                                                                                                                                               |
|            | Eradicator, paint or<br>grease, liquid.                                                                                        | Flammable liquid      | UN1850                   | Flammable liquid                       | 173.118         | 173.119                       | 1 quart                                         | 10 gallons             | 1,2                  | 1                        |                                                                                                                                               |
| W          | Excelsior (shredded<br>wood) when dry, clear,<br>and free from oil.                                                            | ORM-C                 |                          | None                                   | 173.505         | 173.980                       |                                                 |                        | 1,3                  | 1,3                      | Stow away from<br>organic, corrosive<br>or oxidizing<br>materials.                                                                            |
|            | Fabric with animal or<br>vegetable oil. See<br>Fibers or fabric,<br>containing not more<br>than 5% animal or<br>vegetable fat. |                       |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                                                               |
|            | Feed, wet, mixed                                                                                                               | ORM-C                 |                          | None                                   | 173.505         | 173.990                       | Forbidden                                       | Forbidden              | 3                    | 3                        | Stow in cool, dry,<br>well-ventilated<br>compartment. Do<br>not stow bags over<br>ten tiers high<br>without flooring off.<br>Do not overstow. |
|            | Felt, waste. See Cotton<br>waste.                                                                                              |                       |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                                                               |



| + E A<br>W | Hazardous materials<br>descriptions and proper<br>shipping names                                                                                                                                                                                                                     | Hazard class          | Identification<br>number | Label(s) required<br>(if not excepted) | Packaging       |                               | Maximum net quantity in<br>one package          |                        | Water shipments      |                          |                                                                                                                                    |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|--------------------------|----------------------------------------|-----------------|-------------------------------|-------------------------------------------------|------------------------|----------------------|--------------------------|------------------------------------------------------------------------------------------------------------------------------------|
|            |                                                                                                                                                                                                                                                                                      |                       |                          |                                        | Excep-<br>tions | Specific<br>require-<br>ments | Passenger<br>carrying<br>aircraft or<br>railcar | Cargo only<br>aircraft | Cargo<br>ves-<br>sel | Pass-<br>enger<br>vessel | Other requirements                                                                                                                 |
| (1)        | (2)                                                                                                                                                                                                                                                                                  | (3)                   | 3(a)                     | (4)                                    | 5(a)            | 5(b)                          | 6(a)                                            | 6(b)                   | 7(a)                 | 7(b)                     | 7(c)                                                                                                                               |
|            | Felt, waste, wet. See<br>Waste wool, wet.<br>Fertilizer, tankage. See<br>Garbage, tankage.<br>Fibers or fabric,<br>containing not more<br>than 5% animal or<br>vegetable oil.                                                                                                        | Flammable solid       | NA1373                   | Flammable solid                        | None            | 173.170                       | Forbidden                                       | Forbidden              | 1,2                  | 1,2                      | Separate from<br>flammable gases or<br>liquids, oxidizing<br>materials, or<br>organic peroxides.                                   |
|            | Fibers, burnt                                                                                                                                                                                                                                                                        | Flammable solid       | NA1372                   | Flammable solid                        | None            | 173.169                       | Forbidden                                       | Forbidden              | 1,2                  | 1,2                      | Separate from<br>flammable gases or<br>liquids, oxidizing<br>materials, or<br>organic peroxides.                                   |
|            | Film, photographic<br>(including scrap film),<br>safety, nonflammable,<br>or slow burning. Not<br>subject to requirements<br>of this subchapter.<br>Flax. See Fibers.<br>Garbage tankage<br>containing 8% or more<br>water.<br>Garbage tankage,<br>containing less than<br>8% water. | ORM-C                 |                          | None                                   | 173.505         | 173.1000                      |                                                 |                        | 1,2                  | 1,2                      |                                                                                                                                    |
|            |                                                                                                                                                                                                                                                                                      | Flammable solid       | NA1325                   | Flammable solid                        | None            | 173.209                       | Forbidden                                       | Forbidden              | 1                    | 1                        | Separate from<br>flammable gases or<br>liquids, oxidizing<br>materials, or<br>organic peroxides.                                   |
|            | Gas oil. See Fuel oil<br>Hair, wet                                                                                                                                                                                                                                                   | Flammable solid       | NA1372                   | Flammable solid                        | None            | 173.172                       | Forbidden                                       | Forbidden              | 1,2                  | 5                        | Separate from<br>flammable gases or<br>liquids, oxidizing<br>materials, or<br>organic peroxides.                                   |
|            | Hay                                                                                                                                                                                                                                                                                  | ORM-C                 | UN1327                   | None                                   | 173.505         | 173.1005                      |                                                 |                        | 1,2                  | 1,2                      | Segregation same as<br>for flammable<br>solids. Slow away<br>from animal or<br>vegetable oils.<br>Forbidden for water<br>shipment. |
|            | Hay or straw (loose, wet<br>or damp).<br>Hessian. See Burlap cloth.<br>Insulation tape (varnished<br>cloth type. See Oiled<br>material.<br>Jute. See Fibers.<br>Kapok. See Fibers.                                                                                                   |                       | UN1327                   |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                                                    |
| W          | Leather bleach or<br>dressing.                                                                                                                                                                                                                                                       | Flammable liquid      | NA1142                   | Flammable liquid                       | 173.118         | 173.119                       | 1 quart                                         | 10 gallons             | 1,2                  | 1                        |                                                                                                                                    |
|            | Leather bleach or<br>dressing.                                                                                                                                                                                                                                                       | Combustible<br>liquid | NA1142                   | None                                   | 173.118a        | None                          | No limit                                        | No limit               | 1,2                  | 1,2                      |                                                                                                                                    |
|            | Lighter fluid                                                                                                                                                                                                                                                                        | Flammable liquid      | UN1226                   | Flammable liquid                       | 173.118         | 173.119                       | 1 quart                                         | 10 gallons             | 1,2                  | 1                        |                                                                                                                                    |
|            | Menthyltetrahydro phthalic<br>anhydride.                                                                                                                                                                                                                                             | Corrosive<br>material | NA1760                   | Corrosive                              | None            | 173.298                       | Forbidden                                       | 1 quart                | 1,2                  | 1                        |                                                                                                                                    |
|            | Motor fuel, n.o.s.                                                                                                                                                                                                                                                                   | Combustible<br>liquid | NA1203                   | None                                   | 173.118a        | None                          | No limit                                        | No limit               | 1,2                  | 1,2                      |                                                                                                                                    |
|            | Motor fuel, n.o.s.                                                                                                                                                                                                                                                                   | Flammable liquid      | NA1203                   | Flammable liquid                       | 173.118         | 173.119                       | 1 quart                                         | 10 gallons             | 1,2                  | 1                        |                                                                                                                                    |
|            | Naphtha distillate                                                                                                                                                                                                                                                                   | Combustible<br>liquid | NA1266                   | None                                   | 173.118a        | None                          | No limit                                        | No limit               | 1,2                  | 1,2                      |                                                                                                                                    |
|            | Naphtha distillate                                                                                                                                                                                                                                                                   | Flammable liquid      | NA1266                   | Flammable liquid                       | 173.118         | 173.119                       | 1 quart                                         | 10 gallons             | 1,2                  | 1                        |                                                                                                                                    |
|            | Naphtha, solvent                                                                                                                                                                                                                                                                     | Combustible<br>liquid | UN1256                   | None                                   | 173.118a        | None                          | No limit                                        | No limit               | 1,2                  | 1,2                      |                                                                                                                                    |
|            | Naphtha, solvent                                                                                                                                                                                                                                                                     | Flammable liquid      | UN1256                   | Flammable liquid                       | 173.118         | 173.119                       | 1 quart                                         | 10 gallons             | 1,2                  | 1                        |                                                                                                                                    |
|            | Nickel catalyst, wet, finely<br>divided, activated, or<br>spent. With not less<br>than 40% water or<br>other suitable liquid.                                                                                                                                                        | Flammable solid       | UN1378                   | Flammable solid                        | None            | 173.233                       | Forbidden                                       | 100 pounds             | 1,2                  | 1                        | Separate from<br>flammable gases or<br>liquids, oxidizing<br>materials, or<br>organic peroxides.                                   |
|            | Nitrogen fertilizer solution                                                                                                                                                                                                                                                         | Nonflammable<br>gas   | NA1043                   | Nonflammable<br>gas                    | 173.306         | 173.304<br>173.314            | 150 pounds                                      | 300 pounds             | 1,3                  | 1,3                      |                                                                                                                                    |
| W          | Oakum                                                                                                                                                                                                                                                                                | ORM-C                 |                          | None                                   | 173.505         | 173.1030                      |                                                 |                        | 1,2                  | 1,2                      |                                                                                                                                    |
|            | Oiled clothing<br>(manufactured article<br>properly dried to<br>prevent spontaneous<br>heating). See Oiled<br>material.                                                                                                                                                              |                       |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                                                    |
| A W        | Oiled paper<br>(manufactured article<br>properly dried to<br>prevent spontaneous<br>heating).                                                                                                                                                                                        | ORM-C                 | NA9053                   | None                                   | 173.505         | 173.1035                      | No limit                                        | No limit               | 1,3                  | 1,3                      |                                                                                                                                    |







| + E A<br>W | Hazardous materials<br>descriptions and proper<br>shipping names                                          | Hazard class       | Identification<br>number | Label(s) required<br>(if not excepted) | Packaging       |                               | Maximum net quantity in<br>one package          |                        | Water shipments      |                          |                                                                                                |
|------------|-----------------------------------------------------------------------------------------------------------|--------------------|--------------------------|----------------------------------------|-----------------|-------------------------------|-------------------------------------------------|------------------------|----------------------|--------------------------|------------------------------------------------------------------------------------------------|
|            |                                                                                                           |                    |                          |                                        | Excep-<br>tions | Specific<br>require-<br>ments | Passenger<br>carrying<br>aircraft or<br>railcar | Cargo only<br>aircraft | Cargo<br>ves-<br>sel | Pass-<br>enger<br>vessel | Other requirements                                                                             |
| (1)        | (2)                                                                                                       | (3)                | 3(a)                     | (4)                                    | 5(a)            | 5(b)                          | 6(a)                                            | 6(b)                   | 7(a)                 | 7(b)                     | 7(c)                                                                                           |
|            | Tankage fertilizer                                                                                        | Flammable solid    | NA1325                   | Flammable solid                        | None            | 173.209                       | Forbidden                                       | Forbidden              | 1                    | 5                        | Keep dry. Separate from flammable gases or liquids, oxidizing materials, or organic peroxides. |
|            | Tankage, rough ammoniate                                                                                  | Flammable solid    | NA1325                   | Flammable solid                        | None            | 173.210                       | Forbidden                                       | Forbidden              | 1                    | 5                        | Keep dry. Separate from flammable gases or liquids, oxidizing materials, or organic peroxides. |
|            | Tar, liquid                                                                                               | Combustible liquid | UN1999                   | None                                   | 173.118a        | None                          | No limit                                        | No limit               | 1,2                  | 1,2                      |                                                                                                |
|            | Tar, liquid                                                                                               | Flammable liquid   | UN1999                   | Flammable liquid                       | 173.118         | 173.131                       | 1 quart                                         | 10 gallons             | 1,2                  | 1                        |                                                                                                |
|            | Textile waste. See Cotton waste.                                                                          |                    |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                |
|            | Textile waste, wet                                                                                        | Flammable solid    | UN1857                   | Flammable solid                        | None            | 173.211                       | Forbidden                                       | Forbidden              | 1,2                  | 1,2                      | Separate from flammable gases or liquids, oxidizing materials, or organic peroxides.           |
|            | Tinning flux. See Zinc chloride solution.                                                                 |                    |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                |
|            | Treated paper (manufactured article properly dried to prevent spontaneous heating). See Oiled material.   |                    |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                |
|            | Treated textile (manufactured article properly dried to prevent spontaneous heating). See Oiled material. |                    |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                |
|            | Turpentine substitute                                                                                     | Combustible liquid | UN1900                   | None                                   | 173.118a        | None                          | No limit                                        | No limit               | 1,2                  | 1,2                      |                                                                                                |
|            | Turpentine substitute                                                                                     | Flammable liquid   | UN1900                   | Flammable liquid                       | 173.118         | 173.119                       | 1 quart                                         | 10 gallons             | 1,2                  | 1                        |                                                                                                |
|            | Twisted jute packing (rope) (treated or untreated). See Oakum.                                            |                    |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                |
|            | Waste paper, wet                                                                                          | Flammable solid    | NA1325                   | Flammable solid                        | None            | 173.186                       | Forbidden                                       | Forbidden              | 1,2                  | 1,2                      | Separate from flammable gases or liquids, oxidizing materials, or organic peroxides.           |
|            | Waste textile, wet                                                                                        | Flammable solid    | NA1857                   | Flammable solid                        | None            | 173.211                       | Forbidden                                       | Forbidden              | 1,2                  | 1,2                      | Separate from flammable gases or liquids, oxidizing materials, or organic peroxides.           |
|            | Waste wool, wet                                                                                           | Flammable solid    | UN1987                   | Flammable solid                        | None            | 173.213                       | Forbidden                                       | Forbidden              | 1,2                  | 1,2                      | Separate from flammable gases or liquids, oxidizing materials, or organic peroxides.           |
|            | Water treatment compounds, liquid                                                                         | Corrosive material | NA1760                   | Corrosive                              | 173.244         | 173.249                       | 1 quart                                         | 10 gallons             | 1                    | 1                        |                                                                                                |
|            | Wax, liquid                                                                                               | Combustible liquid | NA1993                   | None                                   | 173.118a        | None                          | No limit                                        | No limit               | 1,2                  | 1,2                      |                                                                                                |
|            | Wet hair. See Hair, wet.                                                                                  |                    |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                |
|            | Wet textile waste. See Waste textile, wet.                                                                |                    |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                |
|            | Wood shavings (when dry, clean and free from oil). See Sawdust.                                           |                    |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                |
|            | Wool waste. See Cotton waste.                                                                             |                    |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                |
|            | Wool waste, wet. See Waste wool, wet.                                                                     |                    |                          |                                        |                 |                               |                                                 |                        |                      |                          |                                                                                                |
| A          | Yeast, active, in liquid or pressed form                                                                  | ORM-C              |                          | None                                   | None            | 173.1085                      | No limit                                        | No limit               |                      |                          |                                                                                                |

# PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. In Part 173, the following sections are removed:

|         |         |
|---------|---------|
| 173.129 | 173.169 |
| 173.155 | 173.170 |
| 173.167 | 173.172 |
| 173.185 | 173.930 |

|         |          |
|---------|----------|
| 173.186 | 173.931  |
| 173.189 | 173.965  |
| 173.200 | 173.970  |
| 173.201 | 173.975  |
| 173.209 | 173.980  |
| 173.210 | 173.990  |
| 173.211 | 173.1000 |
| 173.213 | 173.1005 |
| 173.233 | 173.1030 |
| 173.298 | 173.1035 |
| 173.925 | 173.1085 |

3. In § 173.131, the heading and paragraph (a) are revised to read as follows:

## § 173.131 Tar, liquid.

(a) Tar, liquid, must be packed in specification containers as follows:

\* \* \*



**§ 173.162 [Amended]**

4. In § 173.162, paragraph (a)(1) is removed and reserved.

5. In § 173.245, paragraph (a)(15) is revised to read as follows:

**§ 173.245 Corrosive liquids not specifically provided for.**

(a) \* \* \*

(15) Specification 17H (§ 178.118 of this subchapter). Metal drums (single-trip). Authorized only for liquid boiler compounds, liquid water treatment compounds, and viscous cleaning compounds, liquid.

\* \* \*

7. In § 173.248, the heading and introductory text of paragraph (a) are revised to read as follows:

**§ 173.248 Spent sulfuric acid, or spent mixed acid.**

(a) Spent sulfuric acid, or spent mixed acid, resulting from the use of sulfuric acid in various processes, not containing hydrofluoric acid, must be packaged as follows:

\* \* \*

6. In § 173.249, paragraph (a)(4) is removed and reserved, and the heading and introductory text of paragraph (a) is revised to read as follows:

**§ 173.249 Alkaline corrosive liquids, n.o.s.; alkaline liquids, n.o.s.; alkaline corrosive battery fluid; potassium fluoride solution; potassium hydrogen fluoride solution; sodium aluminate, liquid; sodium hydroxide solution; potassium hydroxide solution.**

(a) Alkaline corrosive liquids, n.o.s.; alkaline liquids, n.o.s.; alkaline corrosive battery fluid; potassium fluoride solution; potassium hydrogen fluoride solution; sodium aluminate, liquid; sodium hydroxide solution and potassium hydroxide solution, when offered for transportation by carriers by

rail freight, highway, or water must be packed in specification containers of a design and constructed of materials that will not react dangerously with or be decomposed by the chemical packed therein as follows:

\* \* \*

(49 U.S.C. 1803, 1804, 1808; (49 CFR 1.53, Appendix A to Part 1))

Issued in Washington, D.C. on November 7, 1983.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 83-30607 Filed 11-16-83; 8:45 am]

BILLING CODE 4910-60-M

**Urban Mass Transportation Administration****49 CFR Parts 660 and 661**

[Docket No. 83-B]

**Buy America Requirements**

**AGENCY:** Urban Mass Transportation Administration, DOT.

**ACTION:** Extension of comment period.

**SUMMARY:** On September 15, 1983 (48 FR 41562), the Urban Mass Transportation Administration published a final rule implementing Section 165 of the Surface Transportation Assistance Act of 1982. In addition to setting out final regulations, UMTA also requested comments on the regulations, and various topics concerning implementation of the statutory provision. This notice extends the public comment period until December 16, 1983.

**DATES:** Comments must be received on or before December 16, 1983.

**ADDRESS:** Comments should be submitted to UMTA Docket No. 83-B, Urban Mass Transportation

Administration, Room 9228, 400 Seventh Street SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 A.M. and 5:00 P.M., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed stamped postcard is included with each comment.

**FOR FURTHER INFORMATION CONTACT:**

Edward J. Gill, Jr., Office of the Chief Counsel, Room 9228, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426-4063.

**SUPPLEMENTARY INFORMATION:** Section 165 provides, with exceptions, that funds authorized by the Surface Transportation Assistance Act of 1982, Title 23 of the United States Code, the Urban Mass Transportation Act of 1964, as amended, or the Surface Transportation Assistance Act of 1978 may not be obligated for mass transportation projects unless steel, cement, and manufactured products used in such projects are produced in the United States. A number of individuals and groups representing manufacturers and transit authorities have asked UMTA to extend the comment period. Because of the complexity of the issues involved and the lack of practical experience using the new regulations, UMTA agrees that the comment period should be extended. Therefore, this notice extends the public comment period, originally scheduled to end on November 14, 1983, to December 16, 1983.

Dated: November 14, 1983.

G. Kent Woodman,

Acting Deputy Administrator.

[FR Doc. 83-31037 Filed 11-16-83; 8:45 am]

BILLING CODE 4910-57-M



# Proposed Rules

Federal Register

Vol. 48, No. 223

Thursday, November 17, 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

### Federal Crop Insurance Corporation

#### 7 CFR Part 435

[Amdt. No. 3]

#### Tobacco (Quota Plan) Crop Insurance Regulations

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) proposes to amend the Tobacco (Quota Plan) Crop Insurance Regulations (7 CFR Part 435), effective for the 1984 and succeeding crop years by: (1) Changing the policy to make it easier to read; (2) eliminating reference to tobacco types 13 and 14 regarding support price establishment, stalk inspection requirements, etc.; (3) adding volcanic eruption as an insured cause of loss; (4) adding a provision regarding insurability of irrigated acreage where no irrigated practice is established on the actuarial table; (5) adding a provision permitting the determination of indemnities based on the acreage report rather than at time of loss adjustment; (6) providing for a coverage level when the insured does not select one; (7) providing procedures for reporting a probable loss; (8) adding a 60-day claim for indemnity provision; (9) adding a hail/fire provision for appraisals of uninsured causes; (10) adding a section regarding appraisals following the end of the insurance period for unharvested acreage; (11) changing the cancellation/termination dates to conform to farming practices; (12) providing that any change in the policy will be available in the service office by a certain date; (13) adding a definition for "service office;" (14) providing for a unit determination when the acreage report is filed; and (15) adding section concerning "descriptive headings."

In addition, FCIC proposes to issue a new subsection in the tobacco (Quota Plan) crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring tobacco (Quota Plan) in accordance with Secretary's Memorandum No. 1512-1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

**DATE:** Written comments on this proposed rule must be submitted not later than January 16, 1984 to be sure of consideration.

**ADDRESS:** Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provision of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

#### List of Subjects in 7 CFR Part 435

Crop insurance, Tobacco (quota plan).

#### Proposed rule

According, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Tobacco (Quota Plan) Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 435 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77 as amended (1506, 1516).

2. 7 CFR 435.3 is added to read as follows:

#### § 435.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 435) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563-0003 and 0563-0007.

3. 7 CFR 435.7(d) is amended by revising Quota Plan of the Tobacco Crop Insurance Policy therein to read as follows:

#### Department of Agriculture—Federal Crop Insurance Corporation

#### Quota Plan of Tobacco Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to insure: We shall provide the insurance described in this policy in return



for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

#### Terms and Conditions

1. *Causes of Loss.* a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period: (1) Adverse weather conditions; (2) fire; (3) insects; (4) plant disease; (5) wildlife; (6) earthquake; or (7) volcanic eruption unless those causes are excepted, excluded, or limited by the actuarial table or section 9d(6).

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good tobacco farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. *Crop, Acreage, Insured Poundage Quota, and Share Insured.* a. The crop insured shall be tobacco of the type shown as insurable by the actuarial table, which is grown on insured acreage, and for which a premium rate is provided by the actuarial table.

b. The acreage insured for each crop year shall be an insurable type of tobacco planted on insurable acreage and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured tobacco at the time of planting.

d. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) On which the tobacco was destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture;

(3) Which is irrigated and an irrigated practice is not provided for in the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Which is destroyed and it is practical to replant to tobacco and such acreage was not replanted;

(5) Initially planted after the final planting date contained in the actuarial table, unless you agree to coverage reduction on our form;

(6) Planted to tobacco of a discount variety under provisions of the tobacco price support program;

(7) Planted to a type or variety of tobacco not established as adapted to the area or excluded by the actuarial table;

(8) Designated as uninsurable by the actuarial table; or

(9) Planted for experimental purposes.

e. The insured poundage quota for each crop year shall be the effective poundage marketing quota applicable to the unit as provided under ASCS Tobacco Marketing

Quota Regulations for the crop year plus any additional poundage you intend to produce on the unit that crop year, as reported by you or as determined by us, whichever we shall elect.

#### However:

(1) The insured poundage quota shall not include any amount which would be subject to a marketing quota penalty under ASCS Tobacco Marketing Quota Regulations;

(2) The poundage marketing quota may be reduced for any carryover tobacco to be marketed under the poundage quota applicable to the unit when such poundage reduction is clearly specified by you in filing the acreage and quota report;

(3) The insured poundage quota will never exceed the pounds obtained by multiplying the insured acres by the applicable farm yield per acre; and

(4) Unless otherwise provided by the actuarial table, for any crop year in which tobacco poundage marketing quota regulations are not in effect, the insured poundage quota shall be the pounds obtained by multiplying the applicable farm yield per acre times the lower of the reported or insured acreage on the unit.

f. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good tobacco irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good tobacco irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment of facilities shall not be considered as a failure of the water supply from an unavoidable cause.

Insurance shall not attach on an irrigated basis to acreage otherwise insurable on such basis unless it is reported and designated as irrigated at the time the acreage is reported.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. *Report of Acreage, Share, Poundage Quota, and Practice.* You shall report on our form:

a. All the acreage of insurable types of tobacco in the county in which you have a share;

b. The practice;

c. Your share at the time of planting; and

d. The effective poundage marketing quota applicable to the unit as provided under ASCS Tobacco Marketing Quota Regulations plus any additional poundage you intend to produce on the unit in that crop year. Such poundage marketing quota may be reduced for any carryover tobacco to be marketed under the poundage quota applicable to the unit provided such poundage reduction is clearly specified in filing the acreage and quota report. The quota so reported shall not be subject to change by you.

You shall designate separately any acreage that is not insurable. You shall report if you

do not have a share in any tobacco planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

#### 4. Amounts of Insurance and Coverage Levels.

a. The coverage levels are contained in the actuarial table.

b. The amount of insurance for a unit shall be the dollar amount determined by multiplying the insured poundage quota for the unit by the percentage guarantee for the applicable coverage level established by the actuarial table and multiplying this product by the current year's support price for type 31 tobacco (rounded to the nearest cent) less six cents per pound for warehouse charges.

c. Coverage level 2 will apply if you do not elect a coverage level.

d. You may change the coverage level on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. *Annual Premium.* a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the amount of insurance for the unit times the premium rate, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. *Deductions for Debt.* Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. *Insurance Period.* Insurance attaches when the tobacco is planted and ends at the earliest of:

a. Total destruction of the tobacco;

b. Weighing-in at the tobacco warehouse;

c. Removal of the tobacco from the unit (except for curing, grading, packing or immediate delivery to the tobacco warehouse);

d. Final adjustment of a loss; or



e. February 28, immediately following the normal harvest period.

8. *Notice of Damage or Loss.* a. In case of damage or probable loss:

(1) You must give us written notice if:  
(a) During the period before harvest, the tobacco on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the tobacco and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given. Where harvest of the unit is to be completed within 7 days of the date notice of probable loss is given, a representative sample of the tobacco (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) Notice shall be given immediately if any tobacco is destroyed or damaged by fire during the insurance period.

(5) Where tobacco is not to be sold through auction warehouses and an indemnity is to be claimed, notice shall be given to allow us sufficient time to inspect the cured tobacco prior to its sale or other disposition.

(6) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the tobacco on the unit;

(b) The date marketing or other disposal of the insured tobacco on the unit is completed; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the tobacco which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. *Claim for Indemnity.* a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the tobacco on the unit;

(2) The date marketing or other disposal of the insured tobacco on the unit is completed; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of tobacco on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Subtracting from the amount of insurance for the unit, the value of the total production of tobacco to be counted (see section 9d); and

(2) Multiplying the remainder by your share.

d. The value of the total production to be counted for a unit shall include the value of all harvested and appraised production:

(1) Production to count shall include:

(a) The gross returns (less actual warehouse charges) from tobacco sold on the warehouse floor;

(b) The fair market value of the tobacco sold other than on the warehouse floor;

(c) The fair market value of the tobacco harvested and not sold;

(d) The fair market value of any unharvested tobacco as if such tobacco were harvested and cured; and

(e) The current year's support price per pound (less six cents per pound for warehouse charges) for appraisals made by us for poor farming practices or uninsured causes of loss. However, if a price support program is not in effect, such appraised production shall be valued at the market price for the current crop year.

(2) To enable us to determine the fair market value of tobacco not sold through auction warehouses, we shall be given the opportunity to inspect such tobacco before it is sold, contracted to be sold, or otherwise disposed of and, if the best offer you receive for any such tobacco is considered by us to be inadequate, to obtain additional offers on your behalf.

(3) The value of appraised production to be counted shall include:

(a) The value of unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good tobacco farming practices;

(b) Not less than the average amount of insurance per insured acre for the unit for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Not less than 35 percent of the average amount of insurance per insured acre for the unit for all other unharvested acreage.

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of tobacco becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(5) We may determine the amount of production of any unharvested tobacco on the basis of field appraisals after the end of the insurance period.

(6) When you have elected to exclude hail and fire as insured causes of loss and the tobacco is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire".

(7) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

e. You shall not abandon any acreage to us.

f. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

g. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

h. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the tobacco is planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

i. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. *Concealment or Fraud.* We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of Right to Indemnity on Insured Share.* If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. *Assignment of Indemnity.* You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogation.* (Recovery of loss from a third party.) Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. *Records and Access to Farm.* You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all tobacco



produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. *Life of Contract: Cancellation and Termination.* a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign such claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

| State            | Cancellation and termination dates |
|------------------|------------------------------------|
| North Carolina   | March 31.                          |
| All other states | April 15.                          |

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. However, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. *Contract Changes.* We may change any terms and provisions of the contract from year to year. All contract changes shall be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. *Meaning of Terms.* For the purpose of tobacco crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the coverage levels, premium rates, practices, insurable and uninsurable acreage, and related information regarding tobacco insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "Carryover tobacco" means any tobacco on hand from the previous year's production.

d. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

e. "Crop year" means the period within which the tobacco is normally grown and shall be designated by the calendar year in which the tobacco is normally harvested.

f. "Effective farm marketing quota" means the farm marketing quota as established and recorded by ASCS.

g. "Farm yield" means the yield per acre used by ASCS in establishing the basic farm marketing poundage quota for the tobacco farm, unless we have established a yield for the farm in the actuarial table.

h. "Harvest" means cutting or priming at least 20 percent of the amount of tobacco in pounds per acre obtained by multiplying the applicable insured poundage quota for the unit by the applicable percentage of guarantee shown in the actuarial table for such acreage and dividing this result by the insured acreage in the unit.

i. "Insurable acreage" means that acreage planted to an insurable type of tobacco excluding any acreage designated as noninsurable by the actuarial table.

j. "Insured" means the person who submitted the application accepted by us.

k. "Market Price" for a crop year means the average auction price for the applicable type (less actual warehouse charges) in the belt or area. The market price, when determined shall be filed with the actuarial table.

l. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

m. "Planting" means transplanting the tobacco plant from the bed to the field.

n. "Rounded" means rounding up for  $\frac{1}{4}$  and above and rounding down for less than  $\frac{1}{4}$ .

o. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

p. "Support price per pound" means the average price support level per pound for the insured type of tobacco as announced by the United States Department of Agriculture under the tobacco price support program. For any crop year in which a price support for the insured type is not in effect, the market price for that crop year shall be used in lieu thereof.

q. "Tenant" means a person who rents land from another person for a share of the tobacco or a share of the proceeds therefrom.

r. "Unit" means all insurable acreage in the county of an insurable type of tobacco planted on a farm or farms for which a single poundage marketing quota for the insurable type of tobacco is established on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

If a tobacco price support program is not in effect for the insurable type of tobacco for any crop year, the above words "planted on a farm or farms for which a single poundage quota for the insurable type of tobacco is established" shall be disregarded. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the tobacco on such land shall be considered as owned by the lessee. Poundage quotas leased and combined with other quotas under a leasing arrangement providing compensation to the lessor on some other basis than a specified share in the production from a unit shall be considered to be the 100 percent interest of the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units as herein defined will be deferred when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. *Descriptive Headings.* The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. *Determinations.* All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. *Notices.* All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on May 24, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Edward Hews,

Acting Manager.

Dated: November 8, 1983.

[FR Doc. 83-30824 Filed 11-16-83; 8:45 am]

BILLING CODE 3410-06-M



**Agricultural Marketing Service****7 CFR Parts 1006 and 1012**

[Docket Nos. AO-356-A20 and AO-347-A23]

**Milk in the Upper Florida and Tampa Bay Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice of public hearing on proposed rulemaking.

**SUMMARY:** This joint hearing is being held to consider proposals by a proprietary handler to amend the Upper Florida and Tampa Bay milk orders. The proposals would provide for changes in the plant location adjustment so that the Class I milk price for fluid milk products transferred from a pool plant under the two Florida orders to a pool plant regulated by another Federal order shall be not less than the Class I price under such other Federal milk order applicable at the location of the transferor plant. Proponent said that the requested order changes are needed to insure orderly marketing in the area.

Another proposal would increase the minus location adjustment rate under the Upper Florida and Tampa Bay orders from the present 1.5 cents per each 10-mile zone to at least 2.5 cents. The proponent states that such an increase would cause location adjustment rates to more closely reflect the average current long-haul transportation costs.

**DATE:** The hearing will convene on Tuesday, December 6, 1983.

**ADDRESS:** The hearing will be held at the Howard Johnson Motor Lodge, 603 Lee Road, Orlando, Florida 32810 (at the intersection of Lee Road and Interstate 4).

**FOR FURTHER INFORMATION CONTACT:** Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 477-7311.

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

Notice is hereby given of a public hearing to be held at the Howard Johnson Motor Lodge, 603 Lee Road, Orlando, Florida 32810 (at the intersection of Lee Road and Interstate 4). Beginning at 9:30 a.m., local time, on Tuesday, December 6, 1983, with respect to the proposed amendments to the

tentative marketing agreements and to the orders, regulating the handling of milk in the Upper Florida and Tampa Bay marketing areas.

The hearing is called 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).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR Part 900.12 (d)) with respect to proposals Nos. 1 and 2.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small business.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

**Proposed by the Southland Corporation**

*Proposal No. 1*

Revise the first sentence of § 1006.52(a) to read as follows:

(a) The Class I price for producer milk and other source milk at a plant located outside the State of Florida and more than 70 miles from the nearer of the City Halls of Jacksonville or Tallahassee, Florida or within the State of Florida shall be adjusted at the rates set forth in the following schedule: *Provided*, that the resulting adjusted price for fluid milk products transferred from a pool plant to a plant regulated under another Federal

Order shall not be less than the Class I price under such other Federal Order applicable at the location of the transferor plant:

*Proposal No. 2*

Revise the first sentence of § 1012.52(a) to read as follows:

(a) The Class I price for producer milk and other source milk at a plant located outside the State of Florida or within the State of Florida but outside the defined marketing area shall be adjusted at the rates set forth in the following schedule: *Provided*, That the resulting adjusted price for fluid milk products transferred from a pool plant to a plant regulated under another Federal Order shall not be less than the Class I price under such other Federal Order applicable at the location of the transferor plant.

**Proposed by Cumberland Farms Foods Stores, Inc.**

*Proposal No. 3*

Revise paragraph (a) of §§ 1006.52 and 1012.52 so that the location adjustments contained therein with respect to plants located outside of the State of Florida would be increased from the present 1.5 cents per each 10-mile zone to at least 2.5 cents, and probably closer to 3.0 cents.

**Proposed by the Dairy Division, Agricultural Marketing Service**

*Proposal No. 4*

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from the hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrator, P.O. Box 11368, Ft. Lauderdale, Florida 33339 or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements must be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:



Office of the Secretary of Agriculture  
Office of the Administrator, Agricultural  
Marketing Service  
Office of the General Counsel,  
Dairy Division, Agricultural Marketing  
Service (Washington office only)  
Office of the Market Administrator,  
Upper Florida and Tampa Bay  
Marketing Areas

Procedural matters are not subject to  
the above prohibition and may be  
discussed at any time.

#### List of Subjects in 7 CFR Parts 1006 and 1012

Milk Marketing Orders, Milk, Dairy  
Products.

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

Signed at Washington, D.C. on: November  
10, 1983.

William T. Manley,

Deputy Administrator, Marketing Program  
Operations.

[FR Doc. 83-31031 Filed 11-16-83; 8:45 am]

BILLING CODE 3410-02-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 83-NW-62-AD]

#### Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation  
Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking  
(NPRM).

**SUMMARY:** This notice proposes a new  
airworthiness directive (AD) which  
would require structural inspections and  
repairs or replacements, as necessary,  
on certain high time Boeing Model 727  
series airplanes to assure continued  
airworthiness. The AD is prompted by a  
structural reevaluation which has  
identified certain significant structural  
components as likely to develop fatigue  
cracks as these airplanes approach and  
exceed the manufacturer's original  
design life. Fatigue cracks in these  
areas, if left undetected, could result in a  
compromise of the structural integrity of  
these airplanes and catastrophic failure.

**DATE:** Comments must be received on or  
before February 7, 1984.

**ADDRESSES:** The service documents may  
be obtained upon request from the  
Boeing Commercial Airplane Company,  
P.O. Box 3707, Seattle, Washington  
98124. This information also may be  
examined at Federal Aviation  
Administration, Northwest Mountain

Region, Seattle Aircraft Certification  
Office, 9010 East Marginal Way South,  
Seattle, Washington.

**FOR FURTHER INFORMATION, CONTACT:**  
Mr. Don Gonder, Airframe Branch,  
ANM-120S, FAA, Northwest Mountain  
Region, Seattle Aircraft Certification  
Office, 9010 East Marginal Way South,  
Seattle, Washington, telephone (206)  
431-2927. Mailing Address: Seattle  
Aircraft Certification Office, FAA,  
Northwest Mountain Region, 17900  
Pacific Highway South, C-68966, Seattle,  
Washington 98168.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to  
participate in the making of the  
proposed rule by submitting such  
written data, views, or arguments as  
they may desire. Communications  
should identify the regulatory docket  
number and be submitted in duplicate to  
the address specified below. All  
communications received on or before  
the closing date for comments will be  
considered by the Administrator before  
taking action on the proposed rule. The  
proposal contained in this notice may be  
changed in light of comments received.  
All comments submitted will be  
available, both before and after the  
closing date for comments, in the Rules  
Docket for examination by interested  
persons. A report summarizing each  
FAA-public contact concerned with the  
substance of the proposed AD will be  
filed in the Rules Docket.

##### Availability of NPRMS

Any person may obtain a copy of this  
Notice of Proposed Rulemaking (NPRM)  
by submitting a request to the Federal  
Aviation Administration, Northwest  
Mountain Region, Attention:  
Airworthiness Rules Docket No. 83-  
NW-62-AD, 17900 Pacific Highway  
South, C-68966, Seattle, Washington  
98168.

##### Discussion:

##### Introduction

A significant number of transport  
category airplane are approaching these  
design life goal upon which initial type  
certification acceptance was predicated.  
It is expected that these airplanes will  
continue to be operated beyond this  
point. The incidence of fatigue cracking  
on these airplanes is expected to  
increase as airplanes reach and exceed  
this goal. In order to evaluate the impact  
of increased fatigue cracking with  
respect to maintaining fail-safe design  
and the damage tolerance of the Boeing  
Model 727 Airplane structure, the  
manufacturer has conducted a structural

reassessment of the airplane using  
modern damage tolerance evaluation  
techniques. The criteria for this  
reassessment were contained in FAA  
Advisory Circular (AC) 91-56,  
"Supplemental structural Inspection  
Program for Large Transport Category  
Airplanes," as well as Section 25.571  
(Amdt. 25-45) of the Federal Aviation  
Regulations (FAR).

The structural reassessment involved:

(1) The identification of Structural  
parts or components which contribute  
significantly to carrying flight, ground,  
pressure, or control loads whose failure  
could affect the structural integrity  
necessary for the safety of the airplane  
and whose damage tolerance or fail-safe  
characteristics it is necessary, therefore,  
to establish or confirm. These are called  
Structural Significant Items (SSI).

(2) The calculation of residual  
strength, with multiple site damage and  
interactive crack growth under typical  
flight and ground loading, such that the  
airplane structure can sustain the load  
conditions stated for fail-safe  
qualification under the current FAR  
25.571(b).

(3) The establishment of a procedure  
for developing inspection programs that  
provide a high probability of detecting  
fatigue damage before residual strength  
falls below fail-safe or damage tolerance  
requirements.

In conducting the assessment, or  
audit, the manufacturer has developed  
continuing structural integrity programs  
for its transport airplanes, certificated in  
the United States to the fail-safe or  
damage tolerance structural  
requirements of Civil Air Regulations  
(CAR 4b), or Federal Aviation  
Regulations (Part 25), as applicable. The  
Program developed for the Boeing 727  
(Boeing Document No. D6-48040-1,  
entitled "Boeing 727 Supplemental  
Structural Inspection Document"  
[SSID], in two volumes) ensures  
continuing structural airworthiness of  
the B-727 by specifying inspection  
intensities and associated intervals  
based on the structural audit.

The 727 program makes use of the  
Damage Tolerance Rating (DTR) System  
developed by Boeing. This rating system  
is used to determine the probability of  
detecting fatigue damage, which is  
presumed to have occurred in a fleet of  
airplanes and has not been reported,  
before the residual strength of any  
airplane falls below regulatory fail-safe  
strength levels.

The supplemental inspection program  
developed for the Model 727 permits  
operator flexibility by adjusting or  
supplementing existing maintenance  
programs, where necessary, to meet the



required damage tolerance rating. The program was developed in cooperation with members of the airline industry who participated with Boeing in working group sessions. These meetings were also attended by engineers and maintenance specialists from the FAA. Participants included representatives from 20 airlines. All Structural Significant Items (SSI), which require directed inspections for maintaining structural integrity and with no history of in-service fatigue cracking, are included in this document. An explanation and summary listing of the SSIs is given in detail in Sections 4.0 and 8.0, respectively, of Boeing Document D6-48040-1.

Damage tolerance rating forms (DTR Check Forms) are provided, in Volume 2, Section 11.0, for each operator of candidate airplanes to select the inspection options which together meet the damage tolerance rating requirements. If an operator's existing maintenance program meets or exceeds the required damage tolerance rating, no additional inspection requirements are necessary for that detail. If the current maintenance program falls below the required damage tolerance rating, an operator must improve or supplement its programs. To achieve this, an operator may increase the frequency or intensity of its normal maintenance for its candidate airplanes, or incorporate additional inspection methods, including non-destructive test techniques. Feasible inspection options, developed in conjunction with airline working group members, were used to complete an example rating for each SSI.

Known fatigue problems, which could affect the structural integrity necessary for safety of the airplane, covered by existing Service Bulletins (SB), have been reassessed and a safety of flight addendum added to each as required. A list of SBs with flight safety addenda is given in Section 9.0.

It is expected that fatigue-related SBs subsequent to or resulting from the supplemental inspection program, that require a flight safety addendum, will also be referenced in Section 9.0.

#### *Candidate Airplanes*

Airplanes with the highest number of flight cycles are the most likely to experience initial fatigue damage in the fleet. Therefore, this program is based on supplemental inspection of high time (candidate) airplanes.

Directed inspection programs for these airplanes (i.e. the candidate fleet), coupled with reporting of discrepancies found and, where necessary, follow-up action, will maintain structural airworthiness in the total fleet when

fatigue cracking occurs. To maintain adequate fleet surveillance, each operator with candidate airplanes must provide a directed inspection program for those airplanes which meet the requirements established by this document.

The initial Model 727 candidate fleet consists of those airplanes exceeding 30,000 landings by January 31, 1983. Full stop landings during training are considered as full flight cycles. Two touch and go training flights are considered equivalent to one flight cycle. A list of candidate airplane serial and line numbers is listed in Boeing Document D6-48040-1 for the Model 727-100/100C/200 series. The candidate list will be reviewed periodically and updated if there are significant changes in fleet distribution, composition, or utilization.

#### *Structural Significant Items (SSI)*

The two design principles for obtaining structural safety are "damage tolerance" and "safe life." Damage tolerance relies on some means of detecting damage before airplane safety is jeopardized. This is the preferred design principle whenever practical. A safe-life principle is used where there is little or no chance of detecting damage before residual strength is reduced below acceptable limits. A conservative fatigue damage threshold is used to limit the service life. On modern commercial jet transports, this design concept is generally limited to landing-gear components.

Airplane structure can be categorized to determine safety analysis requirements and corresponding maintenance considerations. The first breakdown is a determination of an item's function in relation to structural integrity. Any detail, element, or assembly, which contributes significantly to carrying-flight, ground, pressure, or control loads, and whose failure could affect the structural integrity necessary for the safety of the airplane, is classified as a structural significant item (SSI). Items not in this category are classified as secondary or other structure.

For the category of secondary or other structure, safety is ensured by demonstrating that a flight can be completed safely after the component has lost its ability to function or has separated from the aircraft. Structural maintenance is dictated by the economic consequences of major damage or loss of the component compared to those of an inspection program required to find damage early.

The second category is damage-tolerant design where damage is

obvious or malfunctions evident before reaching critical size. Examples of this are significant fuel tank leakage or controlled cabin depressurization. In this category, safety is ensured by providing adequate residual strength with extensive damage that is obvious during walk-around or functional checks to personnel whose primary responsibility may not be structural inspection. Economics may dictate structural maintenance where it may be desirable to detect damage early.

The rest of the damage tolerant structure falls into a third category in which structural integrity is maintained by timely damage detection in a planned inspection program. Inspection program requirements for detecting corrosion, stress corrosion, and accidental damage are based on operator experience on the same or similar structure. For fatigue damage, inspection program requirements are matched to structural characteristics that include residual strength, crack growth rate, and damage detection.

The fourth structural category is safe life. Operator experience is used to develop a maintenance program for preventing or detecting and repairing any corrosion, stress corrosion, or accidental damage.

All category III items are included in the Model 727 supplemental inspection program. The parameters considered in determining the category III SSIs included:

- Consequence of Cracking
- Inspectability
- Stress Environment
- Multiple Cracking
- Structural Redundancy

For each SSI, several cracking patterns were considered to determine the most critical. This generally resulted in a crack origin being considered in a location difficult to inspect. In some cases, a single SSI may have multiple cracking patterns due to various parts of the item being hidden from view. For example, a spar chord can be visible from both sides, hidden on either side, or hidden on both sides. For these SSIs, a DTR Check Form is provided for the most critical cracking pattern(s).

#### *Effect on Existing Maintenance Programs*

In developing the SSID, the working group reviewed its operations and maintenance practices and existing maintenance programs with respect to the basic requirements of the SSID program. As a result, the B-727 SSID allows affected operators to take credit for maintenance already being



performed and gives the operators flexibility in revising their maintenance programs to incorporate the SSID for the affected airplanes.

Upon detection of damage on an individual SSI, an assessment will be made as to the need for inspection of all affected airplanes at a threshold and interval established from metallurgical examination and additional fracture mechanics analysis.

The SSID provides an operator with the minimum inspection requirements necessary to provide the required damage tolerance rating (DTR) and the means to evaluate its existing maintenance program. An operator, using the document, will be able to determine for a particular SSI if its regularly scheduled maintenance will provide the required DTR or if additional supplemental inspections must be accomplished.

Fatigue cracking has been shown to be likely to occur. Failure to detect cracking in an SSI prior to reaching critical length could result in failure to carry limit load which could lead to the loss of the airplane. As a consequence, the proposed AD would require all affected operators who have not already done so to incorporate in their FAA approved continuing airworthiness program and implement a revision which provides no less than the required damage tolerance rating for each SSI listed in the Boeing Document or later FAA approved revisions.

#### *Economic Impact*

Approximately 281 airplanes of U.S. registry and 37 U.S. operators would initially be affected by the proposed AD. It is estimated that the implementation of the SSID program for a typical operator would take approximately 1000 manhours. It is also estimated that the average labor cost would be \$35 per manhour. Based on these figures, the cost to implement the SSID program is estimated to not exceed \$1,300,000.

The recurring inspection impact on the affected operators is estimated to be 500 manhours per airplane at an average labor cost of \$35 per manhour. Based on these figures, the annual recurring cost of this AD is estimated to not exceed \$5,000,000.

Based on the above figures, the total cost impact of this AD for the first year is estimated to not exceed \$6,300,000 and \$5,000,000 for each year thereafter.

For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291, or a significant rule under DOT Regulatory Policies and Procedures. Few, if any, small entities within the meaning of the

Regulatory Flexibility Act would be affected.

#### **List of Subjects in 14 CFR Part 39**

Aviation safety, Aircraft.

#### **The Proposed Amendment**

Accordingly, the Federal Aviation Administration (FAA) proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive (AD):

**Boeing:** Applies to Model 727 series airplanes, certificated in all categories, listed in Section 3.0 of Boeing Document No. D6-48040-1 "Supplemental Structural Inspection Document," (SSID), Revision E, or later FAA approved revisions. Compliance is required as indicated in the body of the AD.

To ensure the continuing structural integrity of these airplanes, accomplish the following, unless already accomplished:

A. Within one year after the effective date of the AD, incorporate a revision into the FAA approved maintenance inspection program which provides no less than the required damage tolerance rating (DTR) for each Structural Significant Item (SSI) listed in Boeing Document D-48040-1, Revision E, or later FAA approved revisions. The required DTR value for each SSI is listed in the document. The revision to the maintenance program shall include and be implemented in accordance with the procedures in Sections 5.0 and 6.0 of the SSID.

B. Cracked structure shall be repaired before further flight in accordance with an FAA approved method.

C. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

D. 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.

E. Operators who have acceptably incorporated Boeing Document No. D-48040-1 into their approved maintenance program are exempt from the provisions of this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington.

The FAA has requested Federal Register approval to incorporate by reference the manufacturer's Supplemental Inspection Document identified and described in this proposal.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430 and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

**Note.**—For the reasons discussed earlier in the preamble, the FAA has determined that this document involves a proposed regulation

which: (1) is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on November 4, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-30920 Filed 11-16-83; 8:45 am]

BILLING CODE 4010-13-M

#### **14 CFR Part 39**

[Docket No. 83-ANE-30]

#### **Airworthiness Directives; CFM International CFM56-2 Series Model Turbofan Engines**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice proposes to adopt an airworthiness directive (AD) which would require the replacement of fuel injectors which do not incorporate a heat shield sleeve on CFM56-2 model turbofan engines. The proposed AD is prompted by several reports of engine flameouts including one multiple engine flameout when using JP4 fuel in engines without heat shielded fuel injectors.

**DATE:** Comments must be received by December 31, 1983.

**ADDRESSES:** Comments on the proposal may be mailed in duplicate or delivered to the Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No. 83-ANE-30, 12 New England Executive Park, Burlington, Massachusetts 01803.

The applicable service bulletin (CFM56-2) 73-021, dated August 12 1983, may be obtained from CFM International, General Electric Company, Cincinnati, Ohio 45215.

A copy of the service bulletin is contained in the Rules Docket, Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No. 83-ANE-30, 12 New England Executive Park, Burlington, Massachusetts 01803.

**FOR FURTHER INFORMATION CONTACT:** H. Alden Jackson, Engine and Propeller Standards Staff, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12



New England Executive Park,  
Burlington, Massachusetts 01803;  
telephone (617) 273-7330.

#### SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Federal Aviation Administration, Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7385, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the rules docket.

Commenters wishing the FAS to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped post card on which the following statement is made: Comments to Docket Number 83-ANE-30. The post card will be date/time stamped and returned to the commenter.

A CFM56-2-C1 powered DC8-71 aircraft experienced a 3 engine flameout shortly after initiating a descent from flight level 350 on June 14, 1983. JP4 fuel was being used, and the aircraft tank boost pumps were on. Although this was the first multiple engine event, there have been 8 other flameouts reported for various cases. Subsequent ground testing demonstrated that flameouts were repeatedly experienced on rapid decelerations with the JP4 fuel. JP4 is certified as an alternate fuel for the CFM56 series model engines. The problem has been corrected by incorporating a heat shield sleeve in the fuel injectors.

The FAA has determined that since this problem is likely to occur on other engines of the same type design when using JP4 fuel, and AD is proposed which requires the replacement of fuel injectors without heat shield sleeves with injectors containing heat shield sleeves.

#### List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 30 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

**CFM International:** Applies to CFM56-2 Model Turbofan engines with low cracking pressure fuel injectors Part Number (P/N) 9984M90G20.

Unless already accomplished, replace all low cracking pressure fuel injectors, P/N 9984M90G20 with P/M 9984M90G28 or with P/M 9984M90G14 fuel injectors in accordance with CFM International CFM56 Service Bulletin 73-021, dated August 12, 1983, or later revision or equivalent means approved by the Manager, Engine and Propeller Standards Staff, Aircraft Certification Division, FAA, New England Region. To prevent possible engine flameouts when using JP4 type fuel, compliance is required as follows:

A. For engines being operated with JP4 fuel or with a mixture containing JP4, compliance is required within one month of the effective date of the AD.

B. For engines which are operated only with Jet A type fuels, compliance is required July 31, 1985.

Prior to compliance, affected engines being operated with JP4 fuel or with a mixture containing JP4, must be operated in accordance with AD 83-18-02.

**Note.**—CFM56-2 engines which incorporate P/N 9321M92G04 or 9321M92G06 fuel nozzles in accordance with Design Change Approval Sheet (DCAS) 10859, will not be affected by this directive.

All persons affected by this directive who have not already received the manufacturer's service bulletin identified herein may obtain copies upon request to CMF International, General Electric Company, Neumann Way, Cincinnati, Ohio 45215. These documents also may be examined at FAA Rule Docket, Federal Aviation Administration, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803. The FAA has requested Federal Register approval to incorporate by reference the manufacturer's service bulletin identified and described in this directive.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); (49 U.S.C. 106(g) revised P.L. 97-449, January 12, 1983; 14 CFR 11.85.)

**Note.**—The FAA has estimated, in a draft regulatory evaluation, that the total cost impact of this AD will be approximately \$1,135,000. It is also determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the rule affects only domestic air carriers operating DC8 Series 70 aircraft in which the CFM56-2 engines are installed, none of which are believed to be small entities. Therefore, I certify that the action: (1) Is not a "major rule" under Executive

Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by writing to Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attn: Rules Docket No. 83-ANE-, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on November 3, 1983.

Robert E. Whittington,  
Director, New England Region.

[FR Doc. 83-30917 Filed 11-16-83; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

(Airspace Docket No. 83-ACE-19)

#### Transition Area—Storm Lake, Iowa; Proposed Alteration

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** This notice proposes to alter the 700-foot transition area at Storm Lake, Iowa, to revise the instrument approach procedure utilizing the Storm Lake, Iowa, Non-Directional Radio Beacon (NDB). The final approach bearing has been realigned to improve the procedure which necessitates this change.

**DATES:** Comments must be received on or before December 17, 1983.

**ADDRESSES:** Send comments on the proposal to: Federal Aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64108, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Operations, Procedures and Airspace Branch, Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:** Dwaine Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64108, Telephone (816) 374-3408.



**SUPPLEMENTARY INFORMATION:****Comments Invited**

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

**Availability of NPRM**

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Storm Lake, Iowa. To enhance airport usage, an instrument approach procedure for the Storm Lake, Iowa, Municipal Airport utilizing the Storm Lake NDB is being revised by realigning the final approach bearing which will improve the present procedure. This revised approach procedure entails alteration of the transition area at Storm Lake, Iowa, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the revised approach procedures under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

**List of Subjects in 14 CFR Part 71**

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, the Federal Aviation

Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), by altering the following transition area:

**Storm Lake, Iowa**

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Storm Lake, Iowa, Municipal Airport (Latitude 42°36'00"N, Longitude 95°15'00"W) and within three (3) miles each side of the 185° bearing from the Storm Lake NDB (Latitude 42°36'00"N, Longitude 95°14'30"W) extending from the 6.5-mile radius area to 8.5 miles south of the airport. (Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

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

Issued in Kansas City, Missouri, on November 1, 1983.

Murray E. Smith,  
Director, Central Region.

[FR Doc. 83-30916 Filed 11-16-83; 8:45 am]  
BILLING CODE 4910-13-M

**14 CFR Part 71**

[Airspace Docket No. 83-ACE-17]

**Alteration of Transition Area; Iowa City, Iowa**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Withdrawal of notice of proposed rulemaking.

**SUMMARY:** This notice withdraws the proposal to amend the Iowa City, Iowa, transition area. The amendment was proposed so as to permit an additional instrument approach procedure for the Iowa City Municipal Airport, Iowa City, Iowa, utilizing a Nondirectional Radio Beacon (NDB) installed on the airport as a navigational aid. However, after circularization of the proposed alterations, it has been determined that the existing transition area is of sufficient size to encompass planned

and revised procedures without any adverse effect on safety.

**DATE:** The withdrawal is effective December 17, 1983.

**FOR FURTHER INFORMATION CONTACT:**

Dwaine Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, Notice of Proposed Rulemaking, Docket No. 83-ACE-17 (48 FR 42829, September 20, 1983) is hereby withdrawn effective December 17, 1983.

**List of Subjects in 14 CFR Part 71**

Aviation Safety, Transition areas.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and § 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Issued in Kansas City, Missouri, on November 1, 1983.

Murray E. Smith,  
Director, Central Region.

[FR Doc. 83-30915 Filed 11-16-83; 8:45 am]  
BILLING CODE 4910-13-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration****21 CFR Parts 182 and 184**

[Docket No. 81N-0369]

**Hydrogen Peroxide; Proposed Affirmation of Gas Status as a Direct Human Food Ingredient With Specific Limitations**

**AGENCY:** Food and Drug Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) is proposing to affirm that hydrogen peroxide is generally recognized as safe (GRAS), with specific limitations, as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

**DATE:** Comments by January 16, 1984.

**ADDRESS:** Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.



**FOR FURTHER INFORMATION CONTACT:**

Leo F. Mansor, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-426-8950.

**SUPPLEMENTARY INFORMATION:** FDA is conducting a comprehensive safety review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposed regulations (see the *Federal Register* of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of hydrogen peroxide has been evaluated in accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of this ingredient with specific limitations.

Hydrogen peroxide ( $H_2O_2$ ) is a strong oxidizing agent that is used extensively in industry and medicine. It is made by the electrolytic oxidation of sulfuric acid or of a sulfate to persulfuric acid or to a persulfuric acid salt, with the subsequent hydrolysis and distillation of the hydrogen peroxide formed; by decomposition of barium peroxide with sulfuric or phosphoric acid; by hydrogen reduction of 2-ethylanthroquinone followed by oxidation with air to regenerate the quinone and to produce hydrogen peroxide; or by electrical discharge through a mixture of hydrogen, oxygen, and water vapor. Hydrogen peroxide is normally produced biologically during aerobic metabolism as a result of oxidase-catalyzed reactions; however, the hydrogen peroxide formed is rapidly decomposed by tissue catalase or peroxidase.

Hydrogen peroxide is usually available as an aqueous solution in concentrations of 3, 30, or 90 percent by weight. The 3-percent solution is used as a topical antiseptic and cleaning agent and as an ingredient in mouthwashes, dentifrices, and sanitary lotions. The 30-percent solution is used as an effective bleaching agent and for other industrial uses. The 90-percent solution is used as a vigorous oxidizer of rocket fuels.

Hydrogen peroxide was listed as GRAS for use as a bleaching agent under the category of "Miscellaneous and/or General Purpose Food Additives" in a regulation published in the *Federal Register* of January 31, 1961 (26 FR 938). This regulation was recodified in the *Federal Register* of March 15, 1977 (42 FR 14640). Currently, hydrogen peroxide is listed as GRAS in § 182.1366 (21 CFR 182.1366) as a multiple purpose GRAS food substance with the limitation that it is used as a bleaching agent in food. Hydrogen peroxide was listed as GRAS as a

component of cotton and cotton fabrics used in dry food packaging in a regulation published in the *Federal Register* of June 10, 1961 (26 FR 5224). It is currently listed in § 182.70 (21 CFR 182.70) for this purpose. FDA has affirmed as GRAS in § 184.1366 (21 CFR 184.1366) the use of hydrogen peroxide as an antimicrobial agent in the preparation of modified whey by electrodialysis and in the preparation of certain cheeses (46 FR 44434; September 4, 1981). The regulation requires the use of a catalase preparation to remove any peroxide residues.

An FDA advisory opinion letter issued February 17, 1960, states that the use of hydrogen peroxide in the bleaching of lecithin is GRAS. Another opinion letter, which was issued by FDA on February 28, 1962, states that the use of hydrogen peroxide in the bleaching of herring is GRAS. An FDA advisory opinion letter issued March 20, 1980, states that the agency considers hydrogen peroxide, in the form of sodium carbonate peroxide, to be GRAS for use in the process for washing and bleaching beef feet. Under all the above opinions, no residues of unreacted hydrogen peroxide are permitted in the final products.

The U.S. Department of Agriculture (USDA) sanctioned the use of hydrogen peroxide in the bleaching of tripe before the passage in 1958 of the Food Additives Amendment to the Federal Food, Drug, and Cosmetic Act (the act). This use is also permitted under a USDA regulation (9 CFR 318.7). The Bureau of Alcohol, Tobacco and Firearms (BATF) permits the use of hydrogen peroxide in the treatment of wine to reduce aldehydes in distilling materials and to facilitate secondary fermentation in the production of sparkling wines (27 CFR 240.1051).

Hydrogen peroxide is listed in the standards of identity for concurrent use with glucose oxidase-catalase enzyme preparations to remove glucose from dried eggs, dried egg whites, and dried egg yolks (21 CFR 180.105, 180.145, and 180.185). Hydrogen peroxide is also listed in the standard of identity for cheddar cheese (21 CFR 133.113) as an optional ingredient for use in controlling microbial growth in milk stored in the holding tank before cheesemaking. The standard requires the subsequent use of a catalase preparation to remove any hydrogen peroxide residues.

Hydrogen peroxide is also regulated in 21 CFR 172.814 as an ingredient used in the preparation of hydroxylated lecithin and in 21 CFR 172.892 as an ingredient used in the bleaching of starch. In addition, hydrogen peroxide is regulated in 21 CFR 175.105 for use in

adhesives intended for use in the packaging, transporting, and holding of food and in 21 CFR 178.1005 for use as a sterilizing agent for polyethylene used in contact with food.

The National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which hydrogen peroxide was used and the level of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to this ingredient. The 1971 NAS/NRC survey reported the use of hydrogen peroxide as a processing aid in baked goods, grain products, fats and oils, meat products, reconstituted vegetables, and instant coffee and tea and as a preservative in grain products. This survey reported zero residues in these foods after treatment. FDA estimates from a subsequent NAS/NRC survey that in 1975, approximately 2,300,000 pounds of hydrogen peroxide were used in food.

Hydrogen peroxide has been the subject of a search of the scientific literature from 1920 to 1974. The criteria used in the search were chosen to discover any articles that considered: (1) Chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 1,469 abstracts on hydrogen peroxide was reviewed, and 37 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review was updated to 1979 and reveals the following information, as summarized in the report of the Select Committee on GRAS Substances (the Select Committee), chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB):

Hydrogen peroxide in the absence of a stabilizing agent gradually decomposes to oxygen and water. Decomposition is rapid in the presence of catalase. Ingested hydrogen peroxide presumably undergoes such degradation in the gastrointestinal tract, leaving little of the intact compound available for absorption. Perfusion of dog intestine with dilute hydrogen peroxide raised significantly the oxygen saturation of blood. No attempt was made to



determine if the peroxide breakdown occurred before or after absorption.

The rapid release of oxygen into the tissues and vascular network can readily be observed after administering hydrogen peroxide by various routes. The characteristic whitening of the skin after topical application has been attributed to an avascularity produced by oxygen bubbles acting as microemboli in the tissues and capillaries. Hauschild *et al.* have demonstrated this reaction in a variety of tissues including human skin, cat and dog tongues, rat paws, and animal hearts (species not stated). When 3 or 30 percent hydrogen peroxide was applied sublingually in rabbits, cats, and dogs, gas bubbles rapidly appeared in the jugular vein. With the higher concentration, these bubbles were observed within a few seconds and in sufficient quantity to cause pulmonary gas embolisms. Using  $^{18}\text{O}$ -labeled hydrogen peroxide, Ludwig confirmed its rapid absorption after sublingual administration and the passage of liberated oxygen to the lungs. Approximately 7 percent of the oxygen theoretically available from the administered hydrogen peroxide was detected in the expired air within 18 minutes and 30 percent within 34 minutes. Traces of the labeled oxygen were also detectable in the arterial blood.

Hydrogen peroxide is a normal product of aerobic metabolism and may result from a number of oxidase-catalyzed reactions (e.g., d-amino acid oxidase, urate oxidase, glycolate oxidase) or by the breakdown of superoxide by superoxide dismutase. The hydrogen peroxide thus formed is rapidly decomposed by the tissue catalase or peroxidase. Enzymes metabolizing hydrogen peroxide are localized largely in specialized vesicles or organelles, known as peroxisomes. The peroxisomes comprise about 2 percent of the liver volume, and are especially rich in catalase, which efficiently and rapidly decomposes endogenous hydrogen peroxide. Sies calculated that 1 g of rat liver produces approximately 50nM (1.7  $\mu\text{g}$ ) of hydrogen peroxide per minute. Boveris *et al.* arrived at a higher figure for the normal production of hydrogen peroxide under physiological conditions: 90nM (3.1  $\mu\text{g}$ ) per min per g wet weight of liver. Extrapolating to man, this would be roughly equivalent to the production of 150 to 270 mg hydrogen peroxide per hour by the human liver under normal conditions and even larger amounts under the stimulus of appropriate substrates. Breakdown by catalase is so

efficient, however, that the steady-state concentration in the liver is  $10^{-9}$  molar (30 ng per kg). Even with maximal stimulation of hydrogen peroxide production, the concentration increases only to  $10^{-7}$  molar (3  $\mu\text{g}$  per kg).

Despite its rapid destruction, hydrogen peroxide may have an important role in certain localized metabolic reactions. For example, it has been shown to exert an insulin-like effect in fat, and perhaps in other tissues. When rat adipocytes were incubated with hydrogen peroxide in the presence of glucose, glycogen synthase I was activated, which stimulated the incorporation of glucose into glycogen. It has been suggested also, that hydrogen peroxide may be involved in the body's defense against bacterial infection. When microorganisms are phagocytized, hydrogen peroxide or activated forms of oxygen are generated, which may account at least in part for the bactericidal effectiveness of the phagocytic cells.

No reports were available to the Select Committee on the acute toxicity in animals of orally administered hydrogen peroxide. Several cases of accidental poisoning in man have been described including the death by respiratory failure of a 1-year-old infant within 1 hour after ingesting an unknown quantity of concentrated hydrogen peroxide solution. Five nonfatal poisonings were reported of persons who had consumed 25 to 100 ml of 30 percent hydrogen peroxide. The victims experienced sharp pains in the abdomen and behind the sternum, foaming from the mouth, vomiting, fleeting loss of consciousness, transitory motor and sensory impairment, rise in temperature, microhemorrhaging in the skin and conjunctiva, and a moderate leukocytosis. One patient, who had swallowed 100 ml of the hydrogen peroxide solution, displayed for several days marked visual and neurological symptoms which the authors attributed to oxygen microembolisms.

Aoki and Tani referred without elaboration to a "mass poisoning in Japan" caused by hydrogen peroxide treated noodles. The authors did not specifically incriminate the residual peroxide, but pointed out that approximately 20 percent of commercial products tested contained hydrogen peroxide in excess of the Japanese permissible limits of 100 ppm.

Acute toxicity data on animals are available only for percutaneous and intravenous administration (Table I). Death generally has been attributed to embolic phenomena resulting from liberated oxygen. As is evident from

Table I, there is a marked species difference in the susceptibility to percutaneous application. There is also an inverse relationship between the concentration of hydrogen peroxide injected intravenously and its toxicity. Hrubetz *et al.* explained this paradox by pointing out that intravascular oxygen bubbles appear at the site of injection and mechanically hinder further access of hydrogen peroxide to the general circulation. The more concentrated the solution, the more marked is this effect and the less peroxide actually reaches the systemic circulation.

TABLE I.—LD<sub>50</sub> of Hydrogen Peroxide

| Animal      | Route        | Concentration (percent) | mg/kg   |
|-------------|--------------|-------------------------|---------|
| Rabbit      | Percutaneous | 90                      | 630     |
| Pig         | do           | 90                      | 2,500   |
| Cat         | do           | 90                      | > 4,000 |
| Rat (white) | do           | 90                      | 4,800   |
| Rat (black) | do           | 90                      | > 7,500 |
| Rat (white) | do           | ( <sup>1</sup> )        | 700     |
| Rabbit      | IV           | 90                      | 19      |
| do          | do           | 58.6                    | 16      |
| do          | do           | 36.0                    | 10      |
| do          | do           | 14.4                    | 5       |
| do          | do           | 3.6                     | 3       |
| Rat         | IV           | ( <sup>1</sup> )        | 21      |

<sup>1</sup> Not stated.

Intraperitoneal injection of hydrogen peroxide (from 0.5 ml of 5 percent to 1.0 ml of 10 percent) into adult mice had a radiation-like effect. It produced pyknotic nuclei in the intestine and thymus within 2 hours which, with the strongest dose, persisted for up to 24 hours. Toxic signs were produced in horses, rabbits, and dogs by intravenous injection of relatively dilute hydrogen peroxide (1 to 2 ml of 0.4 to 3 percent solutions per kg). Shortness of breath was evident in all species after injection. The rabbits, in addition, responded with a characteristic backward tossing of the head while the horses and dogs displayed increased peristalsis and repeated defecation. Rabbits and cats dying after intravenously administered hydrogen peroxide or oxygen had pale, emphysematous lungs with considerable amounts of gas in the great veins and in the right side of the heart.

Aerosols of hydrogen peroxide containing 3 to 5 mg per liter produced pulmonary irritation and congestion in mice within 5 minutes. Exposure to higher concentrations (10 to 40 mg per l) for 15 minutes caused death of a high percentage of mice, usually within an hour, apparently from pulmonary edema.

Three-week-old dd mice drinking 0.15 percent hydrogen peroxide *ad libitum* (about 150 mg per kg per day) grew normally and developed no visible



abnormalities during a 35-week test period. Upon necropsy, degenerative changes were observed in the liver and kidney. The stomach wall was slightly necrotic, inflamed, and irregular and the lymphatic tissue of the small intestinal wall was hypertrophic. Solutions in excess of 1 percent (more than 1 g per kg per day) caused pronounced weight loss and death of the mice within 2 weeks.

Romanowski *et al.* replaced the drinking water of rats with solutions of 0.25 to 10 percent hydrogen peroxide. All animals receiving 2.5 percent solutions or higher died within 43 days. Nine of ten rats fed the 0.25 percent solution and eight of ten fed the 0.50 percent survived the test period of 146 days, although the weight gain of each group was less than that of the controls. The daily hydrogen peroxide intakes for these two groups were approximately 250 and 500 mg per kg, respectively.

A group of weanling male Osborne-Mendel rats given a solution of 0.45 percent hydrogen peroxide to drink *ad libitum* for 3 weeks was compared with a similar group receiving tap water. Both fluid intake and weight gain of the peroxide group were significantly less than those of the controls. However, when fluid intake of the control rats was limited to that of the experimental animals, there were no significant differences in body or organ weights. The daily consumption of hydrogen peroxide during the test period was approximately 500 mg per kg body weight. Three weanling female rats were given 0.45 percent hydrogen peroxide for 5 months, then switched to tap water and mated with normal males. Normal litters were produced. Male rats from these litters were then given 0.45 percent hydrogen peroxide for 9 months. The only noticeable difference between these rats and male littermates receiving tap water was a decreased weight gain in the peroxide group.

In a similar experiment, young, male Holtzman rats were provided with solutions of 0, 0.5, 1.0, and 1.5 percent hydrogen peroxide (approximately 0, 500, 1000 and 1500 mg per kg per day) as their source of drinking fluid for 8 weeks. Growth was significantly retarded in all groups receiving hydrogen peroxide and the degree of retardation was proportional to the peroxide concentration. Seven of 24 rats receiving 1.5 percent hydrogen peroxide died during the course of the experiment. All surviving animals in this group and 15 of 24 rats receiving 1 percent had extensive carious lesions and pathological changes in the periodontium. Seven of 24 rats on the 0.5

percent solution also had mild caries, but no periodontal changes.

In none of the experiments described above was any mention made of the use of stabilizers or of other measures to prevent the decomposition of hydrogen peroxide in drinking water.

Kawasaki *et al.* reported no adverse effects in male Wistar rats receiving up to 30 mg hydrogen peroxide per kg per day by gastric intubation. Rats given twice this dose showed significantly decreased growth rates after 20 days and decreased hematocrit, plasma protein, and plasma catalase activities after 100 days. When the same amount of hydrogen peroxide was administered in the feed, no harmful effects could be detected.

Young mice were injected subcutaneously twice daily for 2 weeks with 0.1 ml of 1.5 percent hydrogen peroxide, roughly equivalent to 100 mg per kg body weight per injection. Several animals showed brief embolic signs immediately after the injection and 5 of 30 mice died with embolic signs during the experimental period. A few mice exhibited brief generalized convulsions. Local subcutaneous emphysema was invariably present after injection and small ulcers eventually developed at the injection sites in about 25 percent of the animals.

Rats have proved to be highly resistant to hydrogen peroxide vapor. Only 1 of 10 rats died after exposure to 93 mg per m<sup>3</sup> (87 ppm) for 6 hours daily, 5 days per week for 6 weeks, whereas more than half of the mice under approximately the same conditions died within 2 weeks. However, this greater sensitivity of the mouse to inhaled hydrogen peroxide may be more apparent than real. Because of its small size and rapid respiration, the mouse would inhale more hydrogen peroxide per unit time and weight than the rat. Dogs and rabbits exposed to 7 and 22 ppm hydrogen peroxide on a similar schedule for 6 and 3 months, respectively, showed only minor respiratory damage.

Molnar injected female mice subcutaneously with 0.5 ml of 0.01 percent hydrogen peroxide (about 2.5 mg per kg body weight) two or three times weekly from the age of 6 weeks to 14 months for a total of 95 injections. The average life-span decreased from 595 days in mice receiving similar injections of physiological saline to 446 days among those receiving the hydrogen peroxide. A weight loss in the peroxide-treated group was noted after about 6 months.

As noted above, female rats receiving 0.45 percent hydrogen peroxide (about

500 mg per kg per day) as the sole drinking fluid for 5 weeks produced normal litters when mated with normal males. Because hydrogen peroxide is reportedly toxic to spermatozoa *in vitro*, the effect of its oral administration on fertility is of interest. Three-month-old male albino mice were given 0.33 and 1.0 percent hydrogen peroxide (about 330 and 1000 mg per kg per day) as their sole drinking fluid for 7 to 28 days before placing them with normal females. All females became pregnant within a few days and in each case, healthy offspring were born in litters of normal size.

The recognition of the radiomimetic and mutagenic properties of hydrogen peroxide, as well as its detection in tumors, prompted the direct testing of this compound for carcinogenic or cocarcinogenic activity. Schmidt gave groups of newborn mice consisting of strains AB, C57BL, C57BL/6, A/JAX and X a single subcutaneous injection of 0.1 ml of 0.6 percent hydrogen peroxide (about 300 mg per kg) and another group (strain AB) three such injections. The intervals between injections were not stated. Only about 10 percent of the mice survived for 6 months. Six of 30 survivors (20 percent) in the single injection groups developed tumors (3 leukemias, 3 breast cancers, 1 lymphosarcoma of the thymus). In the triply injected group, 14 of 42 (33 percent) were affected (6 breast cancers, 3 lung adenomas, 4 leukemias, 1 ovarian tumor, 1 hemangiosarcoma of the liver). No tumors arose at the sites of injection. Although no statistical analysis was reported, Schmidt claimed the incidence of tumors among the injected mice was significantly higher than that normally observed in his colony (2 to 5 percent).

Shamberger reported no cocarcinogenic action by hydrogen peroxide in mouse skin initiated with 7,12 dimethylbenz(a)-anthracene (DMBA). He applied 0.25 ml of 3 percent hydrogen peroxide in acetone daily for 40 weeks to the skin of 30 ICR Swiss female mice previously treated with DMBA. No tumors were present after 40 weeks. These findings were confirmed by Bock *et al.* who painted the dorsal skins of 33 female ICR Swiss mice with DMBA followed by treatment five times weekly for 56 weeks with 3 percent hydrogen peroxide. No skin tumors were produced. Nagata and colleagues found that injections of hydrogen peroxide in female ddN mice significantly reduced the incidence and delayed the appearance of benzo(a)pyrene-induced tumors, suggesting a possible antitumor effect.

Since hydrogen peroxide is a radiolytic product of ionizing radiation,



its possible role in radiation-induced mutagenesis has been studied extensively. Its effects on isolated DNA, microbial cells, and tumor cells have been explored in numerous reports. Hydrogen peroxide has been shown to be mutagenic to various microorganisms and to mouse ascites tumors. DNA degradation, cell damage, and increase in mutants were reported under the specific conditions of the experiments, usually involving the addition of hydrogen peroxide to the media. Although there is a similarity of effect between radiation and hydrogen peroxide, the concentration of hydrogen peroxide produced by radiation must be increased tenfold to achieve the same effects resulting from exogenously-added hydrogen peroxide. Treatment of DNA solutions or bacterial cells with hydrogen peroxide or with X-rays has caused DNA strand breakage. Both treatments generated hydroxyl radicals, which are thought to be the active agents.

Inactivation and mutation leading to respiratory deficiency were induced in yeast cells by hydrogen peroxide. This effect was probably due to selection of preexisting mutants in log phase populations, although a small increase in forward mutations of nuclear genes also was reported.

Schoneich studied the chromatid aberrations in several lines of mouse ascites tumors after hydrogen peroxide injection. The S2 sarcoma, Erlich ascites carcinoma, and sarcoma 180 were grown in the inbred mouse strain ABJena Gat. One ml of 0.1 M hydrogen peroxide (about 170 mg per kg) was injected intraperitoneally 48 hours after implantation of the tumor. Less than 1 percent of the cells of untreated tumors contained spontaneous chromatid aberrations whereas 4 to 44.7 percent of the examined tumor cells in the hydrogen peroxide treated animals showed chromosomal changes. The frequency of aberrations varied considerably from animal to animal, but there was a consistent increase with increasing hydrogen peroxide concentrations.

In evaluating the health aspects of hydrogen peroxide, one must consider not only its intrinsic toxicity, but also any secondary deleterious effects which may result from its addition to foods; e.g., the possible destruction of essential nutrients or the production of toxic substances.

As indicated earlier, hydrogen peroxide is authorized as a bactericidal agent in the manufacture of certain cheeses [21 CFR 133.113 et seq.] Clarified raw milk is treated with hydrogen peroxide equivalent to 0.02 to

0.05 percent by weight of the milk, heated to 52° C for 25 seconds and cooled to setting temperature (30° to 34.5° C). Residual hydrogen peroxide is destroyed by the addition of a small amount of catalase. Hydrogen peroxide has a selective action on bacteria in milk, destroying most of the facultative anaerobic types that are associated with common defects in cheese, while the desirable aerobic acid-forming species are more resistant to the peroxide treatment. This treatment produces a higher quality cheese than would result with pasteurized milk. Inasmuch as this process is not equivalent to pasteurization, cheese thus prepared must be held for 60 days before sale, just as if raw milk had been used.

Jasewicz and Porges found that a concentration of 0.02 percent hydrogen peroxide exerted a preservative effect on freshly obtained cheese whey for as long as 10 days. With grossly contaminated whey ( $2.8 \times 10^7$  microorganisms per ml) this concentration of hydrogen peroxide effected 97 percent destruction within 1 hour and 99 percent after 24 hours.

The nutritional quality and wholesomeness of the peroxide-treated milk have been studied by various investigators. In a commercial fractionation of whey, a concentration of 0.02 to 0.04 percent hydrogen peroxide is employed to control bacterial growth. Demineralization is achieved by electro dialysis and normally requires 8 to 12 hours at 30° to 38° C. An additional 22 hours are required for lactose crystallization at 50° to 70° C. Any residual hydrogen peroxide is removed by catalase treatment upon completion of the fractionation and prior to spray drying.

Tepley *et al.* added hydrogen peroxide to milk at 49° C in amounts sufficient to produce levels of 0.1, 0.2, or 0.5 percent. The milk was held at this temperature for 10 minutes and then cooled to 32° C. Any remaining peroxide was destroyed by the addition of catalase. The amount of added hydrogen peroxide was 2 to 25 times that normally employed in the manufacture of cheese of the processing of whey. There was no significant effect in milk or whey on levels of thiamin, riboflavin, niacin, pyridoxine, pantothenic acid, folic acid, vitamin B<sub>12</sub>, vitamin A, or  $\beta$ -carotene. Ascorbic acid was not determined. Treatment of milk with the highest concentration of hydrogen peroxide (0.5 percent) employed lowered the cystine and methionine content of the corresponding cheese by 10 to 25 percent although this effect was not noted in the milk and whey samples. The amounts of tryptophan and lysine were not affected

by any of the treatments. Little, if any, reduction in protein efficiency ratios was noted when treated milk, whey, or cheese was fed for 6 weeks to weanling Sprague-Dawley rats as the sole source of protein in an otherwise complete ration. All animals remained in good health and no abnormalities were detected at necropsy. These findings were essentially confirmed by Gregory *et al.* who treated milk for a much longer period (8 hours) but at a lower temperature (24° C) and hydrogen peroxide concentration (0.05 percent). No vitamin destruction was detected but the nutritive value of the milk proteins was slightly reduced, probably resulting from a slight reduction in the methionine content. Luck and Schillinger treated milk with 0.3 percent hydrogen peroxide for 24 hours at 30° C or for 30 minutes at 51° C with no effect on the fat-soluble vitamins A, D<sub>2</sub>, and  $\beta$ -carotene or on the water-soluble vitamins thiamin, riboflavin, and pyridoxine. Ascorbic acid, however, was almost completely destroyed by this treatment.

Methionine appears to be the only essential amino acid sensitive to hydrogen peroxide treatment. As suggested above, concentrations considerably greater than those employed in cheese making or whey processing are necessary for significant destruction. Thus, no reduction of methionine content in fish protein concentrates was noted upon treatment at 50° C for 20 minutes with 1.25 percent hydrogen peroxide and only a slight reduction (8 percent) after treatment with 5 percent hydrogen peroxide. To ensure the complete oxidation of methionine in casein, Slump and Schreuder heated each kg of the protein with approximately 750 ml of 30 percent hydrogen peroxide (about 200 g) at 30° C for 2 hours. Under these conditions about 75 percent of the methionine in casein was oxidized to methionine sulfoxide, a nutritionally available derivative, and the remaining 25 percent to methionine sulfone, which has no nutritional value.

Milk exposed to high concentrations of hydrogen peroxide or to lengthy treatment produces cheese with a relatively high moisture content and a soft body. These textural changes are presumably manifestations of milk protein alterations. Fox and Kosikowski detected changes in the casein induced by hydrogen peroxide treatment. Sufficient 33 percent hydrogen peroxide was added to a casein solution to give a final concentration of 1 percent. The solution was heated to 85° C and the excess hydrogen peroxide destroyed with catalase. The treated casein was



more susceptible to proteolysis, especially by rennin, and formed a more soluble calcium caseinate than the protein from untreated milk. Other changes in milk and whey proteins have also been reported. Grindrod and Nickerson treated individual proteins for 30 minutes at 49.9°C or 20 minutes at 26°C with 1 percent hydrogen peroxide. The electrophoretic mobilities of  $\alpha$ -casein and of bovine serum albumin were increased while those of  $\alpha_2$ -casein and  $\beta$ -lactoglobulin were decreased. Treatment of skim milk with 1.0 percent hydrogen peroxide at 49.9°C for 2 hours reduced the whey protein nitrogen from 115 to 100.9 mg per 100 ml, with a corresponding increase in the non-protein nitrogen. Cooney and Morr reported that minimal whey protein denaturation and aggregation occurred at room temperatures with 0.5 percent hydrogen peroxide but that extensive whey protein alteration resulted when higher temperatures (55°C) and peroxide concentrations (1 to 2 percent) were used.

Giolitti reported no change in the lactose and butterfat content of milk treated with 400 mg hydrogen peroxide per liter.

In exploring possible adverse consequences of treating foods with hydrogen peroxide, the Select Committee also considered the possible formation of toxic oxidation products. As an oxidizing agent, hydrogen peroxide theoretically can form a number of reaction products with food constituents, whose nature and significance are largely speculative. Of special interest are the unsaturated fatty acids and the sterols that may be present in the treated foods. Both groups of compounds are vulnerable to oxidation and may yield products with putative carcinogenic or other toxic properties.

A number of vegetable oils and animal fats, oxidized by aeration, have proved toxic when fed to rats, with a rough correlation between toxicity and the extent of oxidation. Since oleic and linoleic acids are the most prevalent unsaturated acids in edible fats and oils, most studies have focused on their oxidation products in search for the toxic principles. Both peroxides and epoxides of these acids have been investigated. Holman and Greenberg reported LD<sub>50</sub> values of 6 and 12 mg per mouse after intraperitoneal injection of the peroxides of methyl oleate and ethyl linoleate, respectively (about 300 and 600 mg per kg body weight). Given by mouth, however, as much as 200 mg of either compound (10 g per kg) failed to kill a single mouse during a 48 hour

observation period. Similarly, no deaths resulted among rats fed a daily dose of 75 mg of either peroxide (about 300 mg per kg) for 6 weeks. A single intragastric administration of about 1300 mg per kg methyl linoleate hydroperoxide in rats produced no toxic signs beyond a slight loss in weight. The rats died when approximately 5 g per kg of the hydroperoxide were given by stomach tube.

Approximately 80 percent of the fatty acids in soybean lecithin is unsaturated, the bulk coming from linoleic acid. This lecithin is commonly treated with hydrogen peroxide to produce bleached preparations widely used commercially. The so-called "bleached lecithin," "double bleached lecithin," and "hydroxylated lecithin" all employ hydrogen peroxide in their preparation. The "double bleached" and "hydroxylated" lecithins utilize benzoyl peroxide as an additional bleaching agent. For preparation of hydrogen peroxide bleached lecithin, 0.05 to 2.0 percent of 35 percent hydrogen peroxide is added to a lecithin emulsion (20 to 50 percent water) at 60° to 93°C and the moisture removed by heating under reduced pressure. Typically, 1.2 percent of 35 percent hydrogen peroxide is added, based on lecithin dry weight. Bleached lecithins have peroxide values ranging from 30 to 90 meq per kg (1.0 to 3.0 g per kg). The estimated intake of lecithins modified by hydrogen peroxide (based on poundage data) is 4 mg daily or a daily intake from this source of less than 0.1 mg peroxide. Hydroxylated lecithin with peroxide values of 52 meq per kg was fed to weanling Sprague-Dawley rats at levels of 5 and 10 percent of their diet. The 10 percent group received about 17.0 mg peroxide per kg body weight daily and was maintained on this diet for 8 weeks. The rats on the 5 percent levels (8.5 mg per kg) were kept for 52 weeks. Weight gains were normal for both groups and no abnormalities were detected in the vital tissues. Verrett found no increase in teratogenic effects in the developing chick embryo when 10 to 200 mg per kg egg weight of double bleached lecithin were administered in the air cell at 0 and 96 hours or via the yolk at the same time intervals.

The effect of feeding epoxidized oil was investigated by Kieckebusch *et al.* Soybean oil was epoxidized with hydrogen peroxide and fed to rats at various levels. The toxicity of the treated oil increased with increasing epoxidation, presumably due to the action of diepoxystearic acid produced from linoleic acid, which comprises the bulk of the unsaturated fatty acids in

soybeans oil. Male rats receiving the equivalent of about 250 mg per kg diepoxystearic acid daily for 8 weeks gained 8 percent less than the control animals. When this amount was tripled (750 mg diepoxystearic acid per kg daily) 80 percent of the rats died within 8 days. The investigators estimated a tolerance level for diepoxystearic acid of 380 mg per kg per day. The greatest changes in the rats receiving the larger dose were a marked increase in water consumption per unit body weight, and testicular atrophy. The investigators speculated that the observed signs might be manifestations, at least in part, of an essential fatty acid deficiency rather than direct epoxide toxicity.

Epoxy acids are natural constituents of some seed oils, including 9:10 epoxystearic acid, cis 12:13 epoxyoleic acid, and cis 9:10 epoxy octadec-12-enoic acid, and cis 15:16 epoxylinoleic acid. Thus, the monoepoxides of oleic, linoleic, and linoleic acids are all natural constituents of seed oils. Smith *et al.* speculated that epoxy acids may be widely distributed in the plant kingdom, derived biogenetically through the action of specific epoxidases. The most abundant natural source of epoxy acids appears to be *Vernonia anthelmintica*, whose oil contains about 69 percent of 12:13 epoxyoleic acid. Chalvardjian and coworkers fed male, weanling Sprague-Dawley rats a diet containing 10 percent of the *Vernonia* oil, representing an estimated epoxy acid consumption of approximately 7 g per kg body weight per day. The growth curves of these rats were not significantly different from those of control rats receiving olive oil. The animals were killed after 28 days and the tissues examined. No gross or histological damage was detected.

The epoxides of some of the fatty acids have been tested for carcinogenicity. Van Duuren reported 9:10 epoxystearic acid (from oleic acid) and 9:10, 12:13 diepoxystearic acid (from linoleic acid) to be noncarcinogenic when applied on the skin of mice. The former compound was also shown noncarcinogenic after subcutaneous injection in the mouse and rat. Swern *et al.*, however, reported the production of six sarcomas at the injection sites of 70 mice (BALB/C and Swiss) receiving epoxystearic acid subcutaneously. They considered the compound to be "marginally active" as a carcinogen. No reports are available on the carcinogenicity of those epoxides that might conceivably be produced from the small amounts of other unsaturated fatty acids in the diet (palmitoleic, linolenic, arachidonic).



Van Duuren *et al.* points out that even these epoxides found to be carcinogenic are effective only at large doses, and that none has induced gastric tumors when given by mouth or gavage. Seelkopf and Salfelder fed epoxy- and diepoxystearic acid to Holtzman rats and to C57BL/6 mice for 3 to 5 months at daily dose levels varying from about 50 to 150 mg per kg body weight. None of the 45 rats or 41 mice on the monoepoxide diet which survived the test period developed gastric tumors, nor did any of the 31 mice surviving the diepoxystearic acid regimen. One rat (of 46) receiving diepoxystearic acid developed a gastric carcinoma and one of 29 control mice had an early "pregastric" carcinoma.

Van Duuren *et al.* attributed the relative tolerance of animals to orally administered epoxides to their rapid degradation *in vivo*, especially in the stomach where acid-catalyzed hydrolysis would be expected. The extent of such epoxide hydrolysis in the stomach is unknown, but the study by Chalvardjian *et al.* indicates that complete destruction is unlikely when large amounts are fed. These investigators detected epoxyoleic acid in the tissues and feces of rats fed *Vernonia* oil. No quantitative analyses were performed, but some of the epoxy acid from the oil obviously survived contact with the hydrochloric acid of the stomach. Little is known of the action of the intestinal contents upon the epoxide fraction surviving hydrolysis in the stomach. Ivie recently reported that epoxides are reduced to their corresponding olefins in ruminal fluids and suggested that such bacterial action in the intestine may represent a significant detoxifying mechanism in mammals. Once absorbed, epoxides are subject to enzymatic action in the liver with conversion to their vicinal glycols.

Lipid peroxides are also poorly absorbed from the intestinal tract. Andrews *et al.* and Glavind and Tryding failed to detect peroxides in the lymph of rats after feeding lipoperoxides and only very small amounts could be recovered in the feces. Since pancreatic juice, bile, and lymph had little effect on the peroxides, the latter investigators suggested that the essential site of peroxide destruction was the intestinal mucosa.

In addition to acting upon unsaturated fatty acids, hydrogen peroxide might be expected also to form oxidation products with sterols. The structure, concentration, and significance of such oxidation products remain largely unknown because of the complexity of the resulting mixture. In a recent

symposium, it was stated that about 50 oxidation products of cholesterol had been identified, but an additional 50 compounds were possible theoretically. Claims that the oxidized derivatives of cholesterol are carcinogenic have focused chiefly on 5,6  $\alpha$ -epoxy-5-cholesten-3  $\beta$ -ol(cholesterol- $\alpha$ -oxide) as the putative agent. Bryson and Bischoff reported this compound to be carcinogenic in Evans rats and in Marsh mice following subcutaneous injection, but inactive upon intraperitoneal injection. Seelkopf and Salfelder, however, found no increase in tumor frequency above that of control groups among 45 Holtzman white rats of both sexes or in an equal number of C57BL/6 mice fed 50 to 150 mg per kg body weight of cholesterol-( $\alpha$ )-oxide daily for 3 months. Thirty-three rats and 27 mice survived the test period. Smith and Kulig obtained a yield of 0.2 percent of cholesterol-( $\alpha$ )-oxide upon treatment of cholesterol (1 mg per ml) for 8 hours at 50° C with 0.015 percent hydrogen peroxide. From the cholesterol content of milk (0.15 percent) about 0.3 mg cholesterol-( $\alpha$ )-oxide per liter of milk theoretically could be produced by this treatment.

Recent evidence has indicated that some oxidative products of cholesterol may also have angiotoxic or atherogenic effects. Preliminary experiments suggest that large amounts of the active products are necessary to induce these changes. A concentrate of products of cholesterol oxidation given by gavage to rabbits at levels of 250 mg per kg body weight increased the frequency of dead smooth muscle cells of the aorta.

The Subcommittee is not aware of any toxic substance produced by the treatment of carbohydrates with hydrogen peroxide. Hydrogen peroxide is known to oxidize simple aldehydes to the corresponding acids and is employed in wine production for this purpose. In the presence of ferrous salts it will oxidize aldoses and ketoses to their corresponding ozones and with high concentrations, it will degrade carbohydrates stepwise to products containing one less carbon atom.

Modification of protein structure by hydrogen peroxide treatment has been discussed in an earlier section. There is no evidence that the altered protein is toxic. Treatment of fish protein with 20 to 80 g hydrogen peroxide per kg dry weight at 50° C for 2 hours oxidized small amounts of methionine and cystine to methionine sulfoxide, methionine sulfone, and cysteine acid. Methionine sulfoxide was as effective nutritionally as methionine in rate feeding experiments. Methionine sulfone

and cysteine acid were ineffective nutritionally but had no apparent toxic effect.

Alarcon demonstrated that acrolein, a volatile toxic unsaturated aldehyde, can be produced by vigorous treatment of various amino acids and polyamines with hydrogen peroxide. The reaction was carried out at 100° C for 10 to 60 minutes with 20 mmoles hydrogen peroxide and 5 mmoles of amino acid. Less drastic treatment was not reported.<sup>1</sup>

Qualified scientists of the Select Committee have evaluated all the available safety information on hydrogen peroxide. In the Select Committee's opinion:

Hydrogen peroxide is GRAS when used as a bleaching agent in foods and in cotton and cotton fabrics for dry food packaging. It is considered GRAS by the Internal Revenue Service in the treatment of wines. It is used as an antimicrobial agent in cheese manufacturing under standards of identity and also in whey processing.

Consumer exposure data indicate only 8 mg per capita per day are used by food manufacturers and much of this would be destroyed or dissipated during processing. Toxic effects in animals by all routes studied occurred only at levels several orders of magnitude greater than man's possible exposure from food sources or packaging materials. There is no evidence that hydrogen peroxide is carcinogenic, teratogenic, or mutagenic at levels present in foods treated with hydrogen peroxide during processing.

Vigorous treatment of foods with hydrogen peroxide may cause some destruction of ascorbic acid, methionine, and cystine. Under the conditions normally employed, the Select Committee believes their loss to be nutritionally insignificant.

Various oxidation products of normal food constituents are formed by the action of hydrogen peroxide. It is possible that such products might include epoxides or peroxides of unsaturated fatty acids and sterols, some of which are suspected of being carcinogenic or atherogenic under specialized conditions. However, none of the oxidation products thus far tested has proven carcinogenic when given by mouth, even at levels many times greater than any reasonable intake in food. Angiotoxicity has been produced only with amounts of sterol oxidation products several orders of magnitude

<sup>1</sup> "Evaluation of the Health Aspects of Hydrogen Peroxide as a Food Ingredient," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1979, pp. 7-20.



greater than would be produced under conditions currently practiced. There is no evidence that such products are, in fact, produced under current conditions of hydrogen peroxide usage. Because of the vulnerability of epoxides and peroxides to gastrointestinal action, only a small fraction of the amount ingested would be absorbed and this in turn would be subjected to hydrolysis by liver enzymes.

Although there is no evidence that the present usage of hydrogen peroxide in foods poses a hazard to consumers, insufficient data are available to ensure a lack of hazard with all foods or when more rigorous treatments are employed, using higher concentrations, prolonged exposures, or elevated temperatures.<sup>2</sup>

The Select Committee concludes that no evidence in the available information on hydrogen peroxide demonstrates or suggest reasonable grounds to suspect a hazard to the public when it is used at levels that are now current and in the manner now practiced. However, the Select Committee also states that it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard. The Select Committee further concludes that there is no evidence in the available information on hydrogen peroxide that demonstrates or suggest reasonable grounds to suspect a hazard to the public when it is used in cotton and cotton fabrics for dry food packaging at levels that are now current or that might reasonably be expected in the future.<sup>3</sup>

FDA has undertaken its own evaluation of all available information on hydrogen peroxide, including information not available to the Select Committee, and concurs with the conclusion of the Select Committee. Based on the available safety data, the agency concludes that hydrogen peroxide should be affirmed as GRAS with specific limitations placed on its use.

Following receipt of the Select Committee's evaluation, opinion, and conclusion, FDA received a copy of a prepublication manuscript of an animal study by Ito, Watanabe, and Niato that suggest that hydrogen peroxide may cause cancer in the duodenum of mice. (An official of the Embassy of Japan in Washington, DC, provided FDA with the manuscript.) The Japanese study was a lifetime carcinogenicity study in which hydrogen peroxide in drinking water at 0.1 percent and 0.4 percent was

administered to C57B1/6J mice for 108 weeks.

In response to the study from Japan, FDA initiated a review of all available safety data on hydrogen peroxide, including the Japanese study and a subsequent clarification obtained from the Japanese authors. FDA concludes after this review that there is not sufficient evidence from the Japanese study and elsewhere to conclude that hydrogen peroxide is a duodenal carcinogen. The agency made the same determination in adopting the regulation that permits the use of hydrogen peroxide as a sterilizing agent for polyethylene used in contact with food (21 CFR 178.1005) and in adopting the regulation that affirms that the use of hydrogen peroxide in cheese and whey products in GRAS (45 FR 44434; September 4, 1981). The manuscripts of the Japanese study and the memorandum of FDA's Cancer Assessment Committee meetings on this matter are on public file (under Docket No. 78N-0369) and may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

Usually, the regulations FDA promulgates under § 184.1(b)(2) list, for each use, the technical effect, as defined in § 170.3(o) (21 CFR 170.3(o)), for the ingredient in food; the food category, as defined in § 170.3(n), in which the NAS/NRC survey reported that the ingredient is used; and the maximum level of use of the ingredient in that food category. However, there are several problems in applying this approach to this rulemaking.

First, the 1971 NAS/NRC survey reported that hydrogen peroxide is used in a number of broad food categories, whereas the approvals by FDA, USDA, and BATF refer to the use of this ingredient in specific foods (tripe and beef feet rather than meat products, whey rather than milk products, and herring rather than fish products). The Select Committee, in its report, did not cite the uses reported in the NAS/NRC survey. Instead, the Select Committee cited and evaluated the specific uses that have been approved by FDA, USDA, and BATF. The agency also has based its evaluation on these approved uses. The agency, therefore, has based its proposed regulations on these uses and thus is including in its regulation specific foods rather than broad food categories.

Second, many of the uses of hydrogen peroxide in food are not well described by the technical effects listed in § 170.3. According to the 1971 NAS/NRC survey, the primary technical effect of hydrogen

peroxide is as a "processing aid". Under § 170.3(o)(24), the term "processing aid" includes such uses as clarifying agent, clouding agent, catalyst, flocculant, filtering aid, and crystallization inhibitor. However, hydrogen peroxide is used primarily as a bleaching agent. None of the technical effects included in the 1971 NAS/NRC survey nor the ones listed in § 170.3(o) adequately describes a bleaching agent. The agency thus concludes that the term "processing aid" was meant to include a bleaching effect (the use listed in § 182.1366); however, "bleaching agent" was not specifically included among the uses of a processing aid during the 1971 NAS/NRC survey, and is not listed in § 170.3(o)(24). Therefore, the proposed regulation specifies "bleaching agent" as a technical effect rather than one listed in § 170.3(o).

The other technical effect of hydrogen peroxide reported in the NAS/NRC survey was as a preservative. This technical effect is appropriately described as an antimicrobial agent (§ 170.3(o)(2)). FDA has approved several antimicrobial uses of hydrogen peroxide, including its use in whey processing and in cheesemaking, and the agency is including this technical effect in the proposed regulation.

In addition, FDA has learned of a third technical effect of hydrogen peroxide, which also is described in § 170.3(o). This substance is used as an oxidizing agent (§ 170.3(o)(22)) in the preparation of dried eggs, dried egg whites, and dried egg yolks and in the making of wine. This technical effect is also included in the regulation.

Thus, when the technical effects and food categories listed in § 170.3 do not adequately describe the conditions of use of hydrogen peroxide that the Select Committee and the agency have evaluated, FDA has not referred to § 170.3 in the proposed regulation but has used a more accurate description. However, in those instances in which the use could be identified with one of the functional effects listed in § 170.3(o), FDA has listed that functional effect in this regulation.

As indicated above, before conducting the general evaluation of the safety of hydrogen peroxide as a food ingredient, the agency affirmed the GRAS status, based on current good manufacturing practice conditions of use, of the use of hydrogen peroxide as an antimicrobial agent in the manufacture of certain cheeses and in certain aspects of whey processing. The antimicrobial use of hydrogen peroxide in cheeses had been permitted under 21 CFR Part 133 of the agency's standards of identity even

<sup>2</sup> *Ibid.*, p. 22.

<sup>3</sup> *Ibid.*, p. 22.



before the passage in 1958 of the Food Additives Amendment to the act. FDA has affirmed that the use of hydrogen peroxide in whey is GRAS on the basis of data presented in petitions to affirm the GRAS status of this use. However, a provision of the regulation stipulated that "this regulation is issued before the completion of the general evaluation of the use of this ingredient in order to affirm as GRAS the specific use named" (21 CFR 184.1366(e)).

On the basis of its general evaluation of hydrogen peroxide, FDA has tentatively concluded that the uses of this substance should be affirmed as GRAS with specific limitations. Therefore, the agency is modifying § 184.1366 to remove the reference to use of the ingredient at "levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1)" and to include a reference to use under § 184.1(b)(2). The agency believes that the results from the general safety review, together with the agency's concerns expressed in the final rule establishing § 184.1366 (46 FR 44434), provide an adequate basis for this change.

In the preamble to the final rule that affirmed the GRAS status of the use of hydrogen peroxide in cheesemaking and whey processing, the agency expressed concern about the residual levels of this substance in the final products (46 FR 44435). As a result, FDA drafted the regulation to emphasize the method and thoroughness of the peroxide removal. The agency limited its affirmation to the use of hydrogen peroxide in two foods (not food categories), and it reported the maximum level of use of hydrogen peroxide in each food under current good manufacturing practice. Furthermore, in the preamble, FDA pointed out the possibility of a status change for hydrogen peroxide on the basis of the total exposure to hydrogen peroxide from all uses. In evaluating the petitioned uses of hydrogen peroxide, the agency estimated exposure to this substance based only on the petitioned uses. The petition contained good information about the levels of use and effective removal of hydrogen peroxide from the products involved. Because the petition demonstrated that the levels of hydrogen peroxide added are low, and that the hydrogen peroxide is removed from the food during the manufacturing process, FDA concluded that these uses are unlikely to leave any residues in the food. Thus, the estimated exposure to hydrogen peroxide from these uses is very low, if there is any exposure at all, and the agency concluded that the use of hydrogen peroxide in cheesemaking

and whey processing in accordance with current good manufacturing practice is GRAS.

However, the Select Committee's concern about the use of hydrogen peroxide is that there is insufficient data to establish its safety when used under extreme conditions.

Similarly, the agency is concerned that the specific approvals for the use of hydrogen peroxide as an antimicrobial in whey processing and cheesemaking could be expanded to encompass its use as an antimicrobial agent in other foods at much higher levels and without proper measures to ensure its removal. Therefore, the agency has concluded that specific limitations on the use of hydrogen peroxide in food, including its use as an antimicrobial agent in whey processing and cheesemaking, are necessary to ensure its continued safe use.

Although proposing to include its uses in whey processing and cheesemaking within the specific limitations on the use of hydrogen peroxide, the agency is not proposing to modify the maximum treatment level, technical effect, or method of removal for these uses. The safety of these conditions of use has already been established.

Except for the levels of hydrogen peroxide it established in § 184.1366, FDA has not specified any levels in any of its pronouncements on the use of hydrogen peroxide. Instead, the agency has stated that the level should be sufficient for the purpose. The proposed rule contains a similar provision for a number of uses of hydrogen peroxide. However, the agency has determined that knowledge of the maximum levels used would be useful to assure that future use is similar to the current uses that the agency has evaluated. In the agency's opinion, because these uses of hydrogen peroxide in food processing are longstanding, recipes must have been established under which measurable levels and strengths of hydrogen peroxide are stated. Therefore, during the comment period on this proposal, FDA invites the submission of these data on the use levels of hydrogen peroxide.

The current listing of hydrogen peroxide as a bleaching agent in § 182.1366 contains no description of specific uses or conditions of use of hydrogen peroxide as a bleaching agent in food. Based upon its prior issuance of opinion letters, the agency is aware of a limited number of current uses of hydrogen peroxide as a bleaching agent (tripe, beef feet, and herring). However, the agency recognizes that given the current listing of hydrogen peroxide in

Part 182, these uses may not represent the totality of uses of hydrogen peroxide as a bleaching agent. Therefore, FDA anticipates that publication of this proposed rule may result in the agency receiving information about foods other than tripe, beef feet, and herring in which hydrogen peroxide is used as a bleaching agent.

In addition, the 1971 NAS/NRC survey of food processing firms reported the use of hydrogen peroxide as a "processing aid." FDA has not included this technical effect in its proposed GRAS affirmation regulation for hydrogen peroxide because, as explained above, none of the known technical effects of hydrogen peroxide, including its uses as a bleaching agent, come within the category of "processing aid." However, FDA believes that NAS/NRC may have been aware of other uses of hydrogen peroxide than as a bleaching agent when it reported that this substance was used as a "processing aid."

In order for the agency to consider additional uses of hydrogen peroxide, it will be necessary to have a description of the technical effect; the specific food (rather than food category) treated by hydrogen peroxide as either a bleaching or processing agent; the levels and strength at which hydrogen peroxide is employed; and either the levels of residues or the method used for removing any residues.

In the past, when a substance has been listed on Part 182 (21 CFR Part 182) as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 (21 CFR Parts 184 and 186) to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a) (21 CFR 184.1(a)), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless safety considerations make it necessary to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of hydrogen peroxide. The indirect uses of hydrogen peroxide are authorized under §§ 184.1(a) and 184.1366.



In the case of hydrogen peroxide, FDA believes that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended use in accordance with § 170.30(h)(1) (21 CFR 170.30(h)(1)) and used in accordance with current good manufacturing practice are sufficient to ensure the safe use of the ingredient. Therefore, the agency has not proposed any specific purity specifications for its indirect use.

FDA recently amended its procedural regulations in Parts 184 and 186 to reflect clearly these policies (October 19, 1983; 48 FR 48456).

Copies of the scientific literature review on hydrogen peroxide and the report of the Select Committee are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

| Title                                             | Order No.        | Price code | Price <sup>1</sup> |
|---------------------------------------------------|------------------|------------|--------------------|
| Hydrogen peroxide (scientific literature review). | PB-241-957/AS... | A07        |                    |
| Hydrogen peroxide (Select Committee report).      | PB80-104607      | A03        |                    |

<sup>1</sup> Price subject to change.

The proposed action does not affect the current use of hydrogen peroxide in pet food or animal feed, nor does it affect the regulated food uses of hydrogen peroxide addressed in this document.

The format of the proposed regulation is different from that in previous GRAS affirmation regulations. The agency has modified the form in which the specific limitations on the use of this ingredient are presented. The change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substance covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory

Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposed rule, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

#### List of Subjects

##### 21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

##### 21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(a), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

| Food                                                                                                                                                                       | Maximum treatment level in food (percent)                                                                                 | Functional use                                                             | Limitations or restrictions                                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| Milk, intended for use during the cheesemaking process as permitted in the appropriate standards of identity for cheese and related cheese products under 21 CFR Part 133. | 0.05                                                                                                                      | Antimicrobial agent as defined in § 170.3(o)(2) of this chapter.           | Residual hydrogen peroxide is removed by the addition of the enzyme, catalase. |
| Whey, during the preparation of modified whey by electrodialysis methods.                                                                                                  | 0.04                                                                                                                      | do                                                                         | Do.                                                                            |
| Dried eggs, dried egg whites, and dried egg yolks as in §§ 160.105, 160.145, and 160.165 of this chapter.                                                                  | Amount sufficient for the purpose.                                                                                        | Oxidizing and reducing agent as defined in § 170.3(o)(22) of this chapter. | Do.                                                                            |
| Tripe                                                                                                                                                                      | do                                                                                                                        | Bleaching agent                                                            | Residual hydrogen peroxide is removed by a potable water rinse. Do.            |
| Beef feet                                                                                                                                                                  | Amount sufficient for the purpose. (Hydrogen peroxide may be in the form of a compound salt, sodium carbonate peroxides.) | do                                                                         |                                                                                |
| Herring                                                                                                                                                                    | Amount sufficient for the purpose.                                                                                        | do                                                                         | No hydrogen peroxide residues are permitted in the final product. Do.          |
| Wine                                                                                                                                                                       | do                                                                                                                        | Oxidizing and reducing agent as defined in § 170.3(o)(22) of this chapter. |                                                                                |

The agency is unaware of any prior sanction for the use of this ingredient in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any

#### PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

##### § 182.70 [Amended]

a. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing the entry "Hydrogen peroxide".

##### § 182.1366 [Removed]

b. By removing § 182.1366 *Hydrogen peroxide*.

#### PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended in § 184.1366 by removing paragraphs (d) and (e) and by revising paragraph (c), to read as follows:

##### § 184.1366 Hydrogen peroxide.

(c) In accordance with § 184.1(b)(2), the ingredient is used to treat food only within the following specific limitations.

person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate regulation under Part 181 (21 CFR Part 181) of affirming it as GRAS under Part 184 or 186 (21 CFR Part 181 or 186), as appropriate.



Interested persons may, on or before January 18, 1984, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 31, 1983.

William F. Randolph,

Acting Associate Commissioner for  
Regulatory Affairs.

[FR Doc. 83-30923 Filed 11-16-83; 8:45 am]

BILLING CODE 4160-01-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 917

#### Public Comment and Opportunity for Public Hearing on the Modification to the Kentucky Permanent Regulatory Program

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

**ACTION:** Proposed rule.

**SUMMARY:** OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of certain program amendments submitted by the State of Kentucky as a modification to the Kentucky permanent regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). These amendments are submitted (1) to satisfy certain conditions imposed by the Secretary of the Interior on the approval of the Kentucky program, and (2) as further modifications to the Kentucky program. The amendments pertain to sediment pond design, permitting, groundwater, award of costs and expenses, and administrative rules of procedure.

This notice sets forth the times and locations that the Kentucky program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed regarding the public hearing.

**DATES:** Written comments must be received on or before 4:00 p.m., December 19, 1983.

If requested, a public hearing on the proposed modifications will be held on December 12, 1983 beginning at the location shown below under "ADDRESSES."

**ADDRESSES:** Written comments should be mailed or hand delivered to: W. H. Tipton, Director, Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

If a public hearing is held its location will be at: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

**FOR FURTHER INFORMATION CONTACT:** W. H. Tipton, Director, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Telephone: (606) 233-73327

#### SUPPLEMENTARY INFORMATION:

##### I. Public Comment Procedures

###### Availability of Copies

Copies of the Kentucky program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Offices and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504

Office of Surface Mining, Reclamation and Enforcement, Room 5315, 1100 L Street, NW., Washington, D.C. 20240  
Bureau of Surface Mining, Reclamation and Enforcement, Capitol Plaza Tower, Third Floor, Frankfort, Kentucky 40601

###### Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in the support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than Lexington, Kentucky, will not necessarily be considered and included in the Administrative Record for the final rulemaking.

###### Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by the close of business five working days before the date of the hearing. If no one requests to comment

at the public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

###### Public Meeting

Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed in "ADDRESS" by contacting the person listed under "FOR FURTHER INFORMATION CONTACT."

All such meetings are open to the public and, if possible, notices of meeting will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

##### II. Background on the Kentucky State Program

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSM. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 Federal Register (47 FR 21404-21435).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 Federal Register notice.

##### III. Submission of Program Amendments and Material To Satisfy Conditions

By a letter dated October 31, 1983, Kentucky submitted to OSM pursuant to



30 CFR 732.17, certain revisions to the regulations previously approved by the Secretary and new regulations to modify its approved program.

#### Condition (d)

Condition (d) requires Kentucky to amend its program to provide for civil procedures which are no less effective than those at 43 CFR Part 4. Kentucky submitted new regulations pertaining to administrative rules of procedure (405 KAR 1:030E, 1:040E, and 1:050E) that are intended to satisfy condition (d) of the Secretary's approval of the Kentucky program. The new regulations contain provisions for (1) service of process, (2) discovery and (3) burden of proof.

#### Condition (i)

Condition (i) requires Kentucky to amend its program to provide standards acceptable to the Secretary for the design of sedimentation ponds without emergency spillways. Kentucky submitted revised regulations (405 KAR 16:090E and 18:090E) pertaining to single spillway ponds that are intended to satisfy condition (i) of the Secretary's approval of the Kentucky program.

#### Condition (j)

Condition (j) requires the State to amend its program to limit the authority of the Kentucky Department for Natural Resources and Environmental Protection where deleting water quality parameters from the permit information to those instances approved by OSM. Revised regulations (405 KAR 8:030E and 8:040E) were submitted by Kentucky pertaining to the information requirements for surface and underground coal mining permits and are intended to satisfy condition (j) of the Secretary's approval of the Kentucky program.

#### Condition (k)

Condition (k) requires Kentucky to amend its program to establish standards of costs and expenses no less effective than those at 43 CFR 4.1294. Revised regulations (405 KAR 7:090E) were submitted by Kentucky pertaining to the award of costs and expenses in administrative proceedings and are intended to satisfy condition (k) of the Secretary's approval of the Kentucky program. The revised regulations provide modification to virtually every aspect of the civil penalty process, and for patterns of violations.

#### Condition (o)

Condition (o) requires Kentucky to amend its program to provide for recharge capacity to groundwater consistent with section 515(b)(10)(D) of SMCRA. Revised regulations (405 KAR

16:060E) were submitted by Kentucky pertaining to the restoration of groundwater recharge capacity and are intended to satisfy condition (o) of the Secretary's approval of the Kentucky program.

#### Condition (p)

Condition (p) requires the State to amend its program to provide for water diversion for coal waste banks which are no less effective than 30 CFR 816.83(b) and 17.83(b). Revised regulations (405 KAR 16:140E and 18:140E) submitted by the State pertaining to diversion of water at coal waste sites are intended to satisfy condition (p) of the Secretary's approval of the Kentucky program.

The Secretary seeks public comment on these proposed modifications to the Kentucky program. If these amendments are approved, they will become part of the Kentucky program and the conditions on the approval of the Kentucky program to which they pertain will be removed.

#### Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to 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 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: November 14, 1983.

James R. Harris,  
Director, Office of Surface Mining.

[FR Doc. 83-31049 Filed 11-16-83; 8:45 am]

BILLING CODE 4310-05-M

#### Coast Guard

##### 33 CFR Part 117

[CGD3 82-034]

#### Drawbridge Operation Regulations; South River, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of Proposed Rule.

**SUMMARY:** This document withdraws a proposed rule regarding a change to the regulations (33 CFR 117.210) for Consolidated Railroad Corporation's (CONRAIL's) South River Railroad Drawbridge at South River, New Jersey. It was proposed that: (1) The bridge be left in the open position from June 1 through October 31 except for closure to accommodate transit of a train, and (2) From November 1 through May 31, the draw be opened upon 12 hours notice Monday through Friday, with openings on Saturday and Sunday requiring notice prior to 6 p.m. on the preceding Friday. The proposal is being withdrawn because of major changes needed in the proposed rule. These changes became apparent as a result of substantive comments received from concerned parties.

**FOR FURTHER INFORMATION CONTACT:** William C. Heming, Bridge Administrator, Third Coast Guard District, (212) 668-7994.

**SUPPLEMENTARY INFORMATION:** In the April 21, 1983 issue of the *Federal Register* (48 FR 17117), the Coast Guard published a proposed rule (Docket No. CGD3 82-034) regarding a change to the regulations for CONRAIL's South River Drawbridge at South River, New Jersey. Interested persons were given until June 6, 1983 to comment. This proposal was also disseminated by Commander, Third Coast District Public Notice 3-480. Additionally, a public information meeting was held on 7 July 1983 at the South River Boat Club, South River, N.J.

Many of the comments received in response to the notices and at the public information meeting addressed substantive issues regarding the proposed rule. After review of these comments, several areas of the proposed rule were identified as requiring significant alterations before



CONRAIL's request for a change to the existing drawbridge regulations could be pursued further. In light of the foregoing, the Coast Guard has decided to withdraw the proposed rule.

#### List of Subjects in 33 CFR Part 117

##### Bridges.

Accordingly, the proposed rule published in the *Federal Register* (48 FR 17117) on April 21, 1983 is hereby withdrawn.

[33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05(g)(3)]

Dated: November 3, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander,  
Third Coast Guard District.

[FR Doc. 83-30987 Filed 11-15-83; 8:45 am]

BILLING CODE 4910-14-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 83-1202; RM-4530]

#### FM Station in Yucaipa, California; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

**SUMMARY:** This action proposes the assignment of FM Channel 215A to Yucaipa, California, as that community's first noncommercial educational assignment, in response to a petition filed by Shepherd Communications.

**DATES:** Comments must be filed on or before January 5, 1984, and reply comments on or before January 20, 1984.

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

**FOR FURTHER INFORMATION CONTACT:** Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:**

#### List of subjects in 47 CFR Part 73

Radio broadcasting.

#### Proposed Rule Making

In the Matter of Amendment of § 73.504(a) Table of Assignments, Noncommercial Educational FM Stations. (Yucaipa, California); MM Docket 83-1202, RM-4530.

Adopted: October 20, 1983.

Released: November 14, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a petition for rule making filed June 23, 1983, by Shepherd Communication ("petitioner") proposing

the assignment of Channel 215A to Yucaipa, California as that community's first noncommercial educational FM service. Petitioner submitted information in support of the proposal and affirmed its intention to apply for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements provided a site restriction of 4.6 miles east of Yucaipa is selected to avoid short spacing to Station KPFK (Channel 214B) in Los Angeles, California.

2. Since the assignment of Channel 215A to Yucaipa, California, is within 320 kilometers (199 miles) of the U.S.-Mexican border, Mexican concurrence must be obtained.

3. In view of the fact that Yucaipa could receive its first noncommercial educational FM broadcast service, the Commission believes it is appropriate to seek comments on the proposal to amend the FM noncommercial educational Table of Assignments (§ 73.504(a) of the Rules) with respect to the following community:

| City                | Channel No. |          |
|---------------------|-------------|----------|
|                     | Present     | Proposed |
| Yucaipa, California |             | 215A     |

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

**Note.**—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before January 5, 1984, and reply comments on or before January 20, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Donald L. Crosby, Esq., Harris, Barret and Dew, Florida National Bank Building, 700 Central Avenue, P.O. Drawer 1414, St. Petersburg, Florida 33731; Counsel for Shepherd Communications.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.504(a) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

#### Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.504(a) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply



comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-30936 Filed 11-16-83; 8:45 am]  
BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 83-1203; RM-4528]

#### FM Broadcast Station in Stephenson, Michigan; Proposed Changes in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** Action taken herein proposes the assignment of Channel 257A to Stephenson, Michigan, as the community's first FM assignment, in response to a petition filed by Robert A. Sherman.

**DATES:** Comments must be filed on or before January 5, 1984, and reply comments on or before January 20, 1984.

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

**FOR FURTHER INFORMATION CONTACT:** Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

#### SUPPLEMENTARY INFORMATION:

##### List of Subjects in 47 CFR Part 73

Radio broadcasting.

##### Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Stephenson, Michigan); MM Docket No. 83-1203 RM-4528.

Adopted: October 20, 1983.

Released: November 14, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a petition for rule making filed June 17, 1983, by Robert A. Sherman, proposing the assignment of Channel 257A to Stephenson, Michigan, as the community's first FM assignment. The petitioner submitted information in support of the proposal and expressed his intention to apply for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. Since the assignment of Channel 257A to Stephenson, Michigan, is within 320 kilometers (200 miles) of the U.S.-Canadian border, Canadian clearance must be obtained.

3. In view of the fact that the proposed assignment could provide a first local FM broadcast service to Stephenson, Michigan, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

| City                 | Channel No. |          |
|----------------------|-------------|----------|
|                      | Present     | Proposed |
| Stephenson, Michigan |             | 257A     |

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

**Note.**—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before January 5, 1984, and reply comments on or before January 20, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or his counsel or consultant as follows:

Robert A. Sherman, 1039 Division, Port Huron, Michigan 48060; Petitioner.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rule and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to



which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The Proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) This filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-30830 Filed 11-16-83; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 83-1204; RM-4522]

#### TV Broadcast Station in Iron River, Michigan; Proposed Changes in Table of Assignments

AGENCY: Federal Communication Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 23 to Iron River, Michigan, as that community's first television service.

DATES: Comments must be filed on or before January 5, 1984, and reply comments on or before January 20, 1984.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

#### SUPPLEMENTARY INFORMATION:

#### List of Subjects in 47 CFR Part 73

Television broadcasting.

#### Proposed Rule Making

In the matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Iron River, Michigan); MM Docket No. 83-1204, RM-4522.

Adopted: October 20, 1983.

Released: November 14, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a petition for rule making filed June 20, 1983, by Iron River Telecasting Company ("Petitioner"). This proposal was originally submitted as a counterproposal in Docket No. 83-418 in which Channel 44 was proposed for assignment to Green Bay, Wisconsin. Petitioner expressed its interest in applying for the channel, if assigned. Our staff has determined that Channel 23 can be assigned to Iron River instead.

2. Iron River (population 2,428),<sup>1</sup> in Iron County (population 13,635), is located in the Upper Peninsula of Michigan, approximately 180 kilometers (110 miles) northwest of Green Bay, Wisconsin.

<sup>1</sup> Population figures are taken from the 1980 U.S. Census Advance Report.

3. Since Iron River, Michigan, is located within 400 kilometers (250 miles) of the U.S.-Canadian border, Canadian concurrence must be obtained.

4. In view of the fact that the proposed assignment could provide a first television service to Iron River, Michigan, the Commission believes it is appropriate to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Rules) with respect to the following community:

| City                 | Channel No. |          |
|----------------------|-------------|----------|
|                      | Present     | Proposed |
| Iron River, Michigan |             | 23       |

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before January 5, 1984, and reply comments on or before January 20, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Liberman, Sanchez and Bentley, 2000 L Street, N.W.—Suite 200, Washington, D.C. 20036; Attorneys for Iron River Telecasting Company.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation



required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission,  
Roderick K. Porter,  
Chief, Policy and Rules Division, Mass Media Bureau.

## Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposals(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a

different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-30937 Filed 11-16-83; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 611

[Docket No. 31110-223]

#### Pacific Coast Groundfish Fishery; Withdrawal of Proposed Modification to Retention Allowance

**AGENCY:** National Oceanic and Atmospheric Administration, Commerce

**ACTION:** Notice of withdrawal of proposed modification to retention allowance.

**SUMMARY:** This notice withdraws NOAA's proposal to increase the incidental retention allowance for jack mackerel taken in joint-venture fishery for Pacific whiting off Washington, Oregon, and California. The joint-venture season is over and the company which requested this increase has withdrawn its request for 1983.

**ADDRESS:** T. E. (Gene) Kruse, Deputy Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE, Bin C15700, Seattle, Washington 98115 or Floyd S. Anders, Jr., Acting Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

**FOR FURTHER INFORMATION CONTACT:** T. E. (Gene) Kruse 206-527-6150; or Floyd S. Anders, Jr., 213-548-2575.

**SUPPLEMENTARY INFORMATION:** At its March 16-17, 1983, meeting, the Pacific Fishery Management Council (Council) requested that the Secretary of Commerce (Secretary) consider increasing the incidental retention percentage from three percent to ten percent for jack mackerel (*Trachurus symmetricus*) taken in the joint-venture fishery for Pacific whiting off Washington, Oregon, and California. (Only jack mackerel taken north of 39° N. latitude are included in the FMP.) The proposal to do so was published at 48 FR 32036 on July 13, 1983, and public comment was requested through July 25, 1983. One comment which supported the proposal was received from the company that made the original request of the Council. However, the company later withdrew the request.

Because the 1983 joint-venture fishery for Pacific whiting (and thus incidentally caught jack mackerel) is over, an increase to the incidental retention allowance would serve no purpose in 1983. Furthermore, an amendment of the fishery management plan currently is under consideration; if implemented, this amendment could allow development of a joint-venture fishery for jack mackerel beginning in 1984, negating the need for a higher incidental retention allowance. Consequently, the Secretary withdraws the proposal to increase the incidental retention percentage allowance for jack mackerel taken in the Pacific whiting joint-venture fishery, pending requests from potential participants in 1984 and further recommendation from the Council. The incidental retention percentage will remain at three percent.

#### List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: November 14, 1983.

Anthony J. Calio,

Deputy Administrator NOAA.

[FR Doc. 83-31046 Filed 11-16-83; 8:45 am]

BILLING CODE 3510-22-M



# Notices

Federal Register

Vol. 48, No. 223

Thursday, November 17, 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 AGRICULTURE

### Agricultural Stabilization and Conservation Service

#### Marketing Quotas and Acreage Allotments; 1984 National Marketing Quota for Burley Tobacco

**AGENCY:** Agricultural Stabilization and Conservation Service, USDA.

**ACTION:** Notice of Proposed Determination of 1984-85 Marketing Quota.

**SUMMARY:** The Secretary of Agriculture is required by the Agricultural Adjustment Act of 1938, as amended, to announce by February 1, 1984, the amount of the national marketing quota for burley tobacco for the 1984-85 marketing year. The public is invited to comment on the amount of the national marketing quota, the reserve supply level, and the amount of the national reserve, as set forth in this notice.

**DATE:** Comments must be received on or before December 23, 1983, to be assured of consideration.

**ADDRESS:** Send comments to the Director, Analysis Division, USDA, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. (202) 447-3391.

**FOR FURTHER INFORMATION CONTACT:** Robert Tarczy Agricultural Economist, Analysis Division, ASCS, USDA, Room 3736-South Building, P.O. Box 2415, Washington, D.C. 20013. (202) 447-5187. The Preliminary Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

**SUPPLEMENTARY INFORMATION:** This notice has been reviewed in conformity with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified as "not major." This

action has been classified "not major" since implementation of these proposed determinations will not result in: (1) An annual effect on the economy of \$100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical region, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, the environment or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases; Number—10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

The Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), requires the Secretary to determine and announce by February 1, 1984, the amount of the national marketing quota for the 1984-85 marketing year. The 1984-85 marketing year is the second of three consecutive years for which marketing quotas, approved by producers in a national referendum, will be in effect for burley tobacco.

Section 301(b)(14)(B) of the Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. The phrase "normal supply" is defined in Section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports as an allowance for a normal year's carryover. A "normal year's domestic consumption" is defined in Section 301(b)(11)(B) of the Act as the average quantity of burley tobacco produced and consumed in the United

States during the ten marketing years immediately preceding the marketing year in which such consumption is determined (1983-84), adjusted for current trends in such consumption.

A "normal year's exports" is defined in Section 301(b)(12) of the Act as the yearly average quantity produced in and exported from the United States during the ten marketing years immediately preceding the marketing year in which such exports are determined (1983-84), adjusted for current trends in such exports.

The reserve supply level for the 1983-84 marketing year was determined to be 1,672 million pounds. This was based on a normal year's domestic consumption of 495 million pounds and a normal year's exports of 140 million pounds (48 FR 7228). The proposed reserve supply level for the 1984-85 marketing year is 1,629 million pounds. This was based on a normal year's domestic consumption of 480 million pounds and a normal year's exports of 140 million pounds.

Section 301(b)(16)(B) of the Act defines "total supply" as the carryover at the beginning of the marketing year (October 1) plus the estimated production in the United States during the calendar year in which the marketing year begins. The total supply for the 1983-84 marketing year is 1,787 million pounds based on carryover of 1,308 million pounds and estimated marketings of 479 million pounds.

Section 319(c) of the Act provides that the national marketing quotas for burley tobacco for a marketing year as the amount of that kind of tobacco produced in the United States which the Secretary estimates will be used domestically and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. The maximum downward adjustment is 10 percent of estimated domestic use and exports.

The amount of burley tobacco produced and utilized domestically during the 1982-83 marketing year is estimated to be 460 million pounds, and the amount exported is estimated to be 130 million pounds, farm sales weight basis. The national marketing quota for burley tobacco for the 1983-84 marketing year is 646 million pounds (48



FR 7228). For the 1984-85 marketing year, utilization in the United States is estimated to be about 455 million pounds and exports are estimated to be about 135 million pounds. The total supply for the 1984-85 marketing year is 158 million pounds more than the proposed reserve supply level, but the amount of the adjustment desirable for maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level is still being considered. However, the proposed national marketing quota is within the range of 582 to 646 million pounds for the 1984-85 marketing year.

For each marketing year for which marketing quotas are in effect in accordance with section 319(c) of the Act, the Secretary is authorized to establish a reserve (hereinafter referred to as the "national reserve") from the national marketing quota in an amount not in excess of 1 per centum of the national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (i.e., farms for which farm marketing quotas have not been otherwise established). A reserve of 700,000 pounds was established for the 1983-84 marketing year (48 FR 7228). It is proposed that a national reserve be established for the 1984-85 marketing year.

Section 319(e) of the Act provides, in part, that each farm marketing quota shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection 319(c) (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which burley tobacco marketing quotas will be determined for such succeeding marketing year. However, such national factor shall not be less than 90 per centum. The national factor for the 1983-84 marketing year was .95, the smallest national factor permitted at that time (48 FR 7228).

Section 319(h) of the Act provides that effective with the marketing year beginning October 1, 1976, no marketing quota, other than a new farm marketing quota, shall be established for a farm on which no burley tobacco was planted or considered planted in any of the five years immediately preceding the year for which farm marketing quotas are being established.

#### Proposed Determinations

Accordingly, comments are requested on the following proposed

determinations with respect to burley tobacco for the 1984-85 marketing year:

1. A national marketing quota within the range of 582 to 646 million pounds.
2. A reserve supply level in the amount of 1,629 million pounds.
3. A national reserve within the range of 500,000 to 5,000,000 pounds.

Comments are not requested with respect to the national factor for the 1984-85 marketing year since the national factor is determined as the result of a mathematical computation in accordance with the formula prescribed in section 319(e) of the Act and does not involve administrative decisionmaking.

All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741-South Building, 14th and Independence Avenue, SW., Washington, D.C.

Signed at Washington, D.C. on November 10, 1983.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83-30964 Filed 11-16-83; 8:45 am]

BILLING CODE 3410-05-M

#### Marketing Quotas and Acreage Allotments; National Marketing Quotas for Fire-Cured (Type 21), Fire-Cured (Types 22-23), Dark Air-Cured (Types 35-36), Virginia Sun-Cured (Type 37), Cigar-Binder (Types 51-52), and Cigar-Filler and Cigar-Binder (Types 42-44; 53-55) Tobaccos

**AGENCY:** Agricultural Stabilization and Conservation Service, USDA.

**ACTION:** Notice of proposed determinations.

**SUMMARY:** The Secretary of Agriculture is required by the Agricultural Adjustment Act of 1938, as amended, to proclaim by February 1, 1984, national marketing quotas for cigar-binder (types 51-52) and cigar filler and binder (types 42-44 & 53-55) tobaccos for the 1984-85, 1985-86, and 1986-87 marketing years and determine and announce the amounts of the national marketing quotas for fire-cured (type 21), fire-cured (types 22-23), dark air-cured (types 35-36), Virginia sun-cured (type 37), cigar-binder (types 51-52), and cigar-filler and cigar-binder (types 42-44; 53-55) kinds of tobacco for the 1984-85 marketing year. The public is invited to submit written comments, views and recommendations concerning the determination of the national marketing quotas for such kinds of tobacco, the conduct of the referendum, and other related matters which are discussed in this notice.

**DATE:** Comments must be received on or before December 30, 1983 in order to be assured of consideration.

**ADDRESSES:** Send comments to the Director, Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to the notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741-South Building, 14th and Independence Avenue, SW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Robert L. Tarczy, Agricultural Economist, Analysis Division, ASCS, Room 3736 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-5187. The Preliminary Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

**SUPPLEMENTARY INFORMATION:** This notice has been reviewed in conformity with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified as "not major." It has been determined that the implementation of these proposed determinations will not result in: (1) An annual effect on the economy of \$100 million or more; (2) major increases in costs for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, the environment or on the ability of the United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases; Number—10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

The Agricultural Adjustment Act of 1938, as amended, (hereinafter referred to as the "Act"), requires that, with respect to cigar-binder (types 51 & 52) and cigar filler and binder (types 42-44 & 53-55) tobaccos, the Secretary of Agriculture must proclaim by February



1, 1984, the respective national marketing quotas for the 1984-85, 1985-86, and 1986-87 marketing years. In addition, the Secretary is required to conduct, within 30 days after proclamation of such national marketing quotas, referenda of farmers engaged in the 1983 production of these kinds of tobacco to determine whether they favor or oppose marketing quotas for such years. The 1983-84 marketing year is the last year of the three consecutive years for which marketing quotas previously proclaimed will be in effect for these kinds of tobacco.

The Secretary is also required: (1) To determine and announce the amounts of the national marketing quotas with respect to fire-cured (type 21), fire-cured (types 22-23), dark air-cured (types 35-36), Virginia sun-cured, cigar-binder (types 51-52), and cigar-filler and cigar-binder (types 42-44; 53-55) tobaccos, for the 1984-85 marketing year; (2) to convert such marketing quotas into national acreage allotments and announce the allotments; (3) to apportion such allotments, less reserves of not to exceed 1 percent of each kind of tobacco respectively, through county ASCS committees among old farms; and (4) to apportion the reserves for use in (a) establishing acreage allotments for new farms and (b) making corrections and adjusting inequities in old farm allotments. The six kinds of tobacco discussed in this notice account for approximately 5 percent of total U.S. tobacco production.

Section 312(a) of the Act (7 U.S.C. 1312(a)) provides that the Secretary shall proclaim not later than February 1 of any marketing year with respect to these kinds of tobacco, a national marketing quota for each of the next three succeeding marketing years whenever the Secretary determines with respect to such kinds of tobacco—

(1) That the national marketing quota has not previously been proclaimed and the total supply as of the beginning of such marketing year exceeds the reserve supply level therefor;

(2) That such marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect;

(3) That amendments have been made in provisions for establishing farm acreage allotments which will cause material revision of such allotments before the end of the period for which quotas are in effect; or

(4) That a marketing quota previously proclaimed for such marketing year is not in effect because of disapproval by producers in a referendum. However, if such producers have disapproved

national marketing quotas for three successive years subsequent to 1952, thereafter a national marketing quota shall not again be proclaimed in accordance with section 312(a) of the Act which would be in effect for any marketing year within the three-year period for which national marketing quotas previously proclaimed were disapproved by producers unless, prior to November 10 of the marketing year, one-fourth or more of the farmers engaged in the production of the crop of tobacco harvested in the calendar year in which such marketing year begins petition the Secretary, in accordance with such regulations as the Secretary may prescribe, to proclaim a national marketing quota for each of the next three succeeding marketing years.

Quotas were previously proclaimed, referenda conducted, and quotas approved by growers as follows: fire-cured (type 21), fire-cured (types 22-23), and dark air-cured (types 35-36) tobaccos for the 1982-83, 1983-84, and 1984-85 marketing years (47 FR 20167); Virginia sun-cured tobacco for the 1983-84, 1984-85, and 1985-86 marketing years (48 FR 28303) and cigar-binder tobacco (types 51-52) and cigar-filler and cigar-binder tobacco (types 42-44; 53-55) for the 1981-82, 1982-83, and 1983-84 marketing years (46 FR 51945). Producers of such kinds of tobacco will be eligible to participate in the tobacco price support program.

Section 301(b)(15) of the Act (7 U.S.C. 1301(b)(15)) defines "tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Number 118 (7 CFR Part 30) of the former Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13, & 14;

Fire-cured tobacco, comprising types 21;

Fire-cured tobacco, comprising types 22, 23, & 24;

Dark air-cured tobacco, comprising types 35 & 36;

Virginia sun-cured tobacco, comprising type 37;

Burley tobacco, comprising type 31;

Maryland tobacco, comprising type 32;

Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, & 55; and

Cigar-filler tobacco; comprising type 41.

Section 301(b)(15) of the Act also provides that any one or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of the Act if the Secretary finds that there is a difference in supply and demand

conditions among such types of tobacco which results in a difference in the adjustments needed in the marketing thereof in order to maintain supplies in line with demand. Pursuant to this authority, the Secretary has issued a determination (15 FR 8214) that type 46 tobacco shall be treated as a separate kind of tobacco for purposes of marketing quotas and price support. Also pursuant to such authority, the Secretary has issued a determination (22 FR 367) that beginning with the 1957-58 marketing year, cigar-binder (types 51-52) shall be treated as a separate kind of tobacco for purposes of marketing quotas and price support. Type 45 tobacco is no longer grown. No further action under this section is contemplated at this time.

Section 312(b) of the Act (17 U.S.C. 1312(b)) provides that the Secretary shall determine and announce, not later than the first day of February 1984, with respect to kinds of tobacco specified in this notice of proposed determination, the amount of the national marketing quota which will be in effect for the 1984-85 marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of each kind of tobacco equal to the reserve supply level. Section 312(b) provides further that the amount of such 1984-85 national marketing quota may, not later than March 1, 1984, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

The aggregate reserve supply level for the 1983-84 marketing year for the 6 kinds of tobacco discussed in this notice was determined to be 254 million pounds (48 FR 7232, 7236). The proposed reserve supply level for the 1984-85 marketing year will range between 230 million and 270 million pounds. The aggregate total supply for the 1983-84 marketing year is 267 million pounds based on carryover of 197 million and production of 70 million pounds.

Section 312(c) of the Act (7 U.S.C. 1312(c)) required that within 30 days after a national marketing quota is proclaimed in accordance with section 312(a) of the Act for a kind of tobacco, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of such kinds of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in



favor of or opposed to such quotas for the next three succeeding marketing years. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose the quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect, but the results shall in no way affect or limit the subsequent proclamation and submission to a referendum of a national market quota as otherwise authorized in section 312.

Section 313(g) of the Act (7 U.S.C. 1313(g)) authorizes the Secretary to convert the national marketing quota into a national acreage allotment by dividing the national marketing quota by the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed and to apportion through county committees the national acreage allotment to tobacco producing farms (less a reserve not to exceed 1 percent thereof for new farms, and for making corrections and adjusting inequities in old farm allotments) among old farms.

#### Proposed Determinations

Accordingly, comments are requested on the following proposed determinations for the kinds of tobacco listed for the 1984-85 marketing year:

1. With respect to fire-cured (type 21), fire-cured (types 22-23), dark air-cured (types 35-36), Virginia sun-cured, cigar-binder (types 51 & 52) and cigar-filler and binder (types 42-44; 53-55), tobaccos:

a. The amount of the reserve supply level, within the aggregate range of 230 and 270 million pounds;

b. The amount of the national marketing quota for each kind of tobacco for the 1984-85 marketing year, within the aggregate range of 85-105 million pounds; and

c. The amounts of the national acreage allotments to be reserved for new farms, and for making corrections and adjusting inequities in old farm allotments, within the aggregate range of 100 and 500 acres.

2. With respect to cigar-binder (types 51 & 52) and cigar filler and binder (types 42-44 & 53-55) tobaccos:

a. The date(s) or period(s) of the referenda for determining whether quotas will be in effect for the 1984-85, 1985-86, and 1986-87 marketing years for such kinds of tobacco; and

b. Whether the referenda should be conducted at polling places rather than by mail ballot (See CFR Part 717).

Signed at Washington, D.C., on November 10, 1983.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83-30963 Filed 11-16-83; 8:45 am]

BILLING CODE 3410-05-M

#### Soil Conservation Service

##### Critical Area Treatment Measures in the Great Plains RC&D Area, Oklahoma; Findings of No Significant Impact

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of a finding of no significant impact.

**SUMMARY:** Critical area treatment measures to be installed in the Great Plains RC&D Area are federally assisted actions authorized under Section 102 of the Food and Agriculture Act of 1962 (Pub. L. 87-703). The Great Plains RC&D Area encompasses 8 counties (4,473,489 acres) in southwest Oklahoma. An interdisciplinary evaluation of the environment was made by the Soil Conservation Service in consultation with local, state and federal agencies and interested persons during the planning of these measures.

The environmental assessment does not indicate that these measures constitute a major federal action significantly affecting the quality of the human environment; therefore, it has been determined by the responsible federal official that an environmental impact statement is not needed.

The environmental assessment revealed that:

1. Changed land uses will not adversely affect agricultural production, wildlife habitat, or social or economic factors.

2. The only irreversible resource commitments are capital, labor, and energy.

3. No harm will come to a property that is eligible for the National Register of Historic Places or threatened and endangered species, plants, and animals. A site-by-site environmental assessment and clearance from the state archeologist and state historic preservation officer will be obtained for each RC&D measures prior to its approval.

4. Benefits to the public will accrue because of improvement to water and land quality and public safety.

Public participation has been an integral part of the planning activity of these measures. No administrative action on implementation of this

proposal will be taken until 30 days after the date of this publication. Further information on this proposal and single copies of the Finding of No Significant Impact may be obtained from the responsible federal official, Roland R. Willis, State Conservationist, USDA Agricultural Center Building, Stillwater, Oklahoma 74074.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: November 10, 1983.

Donald R. Vandersypen,  
Assistant State Conservationist (WR).

[FR Doc. 83-30966 Filed 11-16-83; 8:45 am]

BILLING CODE 3410-16-M

##### Troy Elementary School, RC&D Measure, North Carolina; Finding of No Significant Impact

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of a finding of no significant impact.

**SUMMARY:** Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environment Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Troy Elementary School, RC&D Measure, Montgomery County, North Carolina.

**FOR FURTHER INFORMATION CONTACT:** Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755-4210.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment and land drainage on a county school ground. The planned works of improvement include installing reinforced concrete pipe, catch basin and grate, grassed waterway,



subsurface drain tubing, gravel, permanent vegetation, and riprap. All treatment is aimed at erosion control and disposing of surface water puddles and excess water in the soil profile at a nonerosive velocity.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: November 3, 1983.

Coy A. Garrett,  
State Conservationist.

[FR Doc. 83-30999 Filed 11-16-83; 8:45 am]

BILLING CODE 3410-16-M

#### Black Creek Watershed, Mississippi; Availability of Record of Decision

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of availability of a record of decision.

**SUMMARY:** A. E. Sullivan, responsible Federal official for projects administered under the provisions of Flood Control Act (PL-534, 78th Congress), in the State of Mississippi, is hereby providing notification that a record of decision to proceed with the installation of the Black Creek Watershed project is available. Single copies of this record of decision may be obtained from A. E. Sullivan at the address shown below.

**FOR FURTHER INFORMATION CONTACT:** A. E. Sullivan, State Conservationist, Soil Conservation Service, Suite 1321, Federal Building, 100 West Capitol Street, Jackson, Mississippi (39269), telephone 601-960-5205.

Dated: August 30, 1983.

A. E. Sullivan,  
State Conservationist.

[FR Doc. 83-30997 Filed 11-16-83; 8:45 am]

BILLING CODE 3410-16-M

#### Hoffa Creek Watershed, Mississippi; Availability of Record of Decision

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of availability of a record of decision.

**SUMMARY:** A. E. Sullivan, responsible Federal official for projects administered under the provisions of Flood Control Act (Pub. L. 534, 78th Congress), in the State of Mississippi, is hereby providing notification that a record of decision to proceed with the installation of the Hoffa Creek Watershed project is available. Single copies of this record of decision may be obtained from A. E. Sullivan at the address shown below.

**FOR FURTHER INFORMATION CONTACT:** A. E. Sullivan, State Conservationist, Soil Conservation Service, Suite 1321, Federal Building, 100 West Capitol Street, Jackson, Mississippi (39269), telephone 601-960-5205.

Dated: August 30, 1983.

A. E. Sullivan,  
State Conservationist.

[FR Doc. 83-30998 Filed 11-16-83; 8:45 am]

BILLING CODE 3410-16-M

#### DEPARTMENT OF COMMERCE

##### Office of the Secretary

#### Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census  
Title: Census Employment Inquiry  
Form numbers: Agency—DA-263;  
OMB—0607-0273

Type of request: Reinstatement of a previously approved collection for which approval has expired  
Burden: 2,000 respondents; 500 reporting hours

Needs and uses: This inquiry is needed to collect personal information from job applicants. The information will be used to determine those most qualified to fill census jobs

Affected public: Individuals and households

Frequency: On occasion

Respondent's obligation: Required to obtain or retain a benefit

OMB Desk Officer: Tim Sprehe, 395-4814

Agency: Bureau of the Census

Title: Construction Project Report  
(Private Construction Projects)

Form numbers: Agency—C-700; OMB—0609-0153

Type of request: Extension

Burden: 6,000 respondents; 20,400 reporting hours

Needs and uses: These data are needed to accurately measure the value of private nonhousekeeping residential and nonresidential construction each year. These data are used by the Bureau of Economic Analysis to develop the construction components of the GNP, and are used extensively by other Government agencies in making policy decisions

Affected public: Small businesses or organizations

Frequency: Monthly

Respondent's obligation: Voluntary  
OMB Desk Officer: Tim Sprehe, 395-4814

Agency: International Trade  
Administration

Title: NATO ICB Bidders List  
Application

Form numbers: Agency—ITA-4023P;  
OMB—0625-0055

Type of request: Extension

Burden: 60 respondents; 60 reporting hours

Needs and uses: NATO international competitive bidding opportunities for infrastructure project contracts are open only to NATO countries' companies which have had their eligibility to bid certified by their respective governments. Completion of this form is required to apply for certification

Affected public: Businesses or other for-profit, small businesses or organizations

Frequent: On occasion

Respondent's obligation: Required to obtain or retain a benefit

OMB Desk Officer: Ed Clarke, 395-4814

Agency: International Trade  
Administration

Title: Copper Controlled Materials  
Form numbers: Agency—ITA-9008;  
OMB—0625-0011

Type of request: Revision of a currently approved collection

Burden: 100 respondents; 200 reporting hours

Needs and uses: This information is required in order to fulfill responsibilities under the Defense Production Act. The data are used by the Office of Industrial Resource Administration to establish set-aside percentages of copper and copper base alloy products for use by defense contractors



Affected public: Businesses or other for-profit, small businesses or organizations

Frequency: Quarterly

Respondent's obligation: Mandatory  
OMB Desk Officer: Ed Clarke, 395-4814

Agency: International Trade Administration

Title: Jewel Bearings and Related Components

Form numbers: Agency—ITA-941; OMB—0625-0025

Type of request: Reinstatement of a previously approved collection for which approval has expired

Burden: 240 respondents; 720 reporting hours

Needs and uses: The information collected from consumers of jewel bearings and related components is required in support of mobilization preparedness responsibilities assigned to the Department of Commerce under E.O. 11490 to manage the production, supply, and consumption of jewel bearings and related components

Affected public: Businesses or other for-profit, small businesses or organizations

Frequency: Annually

Respondent's obligation: Mandatory  
OMB Desk Officer: Ed Clarke, 395-4814

Agency: International Trade Administration

Title: Approval of Triangular Transactions Involving Commodities Covered by a U.S. Import Certificate

Form numbers: Agency EAR 368.2(a) (8) and (9); OMB—0625-0007

Type of request: Reinstatement of a previously approved collection for which approval has expired

Burden: 100 respondents; 50 reporting hours

Needs and uses: When U.S. purchasers of commodities in foreign countries intend to resell abroad, they must submit a letter to the Office of Export Administration asking for approval to make a triangle transaction. This procedure was developed by Free World countries in an effort to increase the effectiveness of controls over international trade in strategic commodities.

Affected public: Business or other for-profit, small businesses or organizations

Frequency: On occasion

Respondent's obligation: Required to obtain or retain a benefit  
OMB Desk Officer: Ed Clarke, 395-4814

Agency: International Trade Administration

Title: Destination Control Provisions

Form numbers: Agency—EAR 386.6; OMB—0625-0004

Type of request: Reinstatement of a previously approved collection for which approval has expired

Burden: 4,000 respondents; 11,200 reporting hours

Needs and uses: Section 386.6 (15 CFR) of the Export Administration Regulations requires that an appropriate destination control statement be placed on all copies of the bill of lading, the air waybill and the commercial invoice covering an export from the United States. This information is required from exporters as a notification to consignees of U.S. goods that they cannot reexport such goods to third parties without first obtaining approval from the Office of Export Administration.

Affected public: Businesses or other for-profit, small businesses or organizations

Frequency: On occasion

Respondent's obligation: Required to obtain or retain a benefit

OMB Desk Officer: Ed Clarke, 395-4814

Agency: International Trade Administration

Title: Application for Export License

Form numbers: Agency—ITA-622P, OMB—0625-0001

Type of request: Reinstatement of a previously approved collection for which approval has expired

Burden: 80,843 respondents; 40,421 reporting hours

Needs and uses: The information required by this form must be submitted by exporters to the Office of Export Administration so that a determination can be made as to whether the applicant is eligible to export commodities or technical data to certain destinations under the Export Administration Act of 1979.

Affected public: Businesses or other for-profit, small businesses or organizations

Frequency: On occasion

Respondent's obligation: Required to obtain or retain a benefit

OMB Desk Officer: Ed Clarke, 395-4814

Agency: National Oceanic and Atmospheric Administration

Title: Cooperative Charting Programs

Form numbers: Agency NOAA 774, 775; OMB—0648-0022

Type of request: Revision of a currently approved collection

Burden: 4,440 respondents; 13,320 reporting hours

Needs and uses: Forms are used by United States Power Squadrons and United States Coast Guard Auxiliary Cooperative Charting Program members to suggest chart revisions which help the National Ocean Service to maintain up-to-date nautical charts to assure safe navigation in our nation's waters.

Affected public: Non-profit institutions

Frequency: On occasion

Respondent's obligation: Voluntary  
OMB Desk Officer: Ed Clarke, 395-4814

Agency: National Oceanic and Atmospheric Administration

Title: Weather Modification Activities Report

Form numbers: Agency—NOAA 17-4, 17-4A, 17-4B; OMB—0648-0025

Type of request: Reinstatement of a previously approved collection for which approval has expired

Burden: 80 respondents; 480 reporting hours

Needs and uses: All nonfederally sponsored attempts to modify the weather must be reported in compliance with Public Law 92-205. The data are used to show the trends in weather modification activity over the years and around the country.

Affected public: State or local governments, businesses or other for-profit, Federal agencies or employees

Frequency: On occasion

Respondent's obligation: Mandatory  
OMB Desk Officer: Ed Clarke, 395-4814

Agency: National Oceanic and Atmospheric Administration

Title: Sea Grant Project Summary

Form numbers: Agency—NOAA 90-2; OMB—0648-0019

Type of request: Extension

Burden: 40 respondents; 240 reporting hours

Needs and uses: The Office of Sea Grants awards both single and multi-project grants. The project summaries show the project objectives, its anticipated benefits, its benefits to date, and funding summaries and proposals. This information is used by both the grantor and the grantee to determine the value of the project to the total program, for administrative control, and for negotiations on costs.

Affected public: State or local governments, non-profit institutions

Frequency: Annually

Respondent's obligation: Required to obtain or retain benefit

OMB Desk Officer: Ed Clarke, 395-4814

Agency: National Oceanic and Atmospheric Administration

Title: Small-Craft Facility Reports

Form numbers: Agency—NOAA 77-1 and 77-3; OMB 0648-0021

Type of request: Revision of a currently approved collection

Burden: 3,400 respondents; 442 reporting hours

Needs and uses: Forms are used to gather recorection information from operators of marine facilities such as marines, yacht clubs, boat repair yards on their services/supplies offered to the public.



Affected public: Small businesses or organizations  
 Frequency: On occasion  
 Respondent's obligation: Voluntary  
 OMB Desk Officer: Ed Clarke, 395-4814  
 Agency: National Oceanic and Atmospheric Administration  
 Title: Processed Fishery Products Family of Forms  
 Form numbers: Agency—NOAA 88-13 et al.; OMB—0648-0018

Type of request: Revision of a currently approved collection  
 Burden: 4,230 respondents; 1,004 reporting hours

Needs and uses: Forms are used to collect annual information of fish and shellfish processing plants at wholesale. The data is used by National Marine Fisheries Service and Regional Council economists to estimate processing capacity to forecast and subsequently measure the economic impact of fishery management regulations on managed and unmanaged fish and shellfish supplies.

Affected public: Businesses or other for-profit, small businesses or organizations

Frequency: Monthly, quarterly, annually  
 Respondent's obligation: Voluntary  
 OMB Desk Officer: Ed Clarke, 395-4814

Agency: National Oceanic and Atmospheric Administration  
 Title: Marine Recreational Fishing Survey

Form numbers: Agency—N/A; OMB—0648-0052

Type of request: Extension  
 Burden: 202,437 respondents; 9,258 reporting hours

Needs and use: Data collected in used by the National Marine Fisheries Service, Regional Fishery Councils and State Fishery Agencies in developing, implementing an monitoring fishery management programs.

Affected public: Individuals and households

Frequency: Annually  
 Respondent's obligation: Voluntary  
 OMB Desk Officer: Ed Clarke 395-4814

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Margret Woody,  
 Management Analyst.

[FR Doc. 83-30983 Filed 11-16-83; 8:45 am]

BILLING CODE 3510-CW-M

#### President's Commission on Industrial Competitiveness; Meeting

AGENCY: Office of Economic Affairs, Commerce.

ACTION: Notice of meeting.

**SUMMARY:** The Commission was established by Executive Order 12428 on June 28, 1983 and its charter was approved on August 23, 1983. The Commission shall review means of increasing the long-term competitiveness of United States industries at home and abroad, with particular emphasis on high technology, and provide appropriate advice to the President through the Cabinet council on Commerce and Trade and the Department of Commerce.

**Time and place:** Committee on Capital Resources (a subcommittee of the Commission), Thursday, December 1, 1983, 9:00 am-5:00 pm, Morgan Stanley, Inc., 1251 Avenue of the Americas, 30th Floor, New York, New York 10021 (Access will be through security desk in the building lobby.)

Less than 15 days notice is being given for the meeting due to the inability of the committee members to meet any other time before the full Commission meeting in December.

**Public participation:** The meeting will be open to public attendance. A limited number of seats will be available for the public on a first-come, first-served basis.

**FOR FURTHER INFORMATION CONTACT:** James L. Wolbarsht, President's Commission on Industrial Competitiveness, 734 Jackson Place, NW., Washington, D.C. 20503, telephone: 202-395-4527 on substantive issues or Yvonne Barnes, Departmental Committee Management Analyst, 202-377-4217 on issues regarding administration of the Commission..

Dated: November 14, 1983.

Egils Milbergs,

Executive Director, President's Commission on Industrial Competitiveness.

[FR Doc. 83-31035 Filed 11-15-83; 8:45 am]

BILLING CODE 3510-18-M

#### International Trade Administration

[A-435-007]

#### Pig Iron From Czechoslovakia; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and tentative determination to revoke.

**SUMMARY:** The Department of Commerce has conducted an administrative review of the antidumping finding on pig iron from Czechoslovakia. The review covers the only known exporter of this merchandise to the United States, Ferromet Opletalova, and the period October 1, 1981 through September 30, 1982. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

As a result of the review, the Department has tentatively determined to revoke the finding. There have been no shipments of this merchandise to the United States for at least fifteen years. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

**EFFECTIVE DATE:** November 17, 1983.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Connell or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-2923/1130.

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 11, 1982, the Department of Commerce ("the Department") published in the *Federal Register* (47 FR 20172) the final results of its last administrative review of the antidumping finding on pig iron from Czechoslovakia (33 FR 15904, October 29, 1968) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.



### Scope of the Review

Imports covered by the review are shipments of pig iron, currently classifiable under item numbers 606.1300 and 606.1500 of the Tariff Schedules of the United States Annotated. Such merchandise is used in steel production and in the iron foundry industry for making iron castings such as pipe, automobile castings, and machine parts.

The review covers the one known exporter of Czechoslovakian pig iron to the United States, Ferromet Opletalova, and the period October 1, 1981 through September 30, 1982. There were no known shipments to the United States during the period and there are no known unliquidated entries.

### Preliminary Results of Review and Tentative Determination To Revoke

There have been no shipments of this merchandise to the United States for fifteen years. We are satisfied that there is no likelihood of resumption of sales of this merchandise to the U.S. at less than fair value. In accordance with § 353.54(c) of the Commerce Regulations, we tentatively determine on our own initiative to revoke the finding on pig iron from Czechoslovakia. If this revocation is made final it will apply to all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review, tentative determination to revoke, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

November 8, 1983.

[FR Doc. 83-31094 Filed 11-16-83; 8:45 am]

BILLING CODE 3510-DS-M

### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

#### Requesting Public Comment on the Category Classification for Certain Cotton Vests With Attachments for Sleeves

November 14, 1983.

**AGENCY:** Committee of the Implementation of Textile Agreements.

**ACTION:** To prevent circumvention of the terms of the bilateral agreements concerning cotton, wool and man-made fiber textile and apparel products, the Government of the United States has decided that, effective January 1, 1984, certain cotton vests with attachments for sleeves which are classified in the following newly created TSUSA numbers (effective January 1, 1984) will be classified in either Textile Category 334 (men's and boys' cotton coats) or Textile Category 335 (women's, girls' or infants' cotton coats) as appropriate:

| TSUSA No. | Description                                                                                | Category |
|-----------|--------------------------------------------------------------------------------------------|----------|
| 379.0652  | (Men's and boys' cotton coats, ornamented, not knit)                                       | 334      |
| 379.5610  | (Men's and boys' cotton coats, not ornamented, valued over \$2 each, not knit)             |          |
| 383.0625  | (Women's girls' and infants' cotton coats, ornamented, not knit)                           | 335      |
| 383.4310  | (Women's girls' and infants' cotton coats, not ornamented, valued over \$2 each, not knit) |          |

A description of the textile categories in terms of TSUSA 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).

The purpose of this notice is to advise the public of the decision to take this action with effect from January 1, 1984 for merchandise exported on and after that date. Accordingly, the letter published below from the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to implement the action.

Anyone wishing to comment or provide data or information regarding this action is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington,

D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee of the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreements or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 533(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

November 14, 1983.

#### Committee for the Implementation of Textile Agreements

Commissioner of Customs,  
Department of the Treasury, Washington,  
D.C.

Dear Mr. Commissioner: To facilitate implementation of the bilateral agreements concerning imports of cotton, wool and man-made fiber textiles and apparel, I request that, effective on January 1, 1984 and until further notice, you include cotton vests with attachments for sleeves, exported on and after January 1, 1984, in T.S.U.S.A. numbers 379.0652 and 379.5810 in Category 334 and T.S.U.S.A. numbers 383.0625 and 383.4310 in Category 335. Merchandise in these T.S.U.S.A. numbers which is entered into the United States for consumption, or withdrawn from warehouse for consumption, should be charged, as applicable, to the levels of restraint established for Categories 334 or 335.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533.

This letter will be published in the *Federal Register*.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textiles and Apparel.

[FR Doc. 83-30984 Filed 11-16-83; 8:45 am]

BILLING CODE 3510-OR-M

### DEPARTMENT OF DEFENSE

#### Office of the Secretary

#### Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on January 12, 1984 at Naval Ocean Systems Center, 271 Catalina Blvd., San Diego, CA 92152.

The mission of the Advisory Group is to provide the Under Secretary of



Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night sensors. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. 1 section 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy

*OSD Federal Register Liaison Officer,  
Department of Defense.*

November 10, 1983.

[FR Doc. 83-30670 Filed 11-16-83; 8:45 am]

BILLING CODE 3810-01-M

#### **Advisory Group on Electron Devices; Advisory Committee Meeting**

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on January 10, 1984 at AGED Secretariat, 1925 N. Lynn Street, Suite 1000, Arlington, Virginia 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. 1 section 10(d) (1976)), it has been determined that this Advisory

Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy

*OSD Federal Register Liaison Officer,  
Department of Defense.*

November 10, 1983.

[FR Doc. 83-30669 Filed 11-16-83; 8:45 am]

BILLING CODE 3810-01-M

#### **Advisory Group on Electron Devices; Advisory Committee Meeting**

Working Group D (Mainly Laser Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on November 30, and December 1, 1983 at NV&EOL, Ft. Belvoir, Virginia.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. 1 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

*OSD Federal Register Liaison Officer,  
Department of Defense.*

November 10, 1983.

[FR Doc. 83-30668 Filed 11-16-83; 8:45 am]

BILLING CODE 3810-01-M

#### **Department of Defense 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 5, 1984; Tuesday, June 12, 1984; Tuesday, June 19, 1984; and Tuesday, June 26, 1984 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 Public Law 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.*

November 10, 1983.

[FR Doc. 83-30666 Filed 11-16-83; 8:45 am]

BILLING CODE 3810-01-M



**Department of the Air Force****Public Information Collection  
Requirement Submitted to OMB for  
Review**

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of information collection and form number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

**Revision of a Currently Approved  
Collection***Proposal for an Advertising Copy  
Evaluation Survey*

The purpose of this collection is to develop a quantitative testing technique for Air Force advertising. A pretesting system is needed to evaluate prefinished print ads prior to final production, discriminate between alternatives and provide diagnostic information to fine tune the execution prior to final production. This copy testing system has as its evaluative criteria both a pre and post exposure measurement of interest in the Air Force versus other military services.

Individuals, men and women, ages 17-26 years; 800 responses, 335 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and John Wenderoth, DOD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, DC 20301, telephone (202) 694-0187.

A copy of the information collection proposal may be obtained from Mr. O. F. Stumbaugh, USAFRS/RSAAS, Randolph AFB TX 78150, telephone (512) 652-4701 or AUTOVON 487-4701.

M. S. Healy,

OSD Federal Register Liaison Officer,  
Department of Defense.

November 10, 1983.

[FR Doc. 83-30967 Filed 11-16-83; 8:45 am]

BILLING CODE 3910-01-M

**Public Information Collection  
Requirement Submitted to OMB for  
Review**

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of information collection and form number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

**Revision of a Currently Approved  
Collection***Proposal for a Proprietary Tracking  
Study of Air Force Advertising*

The purpose of the research study is to gather proprietary data with which to develop the most effective Air Force advertising and marketing program. Current Air Force imagery must be discernable at a point in time which is most reflective of Air Force advertising efforts. Study will be conducted among a nationally representative sample of young men and women, ages 17-26 years.

Individuals, men and women, ages 17-26; 610 responses, 255 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and John Wenderoth, DOD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, DC 20301, telephone (202) 694-0187.

A copy of the information collection proposal may be obtained from Mr. O. F. Stumbaugh, USAFRS/RSAAS, Randolph AFB TX 78150, telephone (512) 652-4701 or AUTOVON 487-4701.

Dated: November 10, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer,  
Department of Defense.

[FR Doc. 83-30965 Filed 11-16-83; 8:45 am]

BILLING CODE 3910-01-M

**Department of the Army****Draft Environmental Impact Statement  
(DEIS) for a Proposed Final  
Designation of LA 5 Interim Oceanic  
Dumping Site, Offshore of San Diego  
County, California; Intent To Prepare**

**AGENCY:** U.S. Army Corps of Engineers, DOD.

**ACTION:** Notice of intent to prepare a draft environmental impact statement (DEIS).

**SUMMARY:** 1. Proposed Action. The Los Angeles District (LAD) of the U.S. Army Corps of Engineers will prepare a Draft Environmental Impact Statement to identify the impacts associated with the final designation of an ocean disposal site for dredge material off of San Diego (Site No. LA 5). The LA 5 dumpsite consists of the area within 1000 yards of a center point of 32° 36' 48" N, 117° 20' 32" W.

Preparation of the DEIS regarding the final designation of the disposal site will be accomplished by the U.S. Army Corps of Engineers at the request of the Environmental Protection Agency (EPA). Since documentation in support of final designation must have EPA approval (EPA is responsible for final disposal site designation), the U.S. Army Corps of Engineers will be coordinating closely with the EPA.

To establish baseline data for the site, LAD began comprehensive field sampling began in summer 1983 which will repeat for three consecutive seasons. The sampling plan includes 5 sampling stations at the dumpsite; one station is located at the center of the dumpsite and the other 4 are spaced at 90° intervals around the outer edge of the dumpsite, 1000 yards from the center.

Three sample stations will be located at the adjacent Reference (control) site. These stations represent similar depths as those stations located at the dumpsite's center, shallowest and deepest sampling stations.

The center coordinates of the LA 5 reference site is:

32° 34' 44" N, 117° 19' 17" W

Project tasks are focused primarily on benthic resources, although other biological, physical, cultural and socio-economic aspects will be considered. The DEIS will analyze the need for the ocean disposal site by addressing the present and potential future use of the site for disposal of uncontaminated dredge spoil and by addressing the



availability of land disposal sites.

2. Alternatives. Alternatives to the proposed project include (a) no action, (b) utilization of land disposal sites, or (c) designation of alternative ocean disposal sites. Other alternatives may be identified through the scoping process.<sup>1</sup>

### 3. Scoping Process.

a. Public Involvement. An extensive mailing list has been prepared which includes affected Federal, State, and local agencies and other interested private organizations and parties. Each entity on the mailing list will receive a copy of the scoping public notice which will have details of the proposed studies.

b. Significant Issues. Significant issues to be analyzed in depth in the DEIS will include: The need for the project, alternatives to the project, impacts to benthic habitats and biota (including endangered species); water quality and circulation, water use, aesthetics, socio-economics, and transportation. Tissue and sediment chemistry will be analyzed and bioaccumulation potential addressed as part of assessing the impacts to benthic habitat and biota. Other potentially significant issues may be identified through the scoping process.

4. Scoping Meetings. The Corps of Engineers will circulate a public notice soliciting comments regarding the scope of the DEIS rather than holding a scoping meeting.

5. Publication of the DEIS. The Draft Environmental Impact Statement is expected to be available to concerned agencies and the interested public for review and comment in November 1984.

Paul W. Taylor,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83-31000 Filed 11-16-83; 8:45 am]

BILLING CODE 3710-KF-M

## DEPARTMENT OF EDUCATION

### National Center for Research in Vocational Education Advisory Council; Meeting

**AGENCY:** National Center for Research in Vocational Education Advisory Council, Ed.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Center for Research in Vocational Education Advisory Council. This notice also describes the functions of the Council. Notice of this meeting is

required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

**DATE:** December 12, 1983.

**ADDRESS:** The National Center for Research in Vocational Education, Ohio State University, 1980 Kenny Road, Columbus, Ohio 43210.

**FOR FURTHER INFORMATION CONTACT:** Dr. Howard F. Hjelm, Director, Division of Innovation and Development, 400 Maryland Avenue SW., Rm. 5044, ROB 3, Washington, D.C. 20202, (202) 245-2278.

**SUPPLEMENTARY INFORMATION:** The National Center for Research in Vocational Education Advisory Council is established under Section 171 of the Vocational Educational Act of 1963 as amended by the Education Amendments of 1976 (P.L. 94-482) (20 U.S.C. 2401). The primary purpose of the Council is to advise the National Center Director on the operation of the National Center and the Secretary on regional centers. In addition to advising the Director, the Council, at the request of the Secretary, may be consulted on current issues in vocational education as they affect the National Center. Meetings held at the request of the Secretary are conducted in accordance with the Federal Advisory Committee Act (FACA).

That portion of the meeting of the Council under FACA is open to the public on December 12, 1983 from 1:00 p.m. to 4:30 p.m. The proposed agenda includes:

- 1:00-1:45—Report back to Advisory Council: Resolution No. 1 (Technassociates, Inc. Evaluation Report)
- Resolution No. 2 (NCRVE Scope of Work)
- 1:45-3:00—Review of the National Academy of Science Report and discussion of implementation strategies
- 3:00-4:00—Recommendations for Option letter for year III
- 4:00-4:30—Other.

Records are kept of all Council proceedings and are available for public inspection at the office of Glenn Boerrigter, Program Improvement Systems Branch, 400 Maryland Avenue SW., Rm. 5018, ROB 3, Washington, D.C. 20202; telephone: (202) 245-2617.

Dated: November 10, 1983.

Robert M. Worthington,

Assistant Secretary for Vocational and Adult Education.

[FR Doc. 83-31026 Filed 11-16-83; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. CP73-184-000, C173-485-000]

### Colorado Interstate Gas Co., et al.; Informal Conference

November 10, 1983.

In the matter of Colorado Interstate Gas Company, a division of Colorado Interstate Corporation and CIG Exploration, Inc.; CIG Exploration, Inc.

Take notice that on Wednesday, December 7, 1983, an informal conference will be held in the above-captioned dockets. The subject of the informal conference is the offer of settlement submitted by Colorado Interstate Gas Company in these dockets on March 11, 1983. The informal conference will convene at 2:00 p.m. in a conference room at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426. All interested persons are invited to attend. For further information contact: P.J. Roidakis (202) 357-8307 or R.D. Long, (202) 357-8307.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-31039 Filed 11-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-81-001 and PR82-104-001]

### Inter-City Minnesota Pipelines Ltd., Inc.; Filing of Tariff Sheet

November 10, 1983.

Take notice that on November 4, 1983, Inter-City Minnesota Pipelines Ltd., Inc. (MPL) tendered for filing Second Substitute Twentieth Revised Sheet No. 4 to Original Volume No. 1 of Minnesota Pipelines' FERC Gas Tariff.

MPL represents that the tendered sheet effects the base rate approved by the Commission in its order of October 5, 1983, and cumulates that base rate to the PGA filings made by the Company in the interim since the settlement offer was made on May 13, 1983. Since the rate effects no new application but only the approved base rate and PGA adjustments already in effect, MPL requests that it be made effective November 1, 1983. MPL requests all necessary waivers of notice and all suspension policies to allow the requested date. MPL further represents that approval of the tariff sheet so tendered will allow MPL to calculate the refund owed its customers in this docket



and permit such refund to be made by November 30, 1983.

A copy of the filing has been served on all MPL's jurisdictional customers and on the applicable state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Acting Secretary.

[FR Doc. 83-31040 Filed 11-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-21-000]

**Locust Ridge Gas Co.; Cost of Service Filing to Support Base Tariff Rates**

November 10, 1983.

Take notice that on November 8, 1983, Locust Ridge Gas Company (Locust Ridge) tendered for filing its cost of service study, pursuant to CFR Section 154.38(d)(4)(vi)(a), supporting its base tariff rates reflected in the following FERC Gas Tariff:

Original Volume No. 1  
Original Volume No. 3

Locust Ridge states that the cost of service study which is based upon actual experience ending July 31, 1983, supports the collection of its base tariff rates, subject to refund, effective October 1, 1983 through the proposed November 28, 1983 effective date for the pipeline tariff sheets filed, pursuant to Section 4(e) of the Natural Gas Act, in Docket No. RP84-16-000. In addition, Locust Ridge requests that the Commission consolidate the above captioned proceeding with the company's rate proceeding Docket No. RP84-16-000.

Copies of this filing were served upon all customers of Locust Ridge subject to these tariffs.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington,

D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Acting Secretary.

[FR Doc. 83-31040 Filed 11-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-54-002]

**Louisiana-Nevada Transit Co.; Proposed Changes in FERC Gas Tariff**

November 10, 1983.

Take notice that on November 7, 1983, Louisiana-Nevada Transit Company tendered for filing proposed changes in its FERC Gas Tariff Volume I. The proposed changes are to reflect changes in its purchased gas cost as provided in the Company's Purchased Gas Adjustment Clause applicable to its Rate Schedule No. G-1 and X-2. The change provides for a total adjustment of 42.68 cents per Mcf including a deferred gas cost adjustment of 15.47 cents per Mcf, to amortize a deferred balance, and a cumulative cost of gas adjustment of 27.21 cents per Mcf.

Copies of the filing were served upon the Company's jurisdictional customer and the Arkansas Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Acting Secretary.

[FR Doc. 83-31042 Filed 11-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-48-001]

**Michigan Wisconsin Pipe Line Co.; Filing**

November 10, 1983.

Take notice that on November 4, 1983, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing the following documents:

- (1) Comparison of Gas Rates for Affiliated and Certain Non-Affiliated Production included in Michigan Wisconsin's PGA Effective November 1, 1983; and
- (2) Supplemental Report pursuant to Section 282.602(d)(2) of Commission Regulations February, 1983 through July, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Acting Secretary.

[FR Doc. 83-31043 Filed 11-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP78-123-020]

**Northwest Alaskan Pipeline Company (Eastern Leg); Application**

November 10, 1983.

Take notice that on November 4, 1983 Northwest Alaskan Pipeline Company (Northwest Alaskan), 275 East Second South, Salt Lake City, Utah, 84110, filed in Docket No. CP78-123-020 an application pursuant to Sections 3, 4 and 7 of the Natural Gas Act and Section 9 of the Alaska Natural Gas Transportation Act of 1976. By such application, Northwest Alaskan seeks (1) To extend conditionally its existing authority, pursuant to Section 3 of the Natural Gas Act, to import natural gas from Canada, (2) to obtain pregranted abandonment authorization, as may be required in the event that certain certificated sales for resale are terminated, (3) approval of certain



proposed tariff sheets, all as more fully set forth in the application.

Northwest Alaskan states that by orders issued April 28 and June 20, 1980, in Docket No. CP78-123, *et al.*, the Commission authorized Northwest Alaskan to import from Pan-Alberta, Ltd. (Pan-Alberta) up to 800,000 Mcf of natural gas per day at Monchy, Saskatchewan as part of the Eastern Leg pre-build project of the Alaskan Natural Gas Transportation System (ANGTS). Northwest Alaskan also states that said authorizations are effective for the same term as specified by the National Energy Board of Canada (NEB) in Export Licenses Nos. GL-58 and GL-62 and will expire on October 31, 1988. Northwest Alaskan further states that the Commission, in the April 28 and June 20, 1980 orders, certificated the sales for resale of these volumes by Northwest Alaskan to Northern Natural Gas Company, a Division of InterNorth, Inc., Panhandle Eastern Pipeline Company, and United Gas Pipe Line Company, collectively (Repurchasers), pursuant to Section 7(c) of the Natural Gas Act. These volumes are transported by the Northern Border Pipeline Company for the Repurchasers through the Northern Border Pipeline, the U.S. segment of the Eastern Leg of ANGTS.

According to Northwest Alaskan, the instant application seeks only to extend conditionally existing authorization so as to permit Northwest Alaskan to import up to 800,000 Mcf of natural gas per day through October 31, 1992 as now specified in the extended Export License No. GL-66, which was issued by the NEB on March 8, 1983. Northwest Alaskan states that as a condition to the export extension granted in GL-66, the NEB required that Pan Alberta file, and have NEB acceptance by January 31, 1984, of proof that the Commission issued an order approving the import extension. This, Northwest Alaskan requests an import authorization at this time to satisfy the NEB; however, Northwest Alaskan requests that such authorization be conditioned by the Commission on renegotiations by Northwest Alaskan and Pan Alberta, prior to November 1, 1986, of the price, take-or-pay and other marketing related terms of their contracts as they would apply to the volumes proposed to be imported after November 1, 1988. Northwest Alaskan states that such renegotiation is required by the October 11, 1983 amendments and letter agreements attached as Exhibit E to its application.

Northwest Alaskan further states that should those renegotiations fail, the imports would terminate on October 31,

1988 unless the gas is resold to other parties not yet identified. Thus Northwest Alaskan also requests pregranted abandonment authorization, as required, in the event that presently certificated sales for resale are terminated due to the failure of Northwest Alaskan and the Repurchasers to reach accord on renegotiated price and take-or-pay terms prior to May 1, 1987, as provided for in amended agreements.

Finally, Northwest Alaskan requests that the Commission accept and approve certain revisions to its FERC Gas Tariff, Original Volume No. 2 and that the Commission's notice requirements be waived, pursuant to 18 CFR 154.51, in order to permit the tariff changes to become effective October 11, 1983.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,  
Acting Secretary.

(FR. Doc. 83-31045 Filed 11-16-83; 8:45 am)  
BILLING CODE 6717-01-M

#### [Docket No. CP78-123-021]

#### Northwest Alaska Pipeline Company (Western Leg); Application

November 10, 1983.

Take notice that on November 4, 1983 Northwest Alaska Pipeline Company (Northwest Alaskan), 275 East Second South, Salt Lake City, Utah, 84110, filed in Docket No. CP78-123-021 an application pursuant to Sections 3, 4 and 7 of the Natural Gas Act and Section 9 of the Alaska Natural Gas Transportation Act of 1976. By such application, Northwest Alaskan seeks

(1) to extend conditionally its existing authority, pursuant to Section 3 of the Natural Gas Act, to import natural gas from Canada, (2) to obtain pregranted abandonment authorization, as may be required in the event that its certificated sale for resale is terminated and (3) approval of certain tariff sheets, all as more fully set forth in the application.

Northwest Alaskan states that by orders issued January 11 and June 13, 1980, in Docket No. CP78-123, *et al.*, the Commission authorized Northwest Alaskan to import from Pan-Alberta, Ltd. (Pan-Alberta) up to 300,000 Mcf of natural gas per day at Kingsgate, British Columbia as part of the Western Leg pre-build project of the Alaskan Natural Gas Transportation System (ANGTS). Northwest Alaskan also states that said authorizations are effective for the same term as specified by the National Energy Board of Canada (NEB) in Export Licenses Nos. GL-59 and GL-63 and will expire on October 31, 1987. Northwest Alaskan further states that the Commission, in the January 11 and June 13, 1980 orders, certificated the sale for resale of these volumes by Northwest Alaskan to Pacific Interstate Transmission Company (PIT) pursuant to Section 7(c) of the Natural Gas Act. These volumes are transported by Pacific Gas Transmission Company, Northwest Pipeline Company and El Paso Natural Gas Company for PIT through what is also known as the Western Delivery System.

According to Northwest Alaskan, the instant application seeks only to extend conditionally existing authorization so as to permit Northwest Alaskan to import up to 300,000 Mcf of natural gas per day through October 31, 1992, as now specified in the extended Export License No. GL-65, which was issued by the NEB on March 8, 1983. Northwest Alaskan states that as a condition to the export extension granted in GL-65, the NEB required that Pan Alberta file, and have NEB acceptance by January 31, 1984, of proof that the Commission issued an order approving the import extension. Thus, Northwest Alaskan requests an import authorization at this time to satisfy the NEB; however, Northwest Alaskan requests that such authorization be conditioned by the Commission on renegotiation by Northwest Alaskan and Pan Alberta, prior to November 1, 1986, of the price, take-or-pay and other market related terms of their contracts as they would apply to the volumes proposed to be imported after November 1, 1988. Northwest Alaskan states that such renegotiation is required by the October 11, 1983, amendments and letter



agreements attached as Exhibit E to its application.

Northwest Alaskan further states that should those renegotiations fail, the imports would terminate on October 31, 1988, unless the gas is resold to other parties not yet identified. Thus, Northwest Alaskan also requests pregranted abandonment authorization, as required, in the event that presently certificated sales for resale are terminated due to the failure of Northwest Alaskan and PIT to reach accord on renegotiated price and take-or-pay terms prior to May 1, 1987, as provided for in the amended agreements.

Finally, Northwest Alaskan requests that the Commission accept and approve certain revisions to its FERC Gas Tariff, Original Volume No. 2 and that the Commission's notice requirements be waived, pursuant to 18 CFR 154.51, in order to permit the tariff changes to become effective October 11, 1983.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,  
Acting Secretary.

[FR Doc. 83-31044 Filed 11-16-83; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. RP84-22-000]

#### Texas Gas Transmission Corp.; Filing of Tariff Sheets

November 10, 1983.

Take notice that on November 8, 1983, Texas Gas Transmission Corporation (Texas Gas), pursuant to Section 154.62 of the Commission's Regulations, tendered for filing Rate Schedules G-SL,

CD-SL, I-SL, EM-SL, and XS-SL, consisting of the following sheets to its FPC Gas Tariff, Third Revised Volume No. 1:

| Rate schedule                    | Sheet No.                  |
|----------------------------------|----------------------------|
| Fourth Revised Sheet No. 1       |                            |
| Forty-Second Revised Sheet No. 7 |                            |
| G-SL                             | First Revised Sheet No. 8  |
| G-SL                             | First Revised Sheet No. 9  |
| G-SL                             | First Revised Sheet No. 10 |
| G-SL                             | First Revised Sheet No. 11 |
| G-SL                             | First Revised Sheet No. 12 |
| CD-SL                            | First Revised Sheet No. 13 |
| CD-SL                            | First Revised Sheet No. 14 |
| CD-SL                            | First Revised Sheet No. 15 |
| CD-SL                            | First Revised Sheet No. 16 |
| CD-SL                            | First Revised Sheet No. 17 |
| CD-SL                            | First Revised Sheet No. 18 |
| CD-SL                            | First Revised Sheet No. 19 |
| CD-SL                            | First Revised Sheet No. 20 |
| CD-SL                            | First Revised Sheet No. 21 |
| CD-SL                            | First Revised Sheet No. 22 |
| CDL-SL                           | First Revised Sheet No. 23 |
| CDL-SL                           | First Revised Sheet No. 24 |
| CDL-SL                           | First Revised Sheet No. 25 |
| CDL-SL                           | First Revised Sheet No. 26 |
| CDL-SL                           | First Revised Sheet No. 27 |
| CDL-SL                           | First Revised Sheet No. 28 |
| I-SL                             | First Revised Sheet No. 34 |
| I-SL                             | First Revised Sheet No. 35 |
| I-SL                             | First Revised Sheet No. 36 |
| EM-SL                            | First Revised Sheet No. 37 |
| EM-SL                            | First Revised Sheet No. 38 |
| XS-SL                            | First Revised Sheet No. 39 |
| XS-SL                            | First Revised Sheet No. 40 |

Texas Gas states that it is filing the proposed tariff sheets in order to provide comparable service in its Southern Louisiana service area to that being provided in its other sales zones.

At the present time the only tariff service available in Southern Louisiana is under Rate Schedule SG-SL. This filing will make available to the Southern Louisiana sales area the same rate schedules which are now available in Zones 1, 2, 3, and 4.

The base sales rates reflected on Forty-second Revised Sheet No. 7 have been derived from the cost data submitted in the settlement of Docket No. RP82-74 which was approved by Commission Letter Order dated June 20, 1983. Also reflected in the base rates is the downward adjustment of .15¢ for advance payments made in the August 1, 1983 PGA filing.

Texas Gas requests that the revised tariff sheets become effective on December 9, 1983, which date is approximately thirty days from the date of the filing.

Texas Gas states that since no sales are anticipated at the present time under the proposed rate schedules, no schedule of sales and revenues is being submitted. Texas Gas requests that the Commission waive the requirements of Section 154.62(b)(2) requiring estimates of sales and revenues.

Copies of the filing are being mailed to all of Texas Gas' jurisdictional sales

customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-31046 Filed 11-16-83; 8:45 am]  
BILLING CODE 6717-01-M

[Docket Nos. RP81-20-005 and CP75-104-036, et al.]

#### U-T Offshore System; Proposed Changes in FERC Gas Tariff

November 10, 1983.

Take notice that U-T Offshore System (U-TOS) on November 4, 1983 tendered for filing Substitute Third Revised Sheet No. 7 to Original Volume No. 1 of its FERC Gas Tariff. U-TOS states that the purpose of the proposed change is to correct an inadvertent error in the rate provisions of its Interruptible Overrun Transportation Service tariff provisions currently on file with the Commission. The proposed change would delete the tariff language providing for a supplemental charge to depreciation and credit to accumulated provision for depreciation currently contained in Section 4 (Rate) on Third Revised Sheet No. 7 to Original Volume No. 1 of U-TOS' FERC Gas Tariff. This provision was eliminated by the terms of the Settlement approved by the Commission in Docket Nos. RP81-20-001 and CP75-104-029, et al. on December 1, 1982.

U-TOS requests a waiver of the Commission's Regulations in order to permit the enclosed tariff sheet to become effective on June 1, 1982, the same date as Third Revised Tariff Sheet No. 7 became effective.

Copies of the filing were served upon all participants on the Commission's official service list in Docket Nos. RP81-20-001 and CP75-104-029, et al. and



upon all shippers for which U-TOS provides transportation service.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 214 and Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before November 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Casbell,  
Acting Secretary.

[FR Doc. 83-31047 Filed 11-16-83; 8:45 am]

BILLING CODE 6717-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[OPTS-140042] TSH-FRL 2471-7]

### CRC Systems, Inc.; Access to Data by Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

**SUMMARY:** The Office of Toxic Substances (OTS) has contracted with CRC Systems, Inc. (CRC) of Fairfax, Va., to conduct requirements studies and to develop functional designs for several computerized Toxic Substances Control Act (TSCA) section 5 data base information processing systems and to perform an office automation analysis. To perform this work, CRC will require access to information that has been claimed to be confidential. There will be no need under this contract for CRC to remove any CBI data or documents from OTS premises.

**DATE:** The access to confidential data submitted to EPA will occur no sooner than 10 working days after date of publication of this notice in the Federal Register.

**FOR FURTHER INFORMATION CONTACT:** Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll-Free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

**SUPPLEMENTARY INFORMATION:** The Office of Toxic Substances has developed and is using several automated systems for processing information submitted to EPA under section 5 of the Toxic Substances Control Act. These systems were developed to support the Premanufacture Notice (PMN) review program by providing the capacity to retrieve information about similar PMN chemicals. The administration, volume, and flow of data through the PMN program have changed over time, as have EPA's uses for automated support systems. Under Contract No. 68-01-6746, OTS has contracted with CRC Systems, Inc. to conduct requirements analyses and to develop detailed systems designs in order to identify and document these new program needs. The computer systems to be analyzed under this contract operate on the confidential OTS computer system. Another contract task will require CRC to study computer hardware currently used in the CBI environment and to make recommendations on upgrading equipment for more efficient processing. Therefore, in accordance with 40 CFR 2.306(j), EPA has determined that it will be necessary to allow CRC access to information submitted to the Agency under section 5 of TSCA which may be claimed as confidential. CRC will have access to confidential information only on EPA premises.

Since CRC employees have been authorized access to information which may be claimed to be confidential, EPA is issuing this notice to notify all submitters of PMNs that CRC will have access to confidential business information from EPA.

CRC has been authorized to have access to TSCA Confidential Business Information under the EPA Security Manual "Contractor Requirements for Control and Security of TSCA Confidential Business Information."

The CRC personnel slated to work on these projects will be required to sign a nondisclosure agreement before they are permitted access to confidential information or computer systems. CRC personnel are required to treat all Confidential Business Information in accordance with the TSCA Confidential Business Security Manual and the Contractor Requirements Manual.

Dated: November 7, 1983.

Marcia Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-30956 Filed 11-16-83; 8:45 am]

BILLING CODE 6560-30-M

## FEDERAL COMMUNICATIONS COMMISSION

### A Closed Circuit Test of the Emergency Broadcast System During the Week of December 5, 1983

November 10, 1983.

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of December 5, 1983. Only ABC, CBS, MBS, NBC, NPR, AP Radio and UPI Audio Radio Network affiliates will receive the Test Program for the Closed Circuit Test. The ABC, CBS, NBC and PBS television networks are not participating in the Test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 30 to 45 minutes prior to the test.

Final evaluation of the test is scheduled to be made about one month after the Test.

*This is a closed circuit test and will not be broadcast over the air.*

William J. Tricarico,

Federal Communications Commission.

[FR Doc. 83-30935 Filed 11-16-83; 8:45 am]

BILLING CODE 6712-01-M

### TIAG Auditing and Regulatory 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's (TIAG) Auditing and Regulatory Subcommittee scheduled to meet on Monday, December 5, 1983 in the Commission's office at 1200 19th Street, NW., Room 330, Washington, D.C. The meeting will be open to the public. The agenda is as follows:

- I. General Administrative Matters
- II. Old Business
- III. Income Tax Accounts
- IV. Assignment of Further Tasks
- V. Other Business
- VI. Presentation of Oral Statements
- VII. Adjournment

With prior approval of Subcommittee Chairman Hugh A. Gower, oral statements while not favored or encouraged, may be allowed if time permits and if the Chairman determines that a 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.



Gower (404/658-1776) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-30934 Filed 11-16-83; 8:45 am]

BILLING CODE 6712-01-M

#### Technical Subgroup of Radio Advisory Committee; Resumes Meeting

The Technical Subgroup of the Advisory Committee on Radio Broadcasting resumes its continuing meeting Tuesday, November 22, 1983 at 10 a.m. in the Vincent Wasilewski Room of the National Association of Broadcasters, 1771 N Street NW., Washington, D.C.

The Subgroup will continue its consideration of matters pertinent to the development of a new bilateral AM agreement between the United States and Canada which is expected to replace the North American Regional Broadcasting Agreement (NARBA).

The Subgroup will also discuss similar bilateral discussions which are being conducted with Mexico, looking toward post-Rio revision of the U.S.-Mexican AM Agreement.

The meeting, a continuing one, will be resumed after the November 22, 1983 session at such time and place as is decided at that session. It is open for participation by all interested persons.

For further information, please call the Subgroup Chairman, Mr. Wallace E. Johnson, at (703) 841-0500.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-30942 Filed 11-16-83; 8:45 am]

BILLING CODE 6712-01-M

#### FEDERAL HOME LOAN BANK BOARD

[No. 83-627]

#### East Tennessee Federal Savings and Loan Association, Inc.; Appointment of Conservator

Dated: November 10, 1983.

Whereas, by Federal Home Loan Bank Board Resolution No. 83-624, dated November 10, 1983, the Federal Home Loan Bank Board, acting under the authority conferred upon it by Sections 5(d)(6) (A) and (B) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(d)(6) (A) and (B) (1976)), appointed a conservator for East Tennessee Federal Savings and Loan Association, Inc., Knoxville, Tennessee; and

Whereas, Section 547.4 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 547.4 (1982)) requires that a certified copy of such action shall be mailed to the Association and that notice of such action shall be filed immediately for publication in the Federal Register:

Now, Therefore, Be It Resolved that the Secretary to the Bank Board is directed to mail a certified copy of Resolution No. 83-625, to the address of record of the Association and to file the following notice for publication in the Federal Register:

Federal Home Loan Bank Board, East Tennessee Federal Savings and Loan Association, Inc., Knoxville, Tennessee—Notice of Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in Sections 5(d)(6) (A) and (B) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(d)(6) (A) and (B) (1982)), the Federal Home Loan Bank Board appointed William P. Wilson, III as Conservator of East Tennessee Federal Savings and Loan Association, Inc., Knoxville, Tennessee, effective as of November 10, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-30980 Filed 11-16-83; 8:45 am]

BILLING CODE 6720-01-M

#### State Savings & Loan Association; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for State Savings and Loan Association, Clovis, New Mexico, on November 3, 1983.

Dated: November 7, 1983.

J. J. Finn,

Secretary.

[FR Doc. 83-31025 Filed 11-16-83; 8:45 am]

BILLING CODE 6720-01-M

#### FEDERAL RESERVE SYSTEM

#### Formation of Bank Holding Companies; Aurelia FT and S Bankshares, Inc., et al.

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 section 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 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 Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Aurelia FT & S Bankshares, Inc.*, Aurelia, Iowa; to become a bank holding company by acquiring 80 percent or more of the voting shares of The First Trust and Savings Bank, Aurelia, Iowa. Comments on this application must be received not later than December 9, 1983.

2. *Farmers & Merchants Bancorp.*, Winterset, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of Farmers & Merchants State Bank, Winterset, Iowa. Comments on this application must be received not later than December 9, 1983.

B. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *County Bancorporation, Inc.*, Jackson, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Cape County Bank, Jackson, Missouri. Comments on this application must be received not later than December 9, 1983.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Knox City Bankshares, Inc.*, Knox City, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens State Bank, Knox City, Texas. Comments on this application must be received not later than December 9, 1983.



Board of Governors of the Federal Reserve System, November 10, 1983.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 83-30926 Filed 11-16-83; 8:45 am]

BILLING CODE 6210-01-M

#### **Proposed Acquisition of MARLA, Inc.; Citizens Corp.**

Citizens Corporation, Providence, Rhode Island, 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 MARLA, Inc., Atlanta, Georgia.

Applicant states that the subsidiary would engage in the activities of originating, selling, and servicing mortgage loans and other consumer loans, and acting as agent for the sale of credit life, accident, and health insurance. These activities would be performed from offices of Applicant's subsidiary in Atlanta, Georgia and the geographic area to be served is the state of Georgia. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston.

Any person wishing to comment on the application should submit views in writing to be received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 9, 1983.

Board of Governors of the Federal Reserve System, November 10, 1983.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 83-30927 Filed 11-16-83; 8:45 am]

BILLING CODE 6210-01-M

#### **Proposed Acquisition of Dis-Com Securities, Inc.; First Union Corp.**

First Union Corporation, Charlotte, North Carolina, 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 Dis-Com Securities Inc., Hallandale, Florida.

Applicant states that the proposed subsidiary would provide securities brokerage services, related securities credit activities pursuant to the Board's Regulation T, and incidental activities such as offering custodial services, individual retirement accounts and cash management services, as provided in 12 CFR 225.4(a)(15). Such securities brokerage activities will be restricted to buying and selling securities as agent for the account of customers and will not include securities underwriting or dealing or investment advice or research services. These activities would be performed from offices of Applicant's subsidiary in Hallandale, Bay Harbor, Fort Lauderdale, Miami Beach, and South Miami, Florida, and the geographic area to be served in the state of Florida.

Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or

at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than December 9, 1983.

Board of Governors of the Federal Reserve System, November 10, 1983.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 83-30928 Filed 11-16-83; 8:45 am]

BILLING CODE 6210-01-M

#### **Acquisition of Bank Shares by Bank Holding Companies; General Educational Fund, Inc., et al.**

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 section 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 Boston**  
(Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *General Educational Fund, Inc.*, Burlington, Vermont; to acquire at least 25 percent of the voting shares or assets of Merchants Bancshares, Inc., Burlington, Vermont, and thereby indirectly acquire The Merchants Bank, Burlington, Vermont. Comments on this application must be received not later than December 8, 1983.

**B. Federal Reserve Bank of Atlanta**  
(Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *DeLand Development Corporation*, DeLand, Florida; to acquire 16.25 percent of the voting shares of DeLand State Bank and Trust, DeLand, Florida. Comments on this application must be received not later than December 9, 1983.

**C. Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice



President) 250 Marquette Avenue,  
Minneapolis, Minnesota 55480:

1. *Borresen Investments, Inc.*,  
Westbrook, Minnesota; to acquire 95  
percent of the voting shares or assets of  
Darfur Bancshares, Inc., Darfur,  
Minnesota, and thereby acquire  
indirectly State Bank of Darfur, Darfur,  
Minnesota. Comments on this  
application must be received not later  
than December 9, 1983.

Board of Governors of the Federal Reserve  
System, November 10, 1983.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 83-30929 Filed 11-16-83; 8:45 am]

BILLING CODE 6210-01-M

#### Formation of a Bank Holding Company; Merchants Bancshares, Inc.

Merchants Bancshares, Inc.,  
Burlington, Vermont, has applied for the  
Board's approval under section 3(a)(1) of  
the Bank Holding Company Act (12  
U.S.C. 1842(a)(1)) to acquire at least 80  
percent of the voting shares of The  
Merchants Bank, Burlington, Vermont.  
The factors that are considered in acting  
on the application are set forth in  
section 3(c) of the Act (12 U.S.C.  
1842(c)).

Merchants Bancshares, Inc.,  
Burlington, Vermont, has also applied,  
pursuant to section 3(a)(1) and 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 The Merchants  
Trust Company, Burlington, Vermont.  
Applicant states that Merchants Trust  
Company would engage in the activities  
of a trust company. These activities  
would be performed from offices of  
Applicant's subsidiary in Burlington,  
Vermont, and the geographic area to be  
served is the State of Vermont.

Such activities have been specified by  
the Board in § 225.4(a) of Regulation Y  
as permissible for bank holding  
companies, subject to Board approval of  
individual proposals in accordance with  
the procedures of § 225.4(b).

Interested persons may express their  
views on the question whether  
consummation of the proposal can  
"reasonably be expected to produce  
benefits to the public, such as greater  
convenience, increased competition, or  
gains in efficiency, that outweigh  
possible adverse effects, such as undue  
concentration of resources, decreased or  
unfair competition, conflicts of interests,  
or unsound banking practices." Any  
request for a hearing on this question  
must be accompanied by a statement of  
the reasons a written presentation

would not suffice in lieu of a hearing,  
identifying specifically any questions of  
fact that are in dispute, summarizing the  
evidence that would be presented at a  
hearing, and indicating how the party  
commenting would be aggrieved by  
approval of the proposal.

The application may be inspected at  
the offices of the Board of Governors or  
at the Federal Reserve Bank of Boston.

Any views or requests for hearing  
should be submitted in writing and  
received by the Reserve Bank not later  
than December 8, 1983.

Board of Governors of the Federal Reserve  
System, November 10, 1983.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 83-30930 Filed 11-16-83; 8:45 am]

BILLING CODE 6210-01-M

#### Formation of a Bank Holding Company; Sharp Bancshares, Inc.

Sharp Bancshares, Inc., Cave City,  
Arkansas, has applied for the Board's  
approval under section 3(a)(1) of the  
Bank Holding Company Act (12 U.S.C.  
1842(a)(1)) to become a bank holding  
company by acquiring 100 percent of the  
voting shares of Bank of Cave City,  
Cave City, Arkansas. The factors that  
are considered in acting on the  
application are set forth in section 3(c)  
of the Act (12 U.S.C. 1842(c)).

Sharp Bancshares, Inc., Cave City,  
Arkansas, has also 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  
engage directly in real estate appraisal.  
This activity would be performed from  
offices of Applicant in Cave City,  
Arkansas, and the geographic areas to  
be served are Sharp, Independence,  
Lawrence, Izard, and Fulton Counties,  
Arkansas.

Such activities have been specified by  
the Board in § 225.4(a) of Regulation Y  
as permissible for bank holding  
companies, subject to Board approval of  
individual proposals in accordance with  
the procedures of § 225.4(b).

Interested persons may express their  
views on the question whether  
consummation of the proposal can  
"reasonably be expected to produce  
benefits to the public, such as greater  
convenience, increased competition, or  
gains in efficiency, that outweigh  
possible adverse effects, such as undue  
concentration of resources, decreased or  
unfair competition, conflicts of interests,  
or unsound banking practices." Any  
request for a hearing on this question  
must be accompanied by a statement of  
the reasons a written presentation

would not suffice in lieu of a hearing,  
identifying specifically any questions of  
fact that are in dispute, summarizing the  
evidence that would be presented at a  
hearing, and indicating how the party  
commenting would be aggrieved by  
approval of the proposal.

The application may be inspected at  
the offices of the Board of Governors or  
at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing  
should be submitted in writing and  
received by the Reserve Bank not later  
than December 9, 1983.

Board of Governors of the Federal Reserve  
System, November 10, 1983

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 83-30931 Filed 11-16-83; 8:45 am]

BILLING CODE 6210-01-M

#### FEDERAL TRADE COMMISSION

##### Export Trade Association Questionnaire

**AGENCY:** Federal Trade Commission.

**ACTION:** Application to OMB under the  
Paperwork Reduction Act (44 U.S.C.  
3501 et seq.) for clearance of a  
questionnaire addressed to export trade  
associations registered with the  
Commission under the Webb-Pomerene  
Act (15 U.S.C. 61 et seq.).

**SUMMARY:** The Federal Trade  
Commission intends to collect  
information from export trade  
associations concerning their  
organization, management, activities,  
and relationships with other entities.  
The Commission will use this  
information for monitoring association  
compliance with the provisions of the  
Webb-Pomerene Act, evaluating the  
effectiveness of the Act in achieving its  
intended objectives, identifying possible  
violations of the federal antitrust and  
trade regulation laws, preparing reports  
or other information for publication or  
release to the Administration, the  
Congress, and members of the public,  
and making comments and  
recommendations on public issues.

**DATE:** Comments on the request for  
OMB review must be submitted on or  
before December 19, 1983.

**ADDRESS:** Send comments to FTC Desk  
Officer, Office of Information and  
Regulatory Affairs, Office of  
Management and Budget, Room 3001,  
New Executive Office Building,  
Washington, D.C. 20503. Copies of this  
application may be obtained from:  
Public Reference Branch, Room 130,  
Federal Trade Commission,  
Washington, D.C. 20580.



**FOR FURTHER INFORMATION CONTACT:**  
Carl D. Hevener, Office of Evaluation,  
Bureau of Competition, Room 304,  
Federal Trade Commission,  
Washington, D.C. 20580, (202) 523-3373.

Dated: November 10, 1983.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-30932 Filed 11-16-83; 8:45 am]

BILLING CODE 6750-01-M

## GENERAL SERVICES ADMINISTRATION

### Agency Information Collection Under Review by the Office of Management and Budget (OMB): Authorized Negotiators

**AGENCY:** Office of Policy and  
Management Systems, GSA.

**ACTION:** Notice.

**SUMMARY:** Under the provisions of the  
Paperwork Reduction Act of 1980 (44  
U.S.C. Chapter 35), the General Services  
Administration plans to request the  
Office of Management and Budget to  
review and approve an existing  
information collection in use without an  
OMB control number.

**DATES:** Comments on this information  
collection must be submitted on or  
before December 9, 1983.

**ADDRESSES:** Send comments to Franklin  
S. Reeder, GSA Desk Officer, Room  
3235, NEOB, Washington, DC 20503, and  
to John Gilmore, GAS Clearance Officer,  
General Services Administration  
(ORAI), Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:**  
Victoria Moss, Office of Acquisition  
Policy (202-523-4799).

**SUPPLEMENTARY INFORMATION:** The  
purpose of this information collection is  
to identify firms submitting offers to the  
Government under negotiated  
solicitations to assure that discussions  
are held with authorized individuals.  
The annual reporting burden is:  
respondents 2,823; responses 28,230;  
hours 480. A copy of this proposal may  
be obtained from the Directives and  
Reports Management Branch (ORAI).

Room 3004, GS Building, Washington,  
DC 20405 (202-566-0666).

Dated: November 8, 1983.

Michael G. Barbour,

Director, Information Management Division.

[FR Doc. 83-31001 Filed 11-16-83; 8:45 am]

BILLING CODE 6820-34-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 83V-0159 et al.]

### Availability of Approved Variances for Sunlamp Products

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug  
Administration (FDA) is announcing  
that variances from the performance  
standard for sunlamp products have  
been approved by the Deputy Director  
of FDA's National Center for Devices  
and Radiological Health (NCDRH) for  
certain specified sunlamps and sunlamp  
products manufactured or imported by  
three organizations. The intended use of  
the products is to produce ultraviolet  
radiation for tanning the skin.

**DATES:** The effective dates and  
termination dates of the variances are  
listed in the table below.

**ADDRESS:** The applications and all  
correspondence on the various  
applications have been placed on  
display in the Dockets Management  
Branch (HFA-305), Food and Drug  
Administration, Rm. 4-62, 5600 Fishers  
Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:**  
Norbert P. Heib, Jr., National Center for  
Devices and Radiological Health (HFX-  
460), Food and Drug Administration,  
5600 Fishers Lane, Rockville, MD 20857,  
301-443-3426.

**SUPPLEMENTARY INFORMATION:** Under  
§ 1010.4 (21 CFR 1010.4) of the  
regulations governing establishment of  
performance standards under section  
358 of the Radiation Control for Health  
and Safety Act of 1968 (42 U.S.C. 263f),  
each of the three organizations listed in

the table below has been granted a  
variance from certain of the  
requirements of the performance  
standard for sunlamp products in  
§ 1040.20 (21 CFR 1040.20). Approval has  
been granted for the listed products to  
vary as specified from that portion of  
§ 1040.20(c)(2)(ii) (21 CFR  
1040.20(c)(2)(ii)) requiring the maximum  
timer interval for a sunlamp product to  
be 10 minutes or less. All other  
provisions of § 1040.20 remain  
applicable to the listed sunlamp  
products and ultraviolet lamps.

Each of the variances for the  
nominally ultraviolet-A (UVA) sunlamp  
products permit the listed manufacturer  
or importer to introduce into commerce  
sunlamp products that have less than 5  
percent of their ultraviolet radiation at  
wavelengths shorter than 320  
nanometers. FDA's experience with this  
kind of sunlamp product indicates that  
the relatively lengthy exposure  
recommended by the manufacturer does  
not result in severe, acute skin burns or  
corneal injury. Therefore, some of the  
requirements of § 1040.20 are not  
appropriate for these UVA products.  
Even though the skin hazard is reduced,  
there is still a need to wear protective  
eyewear to eliminate the unnecessary  
risk of chemically sensitized lenses or of  
cornea damage or of long-term  
development of lens opacities.

NCDRH has determined that suitable  
or alternate means of radiation  
protection will be provided by  
constraints on the physical and optical  
design and by warnings in the user  
manual and on the products for all of the  
variances in lieu of the requirements  
listed in the table that were determined  
to be inappropriate. Therefore, on the  
dates specified in the table below, FDA  
approved the requested variances by  
letter from the Deputy Director of  
NCDRH to each manufacturer or  
importer listed in the table.

To associate the product with the  
variance granted to the manufacturer of  
that product, each product shall bear on  
the certification label required by  
§ 1010.2(a) (21 CFR 1010.2(a)) the docket  
number (which is the identifying number  
of the variance) and effective date of the  
variance as specified in the table below.

| Docket No. | Organization granted the variance                                                                | Sunlamp product                                                                           | Paragraph in 21 CFR<br>1040.20 pertaining to<br>variance | Effective date/<br>termination date |
|------------|--------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|----------------------------------------------------------|-------------------------------------|
| 83V-0159   | Halcyon Leasing, Inc., Dorchester Boulevard, West Suite 1517,<br>Montreal, P.Q. H3B 2J6 Canada.  | UVA Suntanning Beds and Canopies (Models: Sun Valley)                                     | (c)(2)(ii)                                               | Aug. 30 1983,<br>Aug. 30, 1989.     |
| 83V-0267   | Saleway Limited, Unit 19, Moss Side Industrial Estate, Leyland,<br>Lancashire PR5, 3QN, England. | UVA Suntanning Canopy, Bed and Facial/Part Body Units<br>Manufactured by Saleway Limited. | (c)(2)(ii)                                               | Aug. 30 1983,<br>Aug. 30, 1988.     |
| 83V-0283   | Club Le Soleil & Tanning Spa, Inc., 327 Baxter Road, Ballwin,<br>Missouri 63011.                 | UVA Suntanning Beds (Z International Exclusive Tanning Bed)                               | (c)(2)(ii)                                               | Sept. 15 1983,<br>Sept 15,<br>1988. |



In accordance with § 1010.4, the application and all correspondence (including the written notice of approval) on the various applications have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 10, 1983.

William F. Randolph,  
Acting Associate Commissioner for  
Regulatory Affairs.

[FR Doc. 83-30822 Filed 11-16-83; 8:45 am]

BILLING CODE 4160-01-M

#### National Institutes of Health

##### National Cancer Institute; Meeting; Developmental Therapeutics Contracts Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Developmental Therapeutics Contracts Review Committee, National Cancer Institute, December 1, 1983, Building 31, Conference Room 2, 9000 Rockville Pike, Bethesda, Maryland 20205. This meeting will be open to the public on December 1, from 9:00 a.m. to 9:30 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, United States Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 1, from approximately 9:30 a.m. to adjournment for the review, discussion and evaluation of an individual contract proposal. This proposal and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposal, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winfred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5706) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Kendall G. Powers, Executive Secretary, Developmental Therapeutics Contracts Review Committee, National Cancer Institute, Westwood Building, Room 805, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7575) will furnish substantive program information.

Dated: November 7, 1983.

Betty J. Beveridge,  
Committee Management Officer, National  
Institutes of Health.

[FR Doc. 83-30826 Filed 11-16-83; 8:45 am]

BILLING CODE 4140-01-M

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

##### Office of Administration

[Docket No. N-83-1306]

##### Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESS:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

##### Notice of Submission of Proposed Information Collection to OMB

Proposal: Community Development  
Block Grant (CDBG) Entitlement  
Program

Office: Community Planning and  
Development

Form No.: SF-424

Frequency of Submission: Annually  
Affected Public: State or Local  
Governments

Estimated Burden Hours: 29,200

Status: Reinstatement

Contact: James R. Broughman, HUD,  
(202) 755-9267; Robert Neal, OMB,  
(202) 395-7316

**Authority:** Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 25, 1983.

Lea Hamilton,

Director, Office of Information Policies and  
Systems.

[FR Doc. 83-30983 Filed 11-16-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1305]

##### Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESS:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451



7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

**Notice of Submission of Proposed Information Collection to OMB**

**Proposal:** Preliminary Site Report by Indian Housing Authority  
**Office:** Housing  
**Form No.:** HUD-3188  
**Frequency of Submission:** On Occasion  
**Affected Public:** State or Local Governments and Non-Profit Institutions  
**Estimated Burden Hours:** 2,600  
**Status:** Extension  
**Contact:** Patricia Arnaudo, HUD, (202) 755-6522; Robert Neal, OMB, (202) 395-7316.

**Authority:** Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

**Dated:** October 21, 1983.

**Lea Hamilton,**  
*Director, Office of Information Policies and Systems.*

[FR Doc. 83-30992 Filed 11-16-83; 8:45 am]

**BILLING CODE 4210-01-M**

[Docket No. N-83-1304]

**Submission of Proposed Information Collection to OMB**

**AGENCY:** Office of Administration, HUD.  
**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESS:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:**

David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

**Notice of Submission of Proposed Information Collection to OMB**

**Proposal:** New Horizons Progress Report  
**Office:** Fair Housing and Equal Opportunity

**Form No.:** HUD-961  
**Frequency of Submission:** Semi-Annually

**Affected Public:** State or Local Governments

**Estimated Burden Hours:** 2,800

**Status:** Extension

**Contact:** Gabriel Nemeth, HUD, (202) 755-5992; Robert Neal, OMB, (202) 395-7316.

**Authority:** Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

**Dated:** October 28, 1983.

**Lea Hamilton,**

*Director, Office of Information Policies and Systems.*

[FR Doc. 83-30991 Filed 11-16-83; 8:45 am]

**BILLING CODE 4210-01-M**

[Docket No. N-83-1303]

**Submission of Proposed Information Collection to OMB**

**AGENCY:** Office of Administration, HUD.  
**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESS:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:**

David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the



information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

**Notice of Submission of Proposed Information Collection to OMB**

**PROPOSAL:** Questionnaire on Public Housing Authorities Cost to Procure Insurance

**OFFICE:** Inspector General

**FORM NUMBER:** None

**FREQUENCY OF SUBMISSION:** Single-Time

**AFFECTED PUBLIC:** State or Local Governments and Non-Profit Institutions

**ESTIMATED BURDEN HOURS:** 2,835

**STATUS:** New

**CONTACT:** John Grygowski, HUD, (202) 755-6361; Robert Neal, OMB, (202) 395-7316.

**Authority:** Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

**Dated:** October 17, 1983.

**Lea Hamilton,**

*Director, Office of Information Policies and Systems.*

[FR Doc. 83-30990 Filed 11-16-83; 8:45 am]

**BILLING CODE 4210-01-M**

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**Arizona Strip District Grazing Board Meeting**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** A meeting of the Arizona Strip District Grazing Board will be held December 15, 1983. The meeting will

begin at 8 a.m. in the Hilton Inn, 1450 South Indian Hills Drive, St. George, Utah.

The agenda for the meeting will include discussion of 1984 range projects, cooperative management agreements, and the district wildlife program.

**FOR FURTHER INFORMATION CONTACT:**

G. William Lamb, District Manager, Arizona Strip District, 196 East Tabernacle, St. George, Utah 84770 (801/673-3545).

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. Interested persons may make oral statements to the board at 3 p.m., or file written statements for the board's consideration.

**Dated:** November 10, 1983.

**G. William Lamb,**

*District Manager.*

[FR Doc. 83-31010 Filed 11-16-83; 8:45 am]

**BILLING CODE 4310-84-M**

**District Advisory Council; Meeting; Susanville, California**

Notice is hereby given in accordance with Pub. L. 94-579 (FLPMA) that a meeting of the Susanville District Advisory Council will be held on December 15 and 16, 1983.

The meeting will begin at 10:00 a.m. on December 15, in the Conference Room of the Bureau of Land Management, Susanville District Office, 705 Hall Street, Susanville, California.

The purpose of the meeting will be to review and approve a process to be followed by the Technical Review Teams being formed to provide the Susanville District with input for the Wilderness Study Process. The council will also review nominations to the teams and make appointments.

The council will also act on nominations of livestock grazing permittees for Cooperative Management Agreements (CMAs), and receive a status report on public input being received on the Honey Lake/Beckwourth Environmental Impact Statement.

The meeting is open to the public and time will be provided for public comment.

Summary minutes of the council meeting will be maintained in the District Office and will be available for public inspection and reproduction within 30 days following the meeting.

**Ben F. Collins,**

*Acting District Manager.*

[FR Doc. 83-31013 Filed 11-16-83; 8:45 am]

**BILLING CODE 4310-84-M**

**Realty Action, Noncompetitive Lease of Public Land in Garfield County, Colo.**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Realty Action, Noncompetitive Lease of Public Land in Garfield County, Colorado.

**SUMMARY:** The following described land is being considered for lease under Section 302 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2762, 43 U.S.C. 1732) at no less than the appraised fair market rental, estimated to be approximately \$3,240.00 annually.

**Sixth Principal Meridian**

T. 7S., R. 102W.

Sec. 29: Portions within Lots 11 and 15;

Sec. 32: Portions within SW¼.

The area within the above-described lands that are proposed for use aggregates approximately 87.5 acres. Salt Creek Mining Company (Salt Creek) is engaged in the development of underground mining activities on issued Federal Coal Leases C-0125436, C-0125438, C-0125439, C-0125515, and C-0125516. The leases are located approximately 20 miles north of Loma, Colorado, along State Highway 139. To facilitate the development of the leases, Salt Creek proposes to expand its operation on the above described public lands and adjacent private lands through the construction of central facilities including a warehouse, wash plant, bath houses, offices, and a coal and water quality laboratory. Plans also propose a refuse coal disposal site one mile south of the proposed central facilities.

Information concerning the proposed land use is contained in the Permit Revision to C-020-81, application submitted to State of Colorado, Department of Natural Resources, Mined Land Reclamation Division. The Bureau of Land Management will review the proposal in accordance with the National Environmental Policy Act to assess impacts and determine compatibility with land use plans for the area. The Bureau of Land Management Grand Junction District will consider a long-term (approximately 30 years) direct-noncompetitive lease at fair market value to Salt Creek Mining Company, dependent upon the company's filing an application for lease and including information required by Title 43 Code of Federal Regulations, Part 2920.2-2. (These regulations appear as final rulemaking in the Federal Register of January 19, 1981, Volume 46, No. 12 at pages 5772 through 5782.) The



terms and conditions applicable to any lease issued under this notice are those in 43 CFR 2920.7.

The lessee would be required to reimburse the United States for reasonable administrative and other costs incurred by the United States in processing the lease and for monitoring construction, operation, maintenance and rehabilitation of the facilities authorized. The reimbursement of costs would be in accordance with the provisions of 43 CFR 2920.6.

Information about the proposal can be reviewed in the Bureau of Land Management, Grand Junction Resource Area office, 784 Horizon Drive, Grand Junction, Colorado 81501, telephone (303-243-6552). Interested parties may submit comments to the District Manager, Bureau of Land Management at the above address on or before January 2, 1984. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this notice of reality action.

Dick Freil,  
Associate District Manager.

[FR Doc. 83-31011 Filed 11-16-83; 8:45 am]  
BILLING CODE 4310-84-M

#### Intent To Prepare a Management Framework Plan Amendment

**AGENCY:** Bureau of Land Management (BLM), Las Cruces District, New Mexico, Interior.

**ACTION:** Notice of Intent to Prepare a Management Framework Plan Amendment/Environmental Impact Statement (MFPA/EIS).

**SUMMARY:** This notice describes the action to be analyzed in the MFPA/EIS; the geographic area that would be affected; the preliminary list of issues and concerns; the scoping process to be used, including the location of offices which have information available for public review, both during and at the completion of the process; and the BLM contact for further information.

The action to be analyzed in the MFPA/EIS consists of a 345 kv transmission line proposed by El Paso Electric Company to be constructed between the substation located near Red Hill and Deming, New Mexico.

The BLM will prepare the MFPA/EIS and the U.S. Department of Agriculture Forest Service (USFS) will be involved as a cooperating agency. A cooperative agreement between these agencies will be negotiated.

#### Geographic Area

The geographic area to be analyzed for impacts is generally in southwest

New Mexico. The proposed route would extend approximately 196 miles from Red Hill to Deming, New Mexico, past Omega, New Mexico, across the Plains of San Agustin and past Winston, Hillsboro, and Nutt, New Mexico. One alternative, 210 miles long, would cross the west end of the Plains of San Agustin going south, then turn east and cross the north end of the Gila National Forest to join the proposed route north of Winston, New Mexico. Another alternative would be to the east of an existing Forest Service corridor from Red Hill south to near Buckhorn, New Mexico, then roughly following Highway 180 to Deming, New Mexico. This alternative would be approximately 169 miles long.

The proposed alternate routes would be located in Catron, Socorro, Sierra, Luna, and Grant Counties in New Mexico. Regional and cumulative impacts may extend beyond these areas.

#### Issues and Concerns

Important issues and concerns which have been identified to date include:

1. Potential impacts to a Visual Resource Management (VRM) Class II area in the Plains of San Agustin.
2. Potential impacts to the Very Large Array, the National Radio Astronomy Observatory operated by Associated Universities Inc., under contract with the National Science Foundation.
3. Potential impacts to and conflicts with BLM Wilderness Study Areas.

Individuals and groups are encouraged to present their ideas on these and other issues for consideration in the MFPA/EIS. All issues and concerns will be considered in the preparation of the MFPA/EIS.

The scoping process used to collect issues and concerns on the proposed activities will involve a mailout packet which individuals may request, fill out, and return to the BLM Las Cruces District Office.

Information and scoping mailout packets regarding the proposed transmission line and the MFPA/EIS can be obtained by writing or visiting the following offices:

Bureau of Land Management, New Mexico State Office, Joseph M. Montoya Federal Building, South Federal Place, P.O. Box 1449, Santa Fe, New Mexico 87501

Bureau of Land Management, Las Cruces District Office, 317 North Main, P.O. Box 1420, Las Cruces, New Mexico 88004

Bureau of Land Management, Division of EIS Services 555 Zang Street, First Floor East, Denver, Colorado 80228  
U.S. Forest Service, Region 3, Federal Building, 517 Gold Avenue,

Southwest, Albuquerque, New Mexico 87102

U.S. Forest Service, Gila National Forest, 2610 North Silver Street, Silver City, New Mexico 88061.

**FOR FURTHER INFORMATION CONTACT:** Ed Webb, Bureau of Land Management, Las Cruces District Office, 317 North Main, P.O. Box 1420, Las Cruces, New Mexico 88004, Telephone: (505) 524-8551, FTS 571-8312.

If at any time during the MFPA/EIS process, any person wishes to raise issues for consideration in the MFPA/EIS, he/she should do so by contacting any of the above BLM or Forest Service offices.

Monte Jorden,

Associate State Director.

[FR Doc. 83-31006 Filed 11-16-83; 8:45 am]

BILLING CODE 4310-84-M

#### Oregon; Burns District Advisory Council Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a meeting of the Burns District Advisory Council.

**DATES:** December 12, 1983—9:00 A.M. to 4:00 P.M.

**FOR FURTHER INFORMATION CONTACT:** Joshua L. Warburton, District Manager, Burns District, Bureau of Land Management, 74 South Alvord, Burns, Oregon 97720. Telephone (503) 573-5241.

**SUPPLEMENTARY INFORMATION:** The primary purpose of this meeting is to review the public comments received during the scoping process of the John Day Resource Management Plan.

The meeting will also include a briefing on the Steens Mountain Recreation Plan and a review for the Council on the Burns District FY-84 budget.

Persons interested in making an oral statement at this meeting, which is open to the public, must notify the District Manager, Burns District Office, 74 South Alvord, Burns, Oregon 97720, by December 9, 1983. Written statements must also be received by this date.

Summary minutes of the meeting will be available during regular business hours for public inspection. Additional



copies will be available up to 30 days following the meeting.

Victor E. Pritchard,  
Acting District Manager.

[FR Doc. 83-31008 Filed 11-16-83; 8:45 am]

BILLING CODE 4310-84-M

#### Intent to Prepare a Planning Amendment for the Garfield Planning Unit MFP

In accordance with 43 CFR 1601.3, notice is given that the Bureau of Land Management in the State of Utah, Cedar City District, Kanab Resource Area, intends to amend the Garfield Management Framework Plan (MFP).

The amendment is in response to inquiries concerning disposal by public sale of 45 acres of isolated, public land in T. 35 S., R. 5 W., Sections 26 and 35, SLB&M, Garfield County, Utah. The existing MFP recommends this tract be retained in public ownership to provide access to public fishing and other recreational opportunities along the Sevier River. This plan was created in 1973 and since that time little or no use of the public land for fishing or other public recreation has occurred.

The general issues related to disposal of this tract are impacts of the sale and future development to wildlife, loss of a small tract of public land along the Sevier River, and sale of public land in the flood plain of a major river.

Disciplines to be represented on the interdisciplinary team preparing the planning amendment are: Wildlife, recreation, watershed, and land use planning. Public input is invited to identify additional issues related to disposal of this tract. Comments will be accepted until December 18, 1983. Other public participation activities will include review of the Environmental Assessment (EA) and an open house to receive comments on the EA. The open house will be held in the Kanab Area Office on November 22, 1983 from 3 to 6 p.m.

Rex Rowley, Kanab Area Manager, may be contacted at the address below or by calling (801) 644-2672 for further information regarding this amendment. Comments on issues should be sent to: Bureau of Land Management, P.O. Box 459, Kanab, Utah 84741.

The Garfield Management Framework Plan and Planning Amendment/Environmental Assessment will be available for review at this same address, or at the Cedar City District Office at 1579 North Main, Cedar City, Utah 84720.

Dated: November 9, 1983.

Morgan S. Jensen,  
District Manager.

[FR Doc. 83-31008 Filed 11-16-83; 8:45 am]

BILLING CODE 4310-84-M

[W-0200621, W-0220465, W-0304203, W-24205, W-24993]

#### Wyoming; Correction Termination of Classifications

In FR Doc. 82-8128, appearing on page 13052 in the issue of Friday, March 26, 1982, make the following correction:

In the second column, the first line of the page reading "Sec. 8, N $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ ," should read "Sec. 8, N $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ ."

Dated: November 8, 1983.

P. D. Leonard,  
Associate State Director, Wyoming.

[FR Doc. 83-31012 Filed 11-16-83; 8:45 am]

BILLING CODE 4310-84-M

#### Grazing Advisory Board; Meeting

**AGENCY:** Bureau of Land Management, Interior, Susanville District Grazing Advisory Board, Susanville, Calif. 96130.

**ACTION:** Notice of meeting.

**SUMMARY:** Notice is hereby given, in accordance with Pub. L. 94-379 (FLPMA), that a meeting of the Susanville District Grazing Advisory Board will be held on December 12, 1983.

The meeting will begin at 10:00 a.m. at the Susanville District Office of the Bureau of Land Management, 705 Hall Street, Susanville, California. The agenda will include a discussion of the "Cooperative Management Agreement" program, nominations for the "Cooperative Management Agreement" program, wild horse management, 1984 project progress report, report on Snow Storm Fire Rehabilitation, and other items, as appropriate.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 p.m. and 4:30 p.m. on December 12, 1983 or file a written statement for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1090, Susanville, California 96130, by December 5, 1983. Depending upon the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the board meeting will be maintained in the District Office, and will be available for public inspection and reproduction

(during regular business hour) within 30 days following the meeting.

C. Rex Cleary,  
Acting District Manager.

[FR Doc. 83-31007 Filed 11-16-83; 8:45 am]

BILLING CODE 4310-84-M

#### Survey Plat Filings; South Dakota

**AGENCY:** Bureau of Land Management, Montana State Office, Interior.

**ACTION:** Notice of filing of plat of survey.

**SUMMARY:** Plats of survey of the lands described below accepted October 11, 1983, will be officially filed in the Montana State Office effective 8 a.m. on January 10, 1984.

Fifth Principal Meridian, South Dakota  
T. 109 N., R. 76 W.

The plat, in three sheets, represents the dependent resurvey of a portion of the Second Standard Parallel through Range 76 West, the east boundary and portions of the subdivisional lines and the survey of the subdivision of certain sections and the Lake Sharpe Reservoir Boundary, Township 109 North, Range 76 West, Fifth Principal Meridian, South Dakota. The area described is in Stanley County.

Fifth Principal Meridian, South Dakota  
T. 110 N., R. 78 W.

The plat, in two sheets, represents the dependent resurvey of portions of the east boundary and subdivisional lines, and the survey of the subdivision of certain sections and the Lake Sharpe Reservoir Boundary, Township 110 North, Range 78 West, Fifth Principal Meridian, South Dakota. The area described is in Hughes County.

Fifth Principal Meridian, South Dakota  
T. 110 N., R. 79 W.

The plat, in two sheets, represents the dependent resurvey of portions of the east and north boundaries and subdivisional lines, and the survey of the subdivision of certain sections and the Lake Sharpe Reservoir Boundary, Township 110 North, Range 79 West, Fifth Principal Meridian, South Dakota. The area described is in Hughes County.

Fifth Principal Meridian, South Dakota  
T. 111 N., R. 79 W.

The plat represents the survey of the Lake Sharpe Reservoir Boundary in Township 111 North, Range 79 West, Fifth Principal Meridian, South Dakota. The area described is in Hughes County.

Black Hills Meridian, South Dakota  
T. 5 N., R. 31 E.



The plat, in two sheets, represents the dependent resurvey of a portion of the subdivisional lines, and the survey of the subdivision of sections 21 and 34, and the Lake Sharpe Reservoir Boundary, Township 5 North, Range 31 East, Black Hills Meridian, South Dakota. The area described is in Stanley County.

These surveys were executed at the request of the U.S. Army Corps of Engineers.

**EFFECTIVE DATE:** January 10, 1984.

**FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

**DATED:** November 4, 1983.

Dee Lynn Baxter,

Acting Chief, Branch of Records.

[FR Doc. 83-30924 Filed 11-16-83; 8:45 am]

**BILLING CODE 4310-84-M**

### Minerals Management Service

#### Oil and Gas and Sulphur Operations in the Outer Continental Shelf

**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 3577, Block 69, 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 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) 838-0519.

**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:** November 9, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 83-31003 Filed 11-16-83; 8:45 am]

**BILLING CODE 4310-MR-M**

#### Oil and Gas and Sulphur Operations in the Outer Continental Shelf

**AGENCY:** Mineral 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 3784, Block 363, Eugene Island Area, Offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Leeville, Louisiana.

#### Purpose

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. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the Code of Federal Regulations, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the Plan for consistency with the Louisiana Coastal Resources Program.

**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. Accordingly a copy of the Plan is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday)

A copy of the Consistency certification and the Plan are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resource Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44396, Baton Rouge, Louisiana 70804. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the Plan from the Minerals Management Service.

**FOR FURTHER INFORMATION CONTACT:** Minerals Management Service, public Records, Room 147, 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

**Dated:** November 7, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 83-31004 Filed 11-16-83; 8:45 am]

**BILLING CODE 4310-MR-M**

#### Oil and Gas and Sulphur Operations in the Outer Continental Shelf

**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 2047, Block 272, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

#### Purpose

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. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the Code of Federal Regulations, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the Plan for consistency with the Louisiana Coastal Resources Program.



**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. Accordingly, a copy of the Plan is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Mineral Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

A copy of the Consistency Certification and the Plan are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70804. Comments must be received within 15 days of the date of this Notice of 15 days after the Coastal Management Section receives a copy of the Plan from the Minerals Management Service.

**FOR FURTHER INFORMATION CONTACT:** Minerals Management Service, Public Records, Room 147, 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

Dated: November 9, 1983.  
John L. Rankin,  
Regional Manager, Gulf of Mexico Region.  
(FR Doc. 83-31002 Filed 11-16-83; 8:45 am)  
BILLING CODE 4310-MR-M

## INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30297]

### Grand Trunk Western Railroad Co., and Detroit, Toledo & Ironton Railroad Co.; Merger Exemption

November 9, 1983.

On September 23, 1983, Grand Trunk Western Railroad Company (GTW) and its wholly owned subsidiary Detroit, Toledo and Ironton Railroad Company (DTI) filed a notice of exemption concerning the proposed merger of DTI into GTW at the close of business on December 30, 1983. This transaction is within a corporate family and exempted

from prior review and approval pursuant to 49 CFR 1180.2(d)(3).

Through consummation of the merger, GTW will reduce costs and improve management efficiency by eliminating separate executive functions, accounting and reporting requirements, and the general administrative burdens of maintaining two separate corporations. The merger will not materially affect the competitive balance with other rail carriers outside the corporate family, significantly change operations, or adversely affect service levels.

As a condition to use of the exemption, any employees of the GTW or DTI affected by this transaction shall be protected pursuant to the labor conditions set forth in *New York Dock Ry.-Control-Brooklyn Eastern Dist.* 360 I.C.C. 60 (1979).

By the Commission, Heber P. Hardy,  
Director, Office of Proceedings.  
Agatha L. Mergenovich,  
Secretary.

(FR Doc. 83-30945 Filed 11-16-83; 8:45 am)  
BILLING CODE 7035-01-M

[Finance Docket No. 30218]

### Michigan-Wisconsin Transportation Co.; Exemption

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of Exemption.

**SUMMARY:** The Interstate Commerce Commission exempts the acquisition and operation by the Michigan-Wisconsin Transportation Company of the Lake Michigan rail ferry service between Ludington, MI, and Kewaunee, WI, from prior approval under 49 U.S.C. 10901, and the transfer of a water carrier certificate between Ludington, MI, and Kewaunee, WI, from The Chesapeake and Ohio Railway Company from prior approval under 49 U.S.C. 11343.

**DATES:** This exemption is effective on November 17, 1983. Petitions to reopen must be filed by December 7, 1983.

**ADDRESSES:** Send pleadings referring to Finance Docket No. 30218 to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423
- (2) Petitioner's Representative: Steven J. Kalish, 1750 Pennsylvania Ave., NW., Washington, D.C.

**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: November 4, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,  
Secretary.

(FR Doc. 83-30944 Filed 11-16-83; 8:45 am)  
BILLING CODE 7035-01-M

[AB 55 SDM]

### Seaboard System Railroad, Inc.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Seaboard System Railroad, Inc. has filed with the Commission its amended color-coded system diagram map in docket No. AB 55 SDM. The Commission on September 9, 1983, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 55 SDM.

Agatha L. Mergenovich,  
Secretary.

(FR Doc. 83-31083 Filed 11-16-83; 8:45 am)  
BILLING CODE 7035-01-M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Humanities Panel; Meetings

**AGENCY:** National Endowment for the Humanities.

**ACTION:** Notice of meetings.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

1. Date: December 1, 1983.  
Time: 8:30 a.m. to 5:00 p.m.  
Room: 430.



Program: This meeting will review Summer Stipends applications in American History I, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1984.

2. Date: December 2, 1983.  
Time: 8:30 a.m. to 5:00 p.m.  
Room: 430.

Program: This meeting will review Summer Stipends applications in Modern European History, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1984.

3. Date: December 8, 1983.  
Time: 8:30 a.m. to 5:00 p.m.  
Room: 315.

Program: This meeting will review Summer Stipends applications in Latin American, Asian, African and Near Eastern History, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1984.

4. Date: December 9, 1983.  
Time: 8:30 a.m. to 5:00 p.m.  
Room: 415.

Program: This meeting will review Summer Stipends applications in Religion submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1984.

5. Date: December 12, 1983.  
Time: 8:30 a.m. to 5:00 p.m.  
Room: 315.

Program: This meeting will review Summer Stipends applications in Romance Languages, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1984.

6. Date: December 14, 1983.  
Time: 8:30 a.m. to 5:00 p.m.  
Room: 315.

Program: This meeting will review Summer Stipends applications in Sociology, Law & Jurisprudence, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1984.

7. Date: December 16, 1983.  
Time: 8:30 a.m. to 5:00 p.m.  
Room: 315.

Program: This meeting will review Summer Stipends applications in Linguistics; Foreign Languages And Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1984.

8. Date: December 20, 1983.  
Time: 8:30 a.m. to 5:00 p.m.  
Room: 315.

Program: This meeting will review Summer Stipends applications in Political Science, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1984.

9. Date: December 7, 1983.  
Time: 8:30 a.m. to 5:00 p.m.  
Room: 315.

Program: This meeting will review Summer Stipends applications in Classics: Ancient, Medieval & Early Modern European History, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1984.

10. Date: December 7, 1983.  
Time: 9:00 a.m. to 5:00 p.m.  
Room: 415.

Program: This meeting will review applications submitted for Nontraditional Learners Program, Division of Education, for projects beginning after April 1, 1984.

11. Date: December 21, 1983.  
Time: 8:30 a.m. to 5:00 p.m.  
Room: 315.

Program: This meeting will review Summer Stipends applications in Anthropology, Archaeology and Folklore, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1984.

The proposed meetings are for the purpose of Panel review; discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial of financial information obtained from person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4) and (6) and (9)(B) of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786-0322.  
Stephen J. McCleary,  
Advisory Committee Management Officer.

[FR Doc. 83-30971 Filed 11-16-83; 8:45 am]  
BILLING CODE 7536-01-M

Management and Budget, Room 3208  
NEOB, Washington, D.C. 20503.

Title: Survey of Recipients of IMS  
Special Projects Support Grants, 1978-1981

Action: New collection  
Respondents: Non-Profit Institutions  
Estimated Annual Burden: 118  
Respondents: 88.5 hours.

Susan E. Phillips,  
Director, Institute of Museum Services.

[FR Doc. 83-31029 Filed 11-16-83; 8:45 am]  
BILLING CODE 7036-01-M

## NATIONAL SCIENCE FOUNDATION

### Forms Submitted to OMB for Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, NSF is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 357-9421

OMB Officer: Andrew Velez-Rivera, (202) 395-7313

Title: Replies of Outside Experts  
Affected Public: Individuals, Non-Profit Institutions

Number of Responses: 150; total of 300 hours

Abstract: The National Science Board (NSB), in its role as the policymaking body of the National Science Foundation, solicits comments from a wide spectrum of outside experts, seeking their advice on issues concerning the scientific and engineering communities.

Dated: November 14, 1983.

Herman G. Fleming,  
OMB Clearance Officer.

[FR Doc. 83-31038 Filed 11-16-83; 8:45 am]  
BILLING CODE 7555-01-M

### Permits Issued Under the Antarctic Conservation Act of 1978

November 10, 1983.

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT:  
Charles E. Myers, Permit Office,  
Division of Polar Programs, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357-7934.

### Information Collections

AGENCY: Institute of Museum Services.

ACTION: Notice of Information Collections.

SUMMARY: The Institute of Museum Services (IMS) has submitted the following collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Copies of this submission are available at IMS from Kristine Ramaekers, (202) 786-0539. Send comments to Joe Lackey, Office of



**SUPPLEMENTARY INFORMATION:** On October 11, 1983, the National Science Foundation published a notice in the *Federal Register* of permit applications received. On November 10, 1983 permits were issued to:

David F. Parmelee  
Albert W. Erickson  
Michael Parfit

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 83-31005 Filed 11-16-83; 8:45 am]

BILLING CODE 7555-01-M

### Permit Application Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit application received under Antarctic Conservation Act of 1978, Pub. L. 95-541.

**SUMMARY:** The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

**DATES:** Interested parties are invited to submit written data, comments, or views with respect to this permit application by December 19, 1983. Permit applications may be inspected by interested parties at the Permit Office, address below.

**ADDRESS:** Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

**FOR FURTHER INFORMATION CONTACT:** Charles E. Myers at the above address or (202) 357-7934.

**SUPPLEMENTARY INFORMATION:** The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was

published in the July 21, 1983, *Federal Register*, page 33372.

The application received is as follows:

#### 1. Applicant

John L. Bengtson, University of Minnesota, Minneapolis, Minnesota 55455

**Activity for Which Permit Requested**  
Taking: Import into U.S.A.

The applicant is conducting a research study of the behavior and ecology of Antarctic seals and their role in the Antarctic Marine ecosystem. The applicant requests permission to take the following specimens:

|                          | Capture/<br>tag/<br>release | Sacrifice |
|--------------------------|-----------------------------|-----------|
| <i>Leobardus</i> sp.     | 100                         | 10        |
| <i>Hydrurga</i> sp.      | 100                         | 10        |
| <i>Leptonychotes</i> sp. | 100                         | 10        |
| <i>Ommatophoca</i> sp.   | 10                          | 5         |
| <i>Arctocephalus</i> sp. | 200                         | 20        |
| <i>Mirounga</i> sp.      | 200                         | 20        |

The specimens proposed for sacrifice are for investigation of reproductive materials.

The applicant has received Marine Mammal Permit No. 359 from the National Marine Fisheries Service to conduct the proposed activities.

#### Location

Antarctic Peninsula and South Shetland Islands, including King George Island.

#### Dates

January 1, 1984 to December 31, 1984.

Authority to publish this notice has been delegated by the Director, NSF to the Director, Division of Polar Programs. Edward P. Todd,

Division Director, Division of Polar Programs.

[FR Doc. 83-30943 Filed 11-16-83; 8:45 am]

BILLING CODE 7555-01-M

### NUCLEAR REGULATORY COMMISSION

#### Advisory Committee on Reactor Safeguards, Subcommittee on Quality and Quality Assurance During Design and Construction; Meeting

The ACRS Subcommittee on Quality and Quality Assurance During Design and Construction will hold a meeting on December 6, 1983, Room 1046, 1717 H Street, NW, Washington, DC.

In accordance with the procedures outlined in the Federal Register on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will

be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the cognizant Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

**Tuesday, December 6, 1983—8:30 a.m. until approximately 12:30 p.m.**

The Subcommittee will discuss with the NRC Staff its activities for assuring quality in the design and construction of nuclear power plants (QA initiatives); its ongoing and planned QA-related research; and the status of Regulatory Guide 1.28 "Quality Assurance Program Requirements (Design and Construction)".

During the initial portion of the meeting, the Subcommittee may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. David C. Fischer, (telephone 202/634-1413) between 8:15 a.m. and 5:00 p.m., e.s.t.

Dated: November 14, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-31024 Filed 11-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-325 and 50-324]

#### Carolina Power & Light Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-71



and DPR-62, issued to Carolina Power & Light Company (the licensee), for operation of the Brunswick Steam Electric Plant, Units Nos. 1 and 2, located in Brunswick County, North Carolina.

The amendments proposed by the licensee would change the Technical Specifications to provide limited flexibility in scheduling containment leak testing surveillance consistent with planned outages. They do not result in a long-term extension of the surveillance schedule because of the requirements of Specification 4.0.2.b (the 3.25 times the surveillance interval rule). These changes make the Brunswick Technical Specifications conform more closely with the requirements of Appendix J to 10 CFR 50, and are clearly in keeping with the NRC Staff guidance provided in the Standard Technical Specifications.

Appendix J of 10 CFR 50 requires that a Type A Overall Integrated Containment Leakage Rate test be performed approximately every 18 months for a primary containment that has failed to meet the applicable leakage limits during two consecutive Type A tests. Brunswick Technical Specification 4.6.1.2.b requires that if two consecutive Type A tests fail to meet the required leakage limits, a Type A test be performed at least every 18 months.

The proposed Technical Specifications would permit the extension of the 18 month surveillance intervals referenced above. In addition to the revision concerning the requirements of Technical Specification 4.0.2, the format of the Technical Specification requirements concerning primary containment leakage have been reformatted to be consistent with more recent revisions of the Standard Technical Specifications.

Before issuance of the proposed license amendment, the Commission will have made findings as 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 of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The NRC staff has reviewed this amendment request and has found that the proposed Technical Specification revisions are not likely to involve significant hazards consideration because with the proposed changes the Technical Specifications, Appendix A of the Brunswick Operating License, conform to the provisions of 10 CFR, Appendix J. The Commission has provided guidance concerning the application of its standards set forth in 10 CFR 50.92 for no significant hazards considerations by providing certain examples published in the *Federal Register* on April 6, 1983 (48 FR 14864). One of the examples of an amendment which will likely be found to involve no significant hazards considerations is a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method. The proposed changes, which simply provide some limited flexibility in scheduling containment leak testing surveillance consistent with planned outages by allowing the surveillance interval to vary by 25%, do not result in a long-term extension of the surveillance schedule because of the requirements of Specification 4.0.2.b (the 3.25 times the surveillance interval rule). The proposed changes make the Brunswick Technical Specifications conform more closely with the requirements of Appendix J to 10 CFR Part 50, and are clearly in keeping with the NRC Staff guidance provided in the Standard Technical Specifications which allow the 18-month surveillance interval to vary by 25%. Therefore, the staff finds that the proposed changes are similar to and fall within the Commission's example (vi) of an action not likely to involve a significant hazards consideration.

Therefore, since the application for amendment involves proposed changes that are similar to examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not

normally make a final determination unless it receives a request for a hearing.

Comment should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By December 9, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice and Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference schedule in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of



the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of

the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Domenic B. Vassallo: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the *Federal Register* notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment, dated October 3, 1983, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Dated at Bethesda, Maryland, this 9th day of November, 1983.

For the Nuclear Regulatory Commission,  
Domenic B. Vassallo,  
Chief, Operating Reactors Branch No. 2,  
Division of Licensing.

[FR Doc. 83-31013 Filed 11-16-83; 8:45 am]  
BILLING CODE 7590-01-M

[Docket No. 50-295, 50-305; EA 83-72]

# **Commonwealth Edison Co., (Zion Nuclear Power Station); Order Imposing civil Monetary Penalty**

## **I**

Commonwealth Edison Company (the "licensee") is the holder of Operating Licenses DPR-39 and DPR-48 (the "licenses") issued by the Nuclear Regulatory Commission (the "Commission") which authorize the licensee to operate the Zion Nuclear Power Station in accordance with the

conditions specified therein. The licenses were issued on December 31, 1973 and September 17, 1974, respectively.

## **II**

A special inspection of the licensee's activities under the licenses was conducted on June 20, 1983. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with the conditions of its licenses. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated August 24, 1983. The Notice states the nature of the violation, the requirements of the Commission that the licensee had violated, and the amount of the civil penalty proposed. An answer dated September 23, 1983 to the Notice of Violation and Proposed Imposition of Civil Penalty was received from the licensee.

## **III**

Upon consideration of Commonwealth Edison Company's response and the statements of fact, explanation, and argument for mitigation contained therein, as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalty proposed for the violation designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

## **IV**

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 90-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Forty Thousand Dollars (\$40,000) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

## **V**

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the licensee fails to request a



hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection. In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, and

(b) Whether on the basis of such violation this Order should be sustained.

Dated at Bethesda, Maryland this 9th day of November 1983.

For the Nuclear Regulatory Commission,  
Richard C. DeYoung,  
Director, Office of Inspection and Enforcement.

#### Appendix—Safeguards Information Withheld

##### Licensee's Response

The licensee admits that the violation occurred because the contractor did not fully understand and properly implement the responsibilities for visitor escort. However, the licensee argued that the civil penalty should not be imposed for the following reasons:

(a) The contractor visitor posed no real threat to the facility. He had been processed in the morning of the event as a valid visitor. This included search, identification, and the fact that he was escorted to this work area. This individual later satisfied all requirements for unescorted access and was issued a picture badge.

(b) The contractor visitor was unescorted for only a short period of time and in a limited area of the plant. He was accompanied by picture-badged individuals on his return to the elevator leading to the Radiation Protection Office, which was by a direct path through the Turbine Building. His return to the vital area access door, while unescorted, was also by a direct path and took only a few moments.

(c) The violation existed a few minutes prior to being discovered by a security guard. The incident was promptly reported within 24 hours per the requirements of 10 CFR 73.71(c). Immediate action taken upon discovery was that the visitor was placed under escort control of the guard.

(d) Prompt and extensive corrective action was taken as indicated in our response to 10 CFR 2.201. These actions have been focused broadly to the

general area of concern. The new policies impact on all personnel.

(e) As indicated in the Notice, similar (although not repeated items) incidents were identified in inspections in July 1981, December 1982, and March 1983. Although related to access control, these previous incidents did not involve unescorted visitor access. All corrective action for these prior events were in place at the time of this incident. To our knowledge our past corrective actions have been acceptable to the NRC, and could not reasonably have been expected to prevent the subject violation.

(f) This was an isolated occurrence of short duration.

##### Evaluation of Licensee Response

The staff has determined that the reasons given above do not provide an adequate basis for remission or mitigation of the civil penalty. Evaluation of the licensee's reasons follow:

(a) The licensee permitted an unauthorized individual to enter the protected area and a vital area. It is irrelevant that the individual later satisfied all requirements for unescorted access and was issued a picture badge. The staff does not agree that this later and fortuitous development provides any justification for mitigating the proposed civil penalty.

(b) The contractor visitor was unescorted for a period of time in both a protected and a vital area of the plant. The time that the individual was unescorted was sufficient to allow the individual to pose a threat to the facility. Although the visitor was at times accompanied by a picture badged individual, the badged individual was not acting as an escort and did not remain with the visitor the entire time the visitor was in a vital area.

(c) The unescorted visitor telephonically contacted security to inform them of the violation. It was not discovered by the security guard and therefore cannot be considered licensee identified. Although you did report the violation, because the event was not licensee-identified mitigation for this factor is not warranted.

(d) The staff does not agree that the corrective actions taken by the licensee were unusually prompt and extensive. The corrective actions taken in response to the violation were limited to correcting the specific deficiencies which the violation revealed. Such corrective action is expected for all violations and does not constitute extensive corrective action for which mitigation of a civil penalty is warranted.

(e) The civil penalty was not escalated because of previous similar violations nor were any such incidents referenced in the Notice. The enforcement policy does not provide for mitigation on the basis of the absence of previous similar events.

(f) The violation of security requirements in this instance is itself of sufficient seriousness to warrant imposition of the full civil penalty proposed.

##### Conclusion

After carefully reviewing the licensee's request for mitigation of the proposed civil penalty, we find no reasonable basis for modification of the enforcement action.

[FR Doc. 83-31016 Filed 11-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 OLA and 50-251 OLA; ASLBP No. 84-498-03 LA]

#### Florida Power and Light Co.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the *Federal Register*, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Florida Power and Light Company,  
Turkey Point Plant, Unit Nos. 3 and 4,  
Facility Operating Licenses Nos. DPR-31 and DPR-41

This Board is being established pursuant to a notice published by the Commission on October 7, 1983, in the *Federal Register* (48 FR 45862 ff) entitled, "Consideration of Issuance of Amendment to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing." The proposed licensing amendments would change the Technical Specifications to support the integrated program for vessel flux reduction to resolve the pressurized thermal shock issue and to take credit for operation with the new steam generators in an unplugged (maximum of five (5) percent tub plugging) configuration.

The Board is comprised of the following administrative judges:



Dr. Robert M. Lazo, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Emmeth A. Luebke, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Richard F. Cole, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Bethesda, Maryland, this 9th day of November, 1983.

B. Paul Cotter, Jr.,

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. 83-31017 Filed 11-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-2061-ML; ASLBP No. 84-495-01 ML]

**Kerr-McGee Chemical Corp.; Establishment of Atomic Safety and Licensing Board**

Pursuant to delegation by the Commission date December 29, 1972, published in the *Federal Register*, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Kerr-McGee Chemical Corporation, West Chicago Rare Earths Facility, Source Materials License No. STA-583

This Board is being established pursuant to an order of the Commission dated November 3, 1983 concerning two petitions for a hearing filed by the State of Illinois and the West Chicago Chamber of Commerce, in response to a notice published by the Commission on June 7, 1983, in the *Federal Register* (48 FR 26381) entitled "Opportunity for a Hearing; Availability of Final Environmental Statement for the Rare Earths Facility, West Chicago, Du Page County, Illinois," regarding Kerr-McGee's proposed decommissioning and stabilization plan for the facility.

The Board is comprised of the following administrative judges:

John H. Frye III, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Peter A. Morris, Atomic Safety and Licensing Board Panel, U.S. Nuclear

Regulatory Commission, Washington, D.C. 20555

Dr. James H. Carpenter, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Bethesda, Maryland, this 9th day of November, 1983.

B. Paul Cotter, Jr.,

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. 83-31018 Filed 11-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-397]

**Washington Public Power Supply System (WPPSS Nuclear Project No. 2); Receipt of Request for Action Under 10 CFR 2.206**

Notice is hereby given that, by petition dated October 14, 1983, the Coalition for Safe Power sought the institution of show cause proceedings pursuant to 10 CFR 2.202(a) to examine whether the construction permit for the WPPSS Nuclear Project No. 2 should be revoked, a stay of construction imposed, the pending application for an operating license denied, and hearings initiated before an Atomic Safety and Licensing Board. The petition was based upon alleged construction deficiencies at the facility. The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on this request within a reasonable time.

A copy of the petition is available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Local Public Document Room for the WPPSS Nuclear Project No. 2 at the Richland Public Library, Swift and Northgate Streets, Richlands, Washington 99352.

Dated at Bethesda, Maryland, this 9th day of November, 1983.

For the Nuclear Regulatory Commission,

Richard C. DeYoung,

*Director, Office of Inspection and Enforcement.*

[FR Doc. 83-31020 Filed 11-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

**Vermont Yankee Nuclear Power Corp., (Vermont Yankee Nuclear Power Station); Request for Action Under 10 CFR 2.206**

By petition dated October 25, 1983 the Vermont Public Interest Research Group and the Vermont Yankee Decommissioning Alliance requested

issuance of an order to Vermont Yankee Nuclear Power Corp. to require it to show cause why its license should not be suspended pending resolution of issues surrounding cracking in its plant's recirculation system piping. The petition is being handled pursuant to 10 CFR 2.206 of the Commission's regulations. Copies of the petition are available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and in the local public document room for the Vermont Yankee Nuclear Power Station located at Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Dated at Bethesda, Maryland this 8th day of November, 1983.

For the Nuclear Regulatory Commission,

Harold R. Denton,

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 83-31019 Filed 11-16-83; 8:45 am]

BILLING CODE 7590-01-M

**Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of the Office of Management and Budget review of information collection.

**SUMMARY:** The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Extension.
2. Title of the information collection: Report of Proposed Activities in non-Agreement States.
3. The form number if applicable: NRC Form 241.
4. How often the collection is required: When Agreement State licensees are conducting activities in non-Agreement States.
5. Who will be required or asked to report: Any Agreement State licensee who engages in activities under the general license in Section 150.20.
6. An estimate of the number of responses: 200 responses annually.
7. An estimate of the total number of hours needed to complete the requirement or request: 50 staff hours, total respondent burden.
8. An indication of whether Section 350(h), Pub. L. 96-511 applies: Not applicable.



9. Abstract: Any Agreement state licensee who engages in activities under the general license in § 150.20 is required to file with the NRC Regional Office, four copies of Form NRC-241 and four copies of the Agreement State license at least three days prior to engaging in each activity. The report informs the NRC of locations and dates of activities conducted in non-Agreement States by Agreement State licensees under the general license of 10 CFR 150.20.

Copies of the submittal may be inspected or obtained for a fee from NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395-7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 10th day of November 1983.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 83-31021 Filed 11-16-83; 8:45 am]

BILLING CODE 7590-01-M

#### State Liaison Officers' Meeting

On December 6 and 7, 1983 the Nuclear Regulatory Commission (NRC) will sponsor a national meeting with State Liaison Officers to discuss items of mutual regulatory interest. The State Liaison Officers are appointed by each of the fifty Governors and the Commonwealth of Puerto Rico to provide a communications channel between the States and the NRC. Topics of discussion will include reactor regulation, source term evaluation, recent court decisions impacting nuclear regulation, waste management and emergency preparedness. The meeting will be conducted at the Nuclear Regulatory Commission headquarters at 1717 "H" Street, N.W., Washington, D.C. in the Commissioners' Conference Room of the 11th floor. The meeting is open to the public for attendance and observation and will take place from 9:00 a.m. until 5:00 p.m. on Tuesday, December 6, and from 8:30 a.m. to 12:15 p.m. on Wednesday, December 7, 1983. Questions regarding this meeting should be directed to Sue Weissberg at (301) 492-9877.

Dated at Bethesda, Maryland this 10th day of November, 1983.

For the Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

[FR Doc. 83-31022 Filed 11-16-83; 8:45 am]

BILLING CODE 7590-01-M

#### POSTAL RATE COMMISSION

[Order No. 533; Docket No. A84-2]

**Dorchester, Texas 75030 (J. E. Savage and John Chumbly, Petitioners); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)**

Issued: November 10, 1983.

Docket Number: A84-2.

Name of affected post office:

Dorchester, Texas 75030.

Name(s) of petitioner(s): J. E. Savage and John Chumbly.

Type of determination: Closing.

Date of filing of appeal papers:

November 7, 1983.

Categories of issues apparently raised: 1. Effect on Community Served by Office (39 U.S.C. 404(b)(2)(A)).

2. Economic Savings (39 U.S.C. 404(b)(2)(D)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule (39 U.S.C. 404(b)(5)) the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner(s). In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

*The Commission orders:*

(A) The record in this appeal shall be filed on or before November 22, 1983.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Charles L. Clapp,

Secretary.

#### Appendix

November 7, 1983—Filing of Petition.

November 10, 1983—Notice and Order of Filing of Appeal.

December 2, 1983—Last day for filing of petitions to intervene (see 39 CFR 3001.111(b)).

December 12, 1983—Petitioners' Initial Brief (see CFR 3001.115(b)).

January 3, 1984—Postal Service Answering Brief (see 39 CFR 3001.115(c)).

January 18, 1984—(1) Petitioners' Reply Brief should petitioner choose to file one (see 39 CFR 3001.115(d)).

January 25, 1984—(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument (see 39 CFR 3001.16).

March 6, 1984—Expiration of 120-day decision schedule (see 39 USC 404(b)(5)).

[FR Doc. 83-31027 Filed 11-16-83; 8:45 am]

BILLING CODE 7715-01-M

#### SECURITIES AND EXCHANGE COMMISSION

[File No. 81-693]

#### Citibank, N.A.; Application and Opportunity for Hearing

November 10, 1983.

Notice is hereby given that Citibank, N.A. (the "Applicant"), as originator and servicer under a number of Pooling and Servicing Agreements providing for the issuance of Mortgage Pass-Through Certificates, has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), for exemption from certain reporting requirements under Section 13 of the Exchange Act and from the operation of Section 16 of the Act.

The application states in part:

In the absence of an exemption, Applicant would be required to file reports adhering to all the item requirements of Form 10-K, 10-Q and 8-K under the Exchange Act.

Applicant believes that the exemptive order requested by it is appropriate in that Form 10-Q and certain items of Form 10-K under the Exchange Act are inapplicable to its pass-through mortgage pool arrangement, and the requirements of Section 16 of the Exchange Act are inapplicable to holders of its mortgage pass-through certificates.

For a more detailed statement of the information presented, all persons are referred to said application, which is on file in the Office of the Commission at the Public Reference Room, 450 Fifth Street, N.W., Washington D.C. 20549.

Notice is further given that any interested person may submit to the Commission in writing, not later than



December 5, 1983, his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 83-31032 Filed 11-16-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13623; 811-3533]

#### **Guaranty Savings' Government Money Market Fund; Filing of Application**

November 9, 1983.

Notice is hereby given that Guaranty Savings' Government Money Market Fund ("Applicant"), 2100 66th Street North, St. Petersburg, FL 33710, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on October 17, 1983, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. 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.

According to the application, Applicant's board of trustees approved Applicant's liquidation on July 27, 1983. The liquidation was authorized by Applicant's securityholders on September 6, 1983. Applicant states that as of September 6, 1983 its shares outstanding had a net asset value per share of \$1.00 and a total net asset value of \$1,063,613.95. According to the application, on September 21, 1983, all of Applicant's securityholders were mailed checks in the amount of \$1.00 per share

held, except holders who elected to deposit the liquidation proceeds in an account at Guaranty Savings and Loan Association.

The application represents that Applicant now has no securityholders and is not now engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs. Applicant further represents that it has retained no assets, no debts or other liabilities, and it is not a party to any litigation or administrative proceeding. Finally, Applicant states that it has not within the past 18 months transferred any of its assets to a separate trust.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 5, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for 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 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. 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. 83-31033 Filed 11-16-83; 8:45 am]

BILLING CODE 8010-01-M

#### **SMALL BUSINESS ADMINISTRATION**

##### **Business Ventures, Inc.; Issuance of a Small Business Investment Company License**

[License No. 05/05-0172]

On April 18, 1983, a notice was published in the *Federal Register* (48 FR 18564) stating that an application has been filed by Business Ventures, Inc., 20 North Wacker Drive, Suite 550, Chicago, Illinois 60606, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1982)) for a license as a small business investment company.

Interested parties were given until close of business May 3, 1983, to submit

their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0172 on October 31, 1983, to Business Ventures, Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 50.001, Small Business Investment Companies)

Dated: November 9, 1983.

Robert G. Lineberry,  
Deputy Associate Administrator for Investment.

[FR Doc. 83-30948 Filed 11-16-83; 8:45 am]

BILLING CODE 8025-01-M

#### **Region I—Advisory Council; Public Meeting**

The Small Business Administration Region I Advisory Council, located in the geographical area of Montpelier, Vermont, will hold a public meeting at 10:00 a.m. on the second Thursday, December 8, 1983, at the Okemo Inn Dining Room, Ludlow, Vermont, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Ora H. Paul, Acting District Director, U.S. Small Business Administration, Federal Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602. Telephone number (802) 229-0538.

Jean M. Nowak,  
Director, Office of Advisory Councils  
November 9, 1983.

[FR Doc. 83-30949 Filed 11-16-83; 8:45 am]

BILLING CODE 8025-01-M

#### **Region IV—Advisory Council; Public Meeting**

The Small Business Administration Region IV Advisory Council, located in the geographical area of Birmingham, Alabama, will hold a public meeting at 9:00 a.m.-1:00 p.m., on Friday, December 9, 1983, in the Fourth Floor Conference Room, Small Business Administration office, 908 South 20th Street, Birmingham, Alabama 35256, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call James C. Barksdale, District Director, U.S. Small Business Administration, 908



South 20th Street Room 202,  
Birmingham, Alabama. Telephone  
number (205) 254-01341.

Jean M. Nowak,  
Director, Office of Advisory Councils  
November 9, 1983.

[FR Doc. 83-30950 Filed 11-10-83; 8:45 am]

BILLING CODE 8025-01-M

## Ratification

Pursuant to the authority vested in me by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, I hereby ratify all actions, as described below, taken by the Comptroller, Director, Office of Accounting Operations; Chief, Accounting Section; and Chief, Fiscal Section during the period from August 6, 1982 to November 9, 1983.

## Action

Assignment, endorsement, transfer, deliver or release (but in all cases without representation, recourse, or warranty) promissory notes, bonds, debentures, and other obligating instruments on all loans or investments made or serviced by SBA when paid in full or when transferred to the Department of Justice for liquidation.

Dated: November 3, 1983.

James C. Sanders,  
Administrator.

[FR Doc. 83-31036 Filed 11-16-83; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[CGD 83-063]

### Rules of the Road Advisory Council; Membership Applications

AGENCY: Coast Guard, DOT.

ACTION: Request for Applications.

SUMMARY: The U.S. Coast Guard is seeking applications for appointment to membership on the Rules of the Road Advisory Council. This Council was established under the Inland Navigational Rules Act of 1980 (Pub. L. 96-591; 94 Stat. 3434; 33 U.S.C. 2073) to advise, consult with, and make recommendations to the Secretary of Transportation on matters relating to the Inland Navigation Rules and the International Regulations for Preventing Collisions at Sea (72 COLREGS). The Act authorized the Council for five years from date of enactment (December 24, 1980) unless otherwise extended by Congress.

In June 1984, seven vacancies will occur on the 21-member Council and seven appointments will be made by the Secretary of Transportation. The Coast Guard will make recommendations to the Secretary from all applications on file as of February 15, 1984. Under the Inland Navigational Rules Act, the Council members are to be chosen to include a "balanced representation, insofar as practical, from the following groups: (1) Recognized experts and leaders in organizations having an active interest in the Rules of the Road and vessel and port safety, (2) representatives of owners and operators of vessels, professional mariners, recreational boaters, and the recreational boating industry, (3) individuals with an interest in maritime law, and (4) Federal and State officials with responsibility for vessel and port safety."

Since its establishment, the Council has met twice a year at various sites in the continental United States. Members are currently entitled to receive compensation as well as to be reimbursed for travel expenses, in accordance with current regulations.

The seven appointments made during 1984 will expire in December 1985, unless the life of the Council is extended by Congress, in which case the appointments will expire three years from date of appointment.

DATES: Requests for applications should be received no later than December 30, 1983, and must be completed and returned to the Coast Guard no later than February 15, 1984.

ADDRESSES: Persons interested in applying should write to Commandant (G-NSR), U.S. Coast Guard Headquarters, Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Commander G. R. Siddall, Executive Director, Rules of the Road Advisory Council (G-NSR), room 1406, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593; (202) 245-0108.

Dated: November 10, 1983.

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

[FR Doc. 83-30980 Filed 11-10-83; 8:45 am]

BILLING CODE 4910-14-M

## Federal Highway Administration

### Environmental Impact Statement: Lauderdale and Dyer Counties, Tennessee

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed project in Lauderdale and Dyer Counties, Tennessee.

### FOR FURTHER INFORMATION CONTACT:

Mr. E. G. Oakley, Division Administrator, Federal Highway Administration, Federal Building, U.S. Courthouse, 801 Broadway—Suite A-926, Nashville, Tennessee 37203, telephone (615) 251-5394.

### SUPPLEMENTARY INFORMATION:

The FHWA, in cooperation with the Tennessee Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to construct a segment of the Great River Road in Lauderdale and Dyer Counties, Tennessee. The proposed project would involve the construction of a two-lane facility on new location, from State Route 87 to State Route 88, and along the existing location on Levee Road from State Route 88 to State Route 20. The proposed project would have a length of approximately 28.5 miles. Construction of the proposed project is considered necessary to further the implementation of Tennessee's portion of the Great River Road, and provide a direct north-south travel route for this section of West Tennessee.

Alternatives under consideration include (1) Taking no action; (2) using alternative travel modes; (3) postponement; (4) reduced facility design; and (5) constructing a two-lane limited access roadway on new location as well as on the existing Levee Road facility.

Letters describing the proposed action and soliciting comments were sent to appropriate federal, state and local agencies in 1983. A corridor public hearing and a design public hearing will be held. Public notice will be given of the time and place of the public hearings. The draft EIS will be available for public and agency review and comment. The activities are providing input regarding the scope of the EIS.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and suggestions concerning the proposed action and the EIS should be directed to the FHWA at the address provided above. (Catalog of Federal Domestic Assistance Program Number 23.005, Highway Research, Planning and Construction). The regulations implementing EO 12372 or OMB Circular



No. A-95 (whichever is applicable) on intergovernmental consultation on Federal and Federally assisted programs and projects apply to this program.

Issued on: November 10, 1983.

Edward G. Oakley,

*Division Administrator, Tennessee Division,  
Nashville, Tennessee.*

[FR Doc. 83-31028 Filed 11-16-83; 8:45 am]

BILLING CODE 4810-22-M

### **Saint Lawrence Seaway Development Corporation**

#### **Advisory Board; 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 Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 9:00 a.m., December 2, 1983, at the Corporation's Offices at 800 Independence Avenue, SW., Washington, D.C. The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Review of Programs; Business; Closing Remarks.

Attendance at meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact, not later than November 30, 1983, Robert D. Kraft, Director, Plans and Policy Development, Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, S.W., Washington, D.C. 20591; 202/426-3574.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, D.C. on November 14, 1983

Robert D. Kraft,

*Director, Plans and Policy Development.*

[FR Doc. 83-30965 Filed 11-16-83; 8:45 am]

BILLING CODE 4810-61-M

### **DEPARTMENT OF THE TREASURY**

#### **Office of the Secretary**

[Public Debt Series—No. 34-83]

#### **12% Treasury Bonds of 2008-2013; Amendment to Department Circular**

November 4, 1983.

Department of the Treasury Circular, Public Debt Series—No. 34-83, dated October 27, 1983, descriptive of 12% Treasury Bonds of 2008-2013, is hereby amended, effective November 4, 1983. The bonds will be auctioned Thursday,

November 10, 1983. The additional issue of the 12% Treasury Bonds of 2008-2013 will be made Tuesday, November 15, 1983, and payment for the bonds will be based on the price equivalent to the bid yield (to maturity) determined in accordance with this circular, plus accrued interest from August 15, 1983, to November 15, 1983.

The identically-numbered paragraphs of Department of the Treasury Circular, Public Debt Series—No. 34-83, are hereby amended and replaced with the following paragraphs. The other terms and conditions remain unchanged.

#### **3. Sale Procedures**

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, prior to 1:30 p.m., Eastern Standard time, Thursday, November 10, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, November 9, 1983, and received no later than Tuesday, November 15, 1983.

3.5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any noncompetitive awards of this issue in this auction prior to 1:30 p.m., Eastern Standard time, Thursday, November 10, 1983.

The foregoing amendment was effected under authority of Chapter 31 of Title 31, United States Code. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Carole J. Dineen,

*Fiscal Assistant Secretary.*

[FR Doc. 83-30974 Filed 11-14-83; 8:45 am]

BILLING CODE 4810-40-M

#### **[Public Debt Series—No. 32-83]**

#### **Treasury Notes; November 15, 1986, Series P-1986; Amendment to Department Circular**

November 4, 1983.

Department of the Treasury Circular, Public Debt Series—No. 32-83, dated October 27, 1983, descriptive of Treasury Notes of Series P-1986, is hereby amended, effective November 4, 1983. The notes will be auctioned Monday, November 7, 1983, and will accrue interest from Tuesday, November 15, 1983.

The same numbered paragraphs of Department of the Treasury Circular, Public Debt Series—No. 32-83, are hereby amended and replaced with the

following paragraphs. The other terms and conditions remain unchanged.

#### **3. Sale Procedures**

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, prior to 12:30 p.m., Eastern Standard Time, Monday, November 7, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Sunday, November 6, 1983, and received no later than Tuesday, November 15, 1983.

3.5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any noncompetitive awards of this issue in this auction prior to 12:30 p.m., Eastern Standard Time, Monday, November 7, 1983.

The foregoing amendment was effected under authority of Chapter 31 of Title 31, United States Code. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Carole J. Dineen,

*Fiscal Assistant Secretary.*

[FR Doc. 83-30972 Filed 11-14-83; 8:45 am]

BILLING CODE 4810-40-M

#### **[Public Debt Series—No. 33-83]**

#### **Treasury Notes; November 15, 1986, Series D-1983; Amendment to Department Circular**

November 4, 1983.

Department of the Treasury Circular, Public Debt Series—No. 33-83, dated October 27, 1983, descriptive of Treasury Notes of Series D-1983, is hereby amended, effective November 4, 1983. The notes will be auctioned Wednesday, November 9, 1983, and will accrue interest from Tuesday, November 15, 1983.

The same numbered paragraphs of Department of the Treasury Circular, Public Debt Series—No. 33-83, are hereby amended and replaced with the following paragraphs. The other terms and conditions remain unchanged.

#### **3. Sale Procedures**

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, prior to 1:30 p.m., Eastern Standard time, Wednesday, November 9, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday,



November 8, 1983, and received no later than Tuesday, November 15, 1983.

3. 5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any noncompetitive awards of this issue in this auction prior to 1:30 p.m., Eastern Standard time, Wednesday, November 9, 1983.

The foregoing amendment was effected under authority of Chapter 31 of Title 31, United States Code. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Carole J. Dineen,

*Fiscal Assistant Secretary.*

[FR Doc. 83-30973 Filed 11-14-83; 1:57 pm]

BILLING CODE 4810-40-M

[Public Debt Series—No. 32-63]

#### Treasury Notes; Series P-1986; Supplement to Department Circular

November 8, 1983.

The Secretary announced on November 7, 1983, that the interest rate on the notes designated Series P-1986, described in Department Circular—Public Debt Series—No. 32-83 dated October 27, 1983, will be 11 percent. Interest on the notes will be payable at the rate of 11 percent per annum.

Carole J. Dineen,

*Fiscal Assistant Secretary.*

[FR Doc. 83-30976 Filed 11-14-83; 1:57 pm]

BILLING CODE 4810-40-M

[Public Debt Series—No. 33-83]

#### Treasury Notes; Series D-1993; Supplement to Department Circular

November 10, 1983.

The Secretary announced on November 9, 1983, that the interest rate on the notes designated Series D-1993, described in Department Circular—Public Debt Series—No. 33-83 dated October 27, 1983, will be 11½ percent.

Interest on the notes will be payable at the rate of 11½ percent per annum.

Carole J. Dineen,

*Fiscal Assistant Secretary.*

[FR Doc. 83-30975 Filed 11-14-83; 1:57 pm]

BILLING CODE 4810-40-M

#### UNITED STATES INFORMATION AGENCY

##### Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1985 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the Delegation of Authority from the Director, USIA (FR 57600, December 27, 1982), I hereby determine that the object, *Caryatid* in the exhibit, "Modigliani: An Anniversary exhibition," imported from abroad for the temporary exhibition without profit within the United States is of cultural significance. This object is imported pursuant to a loan agreement between the National Gallery of Art and foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit object at the National Gallery of Art, beginning on or about November 18, 1983, to on or about March 18, 1984, is in the national interest. Public notice of this determination is ordered to be published in the Federal Register.

Dated: October 10, 1983.

Jonathan W. Sloat,

*General Counsel and Congressional Liaison.*

[FR Doc. 83-30977 Filed 11-16-83; 8:45 am]

BILLING CODE 5230-01-M

#### VETERANS ADMINISTRATION

##### 120-Bed Nursing Home Care Unit/10-Bed Blind Rehabilitation Unit, Veterans Administration Medical Center, San Juan, Puerto Rico; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the proposed construction

of a 120-Bed Nursing Home Care Unit/10-Bed Blind Rehabilitation Unit at the San Juan, Puerto Rico Veterans Administration Medical Center (VAMC) and has determined that the potential environmental impacts will be minimal from the development of this project.

The project will be a two level building sited on the present recreation field southeast of the main hospital. There is potential for two additional floors.

Development of the project will cause minor impacts on the human and natural environment affecting noise levels, onsite traffic and parking, solid waste disposal, water quality, and visual impacts. Short term effects of minor air pollution (dust and fumes), soil erosion, and noise levels will occur during construction operations. The VA will adhere to all applicable Federal, State, and local environmental regulations during construction and operation of this project.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The results of the assessment are available for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director, Office of Environmental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue NW., Washington, D.C. 20420, (202) 369-3318. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Date: November 10, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

*Deputy Administrator.*

[FR Doc. 83-30947 Filed 11-16-83; 8:45 am]

BILLING CODE 5320-01-M



# Sunshine Act Meetings

Federal Register

Vol. 48, No. 223

Thursday, November 17, 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).

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#### FEDERAL DEPOSIT INSURANCE CORPORATION

##### Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:10 p.m. on Thursday, November 10, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to adopt a resolution making funds available for the payment of the insured deposits in First National Bank of Browning, Browning, Montana, which was closed by the Acting Comptroller of the Currency on Thursday, November 10, 1983.

The Board of Directors also considered a recommendation, pursuant to section 10(b) of the Federal Deposit Insurance Act, that the Corporation make special examination of a certain national bank to determine the condition of such bank for insurance purposes: (name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), concurred in by Director Irvine H. Sprogue (Appointive), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public

observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: November 14, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1983-83 Filed 11-15-83; 1:25 pm]

BILLING CODE 8714-01-M

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#### FEDERAL DEPOSIT INSURANCE CORPORATION

##### Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2 p.m. on Monday, November 21, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors request that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance and for consent to merge:

Valley Interim Bank, Parkersburg, West Virginia, a proposed new bank in organization, for Federal deposit insurance and for consent to merge with Valley Bank, Parkersburg, West Virginia, a noninsured commercial bank resulting from the proposed conversion of the charter of Valley Savings and Loan Company, Parkersburg, West Virginia, a noninsured industrial loan company.

Applications for Federal deposit insurance and for consent to acquire assets and assume liabilities:

Pacific Regency Bank, a proposed new bank in organization to be located at 22831 Lake Forest Drive, El Toro, California, for Federal deposit insurance and for consent to acquire the assets of and assume the liability to pay deposits made in the Lake Forest Branch, Santa Ana, California, of Valencia Bank, Placentia, California.

Application for consent to merge and establish one branch:

Citizens Bank, Carthage, Tennessee, an insured State nonmember bank, for consent to merge, under its charter and title, with White County Bank, Sparta, Tennessee, and for consent to establish the sole office of White County Bank as a branch of the resultant bank.

Applications for consent to purchase assets and assume liabilities and establish one branch:

Citizens Valley Bank, Albany, Oregon, and insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Harrisburg Branch, Harrisburg, Oregon, of State Savings & Loan Association, Albany, Oregon, and for consent to establish that branch as a branch of Citizens Valley Bank.

Northeastern Bank of Pennsylvania, Wilkes-Barre, Pennsylvania, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the Berwick Plaza Branch, Berwick, Pennsylvania, of Atlantic Financial Federal Savings & Loan Association, Bala-Cynwyd, Pennsylvania, and for consent to establish that office as a branch of Northeastern Bank of Pennsylvania.

Application for consent to merge and establish one branch and exercise full trust powers:

Tyler County Bank, Inc., Middlebourne, West Virginia, an insured State nonmember bank, for consent to merge with The Union National Bank of Sistersville, Sistersville, West Virginia, under the charter of Tyler County Bank, Inc. and with the title "Union Bank of Tyler County," to establish the sole office of The Union National Bank of Sistersville as a branch of the resultant bank, and to exercise full trust powers.

Application of consent to establish a facility:

Goodwine State Bank, Potomac, Illinois, for consent to establish a facility in the Southgate Shopping Plaza, 1628 South Gilbert, Tilton, Illinois.

Applications for consent to establish a remote service facility:

Alton Banking & Trust Co., Alton, Illinois, for consent to establish a remote service facility at 4365 North Alby Road, Alton, Illinois.

Northwest Bank & Trust Company, Davenport, Iowa, for consent to establish a remote service facility at St. Ambrose College, South Hall, 518 West Locust Street, Davenport, Iowa.

Northern Michigan Bank, Escanaba, Michigan, for consent to establish a remote service facility at 119 Cedar Street, Manistique, Michigan.



American Bank and Trust Company of  
Moorehead, Minnesota, for  
consent to establish a remote service  
facility at 820 30th Avenue South,  
Moorehead, Minnesota.

Recommendations regarding the  
liquidation of a bank's assets acquired  
by the Corporation in its capacity as  
receiver, liquidator, or liquidating agent  
of those assets:

Case No. 45,820-SR: The Peoples State  
Savings Bank, Auburn, Michigan  
Memorandum and Resolution re: The Bowie  
County State Bank, Hooks, Texas  
Memorandum and Resolution re: American  
City Bank & Trust Company, National  
Association, Milwaukee, Wisconsin

#### Reports of committees and officers:

Minutes of actions approved by the standing  
committees of the Corporation pursuant to  
authority delegated by the Board of  
Directors.

Reports of the Division of Bank Supervision  
with respect to applications, request, or  
actions involving administrative  
enforcement proceedings approved by the  
Director or an Associate Director of the  
Division of Bank Supervision and the  
various Regional Directors pursuant to  
authority delegated by the Board of  
Directors.

Reports of the Director, Office of Corporate  
Audits and Internal Investigations:  
Audit Report re: First National Bank of South  
Charleston, South Charleston, West  
Virginia (dated September 30, 1983)  
Audit Report re: Summary of Three  
Liquidation Site Audits (dated September  
30, 1983)  
Audit Report re: Tri-State Bank, Markham,  
Illinois, SR-400 (dated October 7, 1983)

Report of the Director, Division of Accounting  
and Corporate Services:  
Memorandum re: Investment Management  
Report, September 30, 1983

#### Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board  
Room on the sixth floor of the FDIC  
Building located at 550 17th Street NW.,  
Washington, D.C.

Request for further information  
concerning the meeting may be directed  
to Mr. Hoyle L. Robinson, Executive  
Secretary of the Corporation, at (202)  
389-4425.

Dated: November 14, 1983.

Federal Deposit Insurance Corporation,  
Hoyle L. Robinson,  
Executive Secretary.

[S-1604-83 Filed 11-15-83; 1:23 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE  
CORPORATION  
Agency Meeting

Pursuant to the provisions of the  
"Government in the Sunshine Act" (5  
U.S.C. 552b), notice is hereby given that  
at 2:30 p.m. on Monday, November 21,  
1983, the Federal Deposit Insurance  
Corporation's Board of Directors will  
meet in closed session, by vote of the  
Board of Directors, pursuant to sections  
552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii)  
of Title 5, United States Code, to  
consider the following matters:

Summary Agenda: No substantive  
discussion of the following items is  
anticipated. These matters will be  
resolved with a single vote unless a  
member of the Board of Directors  
requests that an item be moved to the  
discussion agenda.

Recommendations with respect to the  
initiation, termination, or conduct of  
administrative enforcement proceedings  
(cease-and-desist proceedings,  
termination-of-insurance proceedings,  
suspension or removal proceedings, or  
assessment of civil money penalties)  
against certain insured banks or officers,  
directors, employees, agents or other  
persons participating in the conduct of  
the affairs thereof:

Names of persons and names and locations  
of banks authorized to be exempt from  
disclosure pursuant to the provisions of  
subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of  
the "Government in the Sunshine Act" (5  
U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this  
category may be placed on the discussion  
agenda without further public notice if it  
becomes likely that substantive discussion of  
those matters will occur at the meeting.

#### Discussion Agenda:

Applications for Federal deposit  
insurance:

Broadway Manufacturers Hanover Industrial  
Bank, an operating noninsured industrial  
bank located at 836 South Broadway,  
Denver, Colorado.

Denver Manufacturers Hanover Industrial  
Bank, an operating noninsured industrial  
bank located at 1640 Champa Street,  
Denver, Colorado.

Manufacturers Hanover Industrial Bank, an  
operating noninsured industrial bank  
located at 1895 South Federal Boulevard,  
Denver, Colorado.

South Glenn Manufacturers Hanover  
Industrial Bank, an operating noninsured  
industrial bank located at 2275 East  
Arapahoe Road, Littleton, Colorado.

Westminster Manufacturers Hanover  
Industrial Bank, an operating noninsured  
industrial bank located at 7398 North  
Federal Boulevard, Westminster, Colorado.

GECC Financial Corporation, an operating  
noninsured industrial bank located at 700  
Bishop Street, Honolulu, Hawaii.

Standard Finance Company, Limited, an  
operating noninsured industrial bank  
located at 715 South King Street, Honolulu,  
Hawaii.

Application for consent to merge and  
establish three branches:

Midland Bank & Trust Company, Memphis,  
Tennessee, an insured State nonmember  
bank, for consent to merge, under its  
charter and title, with First Trust and  
Savings Bank, Paris, Tennessee, and to  
establish the three offices of First Trust and  
Savings Bank as branches of the resultant  
bank.

Application for consent to acquire  
assets and assume liabilities and  
establish one branch:

Mechanics and Farmers Savings Bank of  
Bridgeport, Bridgeport, Connecticut, an  
insured mutual saving bank, for consent to  
acquire certain assets of and assume the  
liability to pay certain deposits made in the  
Plumtrees Branch, Danbury, Connecticut, of  
the Connecticut Bank and Trust Company,  
National Association, Hartford,  
Connecticut, and to establish that branch  
as a branch of Mechanics and Farmers  
Savings Bank of Bridgeport.

Request for reconsideration of a  
previous denial of an application for  
consent to merge and establish twelve  
branches:

Peoples Trust Bank, Fort Wayne, Indiana, an  
insured State nonmember bank, for consent  
to merge with Indiana Bank and Trust  
Company of Fort Wayne, Fort Wayne,  
Indiana, under the charter of Peoples Trust  
Bank and with the title "Summit Bank,"  
and to establish the twelve offices of  
Indiana Bank and Trust Company of Fort  
Wayne as branches of the resultant bank.

Recommendation regarding the  
liquidation of a bank's assets acquired  
by the Corporation in its capacity as  
receiver, liquidator, or liquidating agent  
of those assets:

Memorandum and Resolution re: United  
States National Bank, San Diego,  
California.

Recommendation, pursuant to section  
10(b) of the Federal Deposit Insurance  
Act, that the Corporation make special  
examination of a certain national bank  
to determine the condition of such bank  
for insurance purposes:

Name and location of bank authorized to be  
exempt from disclosure pursuant to the  
provisions of subsections (c)(6) and  
(c)(9)(A)(ii) of the "Government in the  
Sunshine Act" (5 U.S.C. 552b (c)(6) and  
(c)(9)(A)(ii)).

Personnel actions regarding  
appointments, promotions,  
administrative pay increases,  
reassignments, retirements, separations,  
removals, etc.:

Names of employees authorized to be exempt  
from disclosure pursuant to the provisions  
of subsection (c)(2) and (c)(6) of the  
"Government in the Sunshine Act" (5  
U.S.C. 552b (c)(2) and (c)(6)).



The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 14, 1983.  
Federal Deposit Insurance Corporation.  
Hoyle L. Robinson,  
Executive Secretary.

[S-1605-83 Filed 11-15-83; 1:24 p.m.]  
BILLING CODE 6714-01-M

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**FEDERAL MARITIME COMMISSION**  
"FEDERAL REGISTER" CITATION OF  
PREVIOUS ANNOUNCEMENT: 48 FR 51887,  
November 14, 1983.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** 9 a.m., November 16, 1983.

**CHANGE IN THE MEETING:** Addition of the following item to the open session:

8. Docket No. 83-31: Appeal of Westwood Shipping Lines, Inc. from Order Conditionally Denying Intervention.

[S-1606-83 Filed 11-15-83; 3:54 pm]  
BILLING CODE 6730-01-M

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**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**  
November 9, 1983.

**TIME AND DATE:** 10 a.m., Tuesday, November 15, 1983.

**PLACE:** Room 600, 1730 K Street NW., Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The

Commission will consider and act upon the following:

1. U.S. Steel Mining Co., Inc., Docket No. PENN 82-299, Petition for Discretionary Review. (Issues include whether the judge properly assessed civil penalties for three violations of safety standards, properly determined that one of the violations was significant and substantial, and properly concluded that the operator committed another violation of a standard.)

2. U.S. Steel Corporation, Docket No. LAKE 82-6-RM, etc. (Issues include whether the judge properly affirmed a withdrawal order issued under section 104(d)(2) of the Mine Act for a violation of a safety belt standard.)

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on these items and that no earlier announcement of the meeting was possible. 5 U.S.C. 552(b)(5)(1).

**CONTACT PERSON FOR MORE INFORMATION:** Jean Ellen, Agenda Clerk (202) 653-5632.

[S-1902-83 Filed 11-15-83; 12:55 pm]  
BILLING CODE 6735-01-M



# **Federal Register**

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Thursday  
November 17, 1983

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## **Part II**

### **Environmental Protection Agency**

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**Coil Coating Point Source Category,  
Canmaking Subcategory; Effluent  
Limitations Guidelines, Pretreatment  
Standards, and New Source Performance  
Standards; Final Rule**



# ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 465

[WH-FRL-2459-2]

### Coil Coating Point Source Category, Canmaking Subcategory; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes effluent limitations and standards limiting the discharge of pollutants into navigable waters and into publicly owned treatment works by existing and new plants engaged in the manufacturing of cans. The Clean Water Act and a consent decree require EPA to promulgate this regulation.

This regulation establishes specific effluent limitations based on "best practicable technology," "best available technology," new source performance standards based on "best demonstrated technology" and pretreatment standards for existing and new indirect dischargers.

**DATES:** This regulation shall become effective on January 2, 1984.

The compliance date for the BAT regulations is as soon as possible, but in any event, no later than July 1, 1984. The compliance date for new source performance standards (NSPS) and pretreatment standards for new sources (PSNS) is the date the new source begins operations. The compliance date for pretreatment standards for existing sources (PSES) is as soon as possible but in no case later than November 17, 1986.

Under Section 509(b)(1) of the Clean Water Act, judicial review of this regulation can be made only by filing a petition for review in the United States Court of Appeals within 90 days after the regulation is considered issued for purposes of judicial review. Under Section 509(b)(2) of the Clean Water Act, the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements. In accordance with 40 CFR 100.01 (45 FR 26048), this regulation shall be considered issued for purposes of judicial review at 1:00 p.m. Eastern time on December 1, 1983.

The information requirements contained in 40 CFR 465.03(d) have not been approved by the Office of Management and Budget (OMB) and

they are not effective until OMB has approved them.

The Record will be available for public review not later than January 23, 1984, in EPA's Public Information Reference Unit, Room 2404 (Rear) (EPA Library), 401 M Street, SW., Washington, D.C. The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

**ADDRESSES:** The basis for this regulation is detailed in four major documents. See Section XIV, Availability of Technical Information, for a description of each document. Copies of the technical and economic documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161; (703/487-4600). For additional technical information, contact Ms. Mary L. Belefski, Effluent Guidelines Division, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 (Phone (202) 382-7126). For additional economic information contact Ms. Josette Bailey, Economic Analysis Staff (WH-586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 (Phone (202) 382-5382).

**FOR FURTHER INFORMATION CONTACT:** Ernst P. Hall (202) 382-7126.

#### SUPPLEMENTARY INFORMATION:

##### Organization of this notice

- I. Legal Authority
- II. Scope of this Rulemaking
- III. Summary of Legal Background
- IV. Methodology and Data Gathering Efforts
- V. Control Treatment Options and Technology Basis for the Final Regulation:
  - A. Summary of Subcategory
  - B. Control and Treatment Options
  - C. Technology Basis for Final Regulation
- VI. Economic Considerations:
  - A. Costs and Economic Impact
  - B. Executive Order 12291
  - C. Regulatory Flexibility Analysis
  - D. SBA Loans
- VII. Non-Water, Quality Environmental Impacts:
  - A. Air Pollution
  - B. Solid Waste
  - C. Consumptive Water Loss
  - D. Energy Requirements
- VIII. Pollutants and Subcategory Segments Not Regulated:
  - A. Exclusion of Pollutants
  - B. Exclusion of Subcategory Segments
- IX. Public Participation and Response to Major Comments
- X. Best Management Practices (BMP)
- XI. Upset and Bypass Provisions
- XII. Variances and Modifications
- XIII. Implementation of Limitations and Standards:
  - A. Relationship to NPDES Permits
  - B. Indirect Dischargers
- XIV. Availability of Technical Information

XV. List of Subjects in 40 CFR Part 465—Subpart D

#### XVI. Appendices

- A—Abbreviations, Acronyms and Other Terms Used in this Notice
- B—Toxic Pollutants Not Detected
- C—Toxic Pollutants Detected Below the Nominal Quantification Limit
- D—Toxic Pollutants Not Treatable Using Technologies Considered Applicable for the Subcategory
- E—Toxic Pollutants Controlled at BPT, BAT, and NSP But Not Specifically Regulated
- F—List of Toxic Organic Pollutants Comprising Total Toxic Organics (or TTO) Controlled at PSES and PSNS
- G—Subcategory Segments Not Regulated

#### I. Legal Authority

This regulation is being promulgated under the authority of Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 et seq., as amended by the Clean Water Act of 1977, Pub. L. 95-217), also called "the Act." It is also being promulgated in response to the Settlement Agreement in *Natural Resources Defense Council, Inc. v. Train*, 8 ERC 2120 (D.D.C. 1976), modified by Orders dated August 26, 1982, October 26, 1982 and August 2, 1983.

#### II. Scope of This Rulemaking

This final regulation, which was proposed on February 10, 1983 (48 FR 6268), establishes effluent limitations guidelines and standards for existing and new canmaking facilities. Canmaking consists of the process or processes used to manufacture a can from a basis metal, including aluminum and steel. In this regulation, only seamless cans made from uncoated stock are regulated, since no process wastewater is generated from the manufacture of seamed cans or seamless cans made from coated stock.

EPA is promulgating BPT, BAT, new source performance standards (NSPS), and pretreatment standards for existing and new sources (PSES and PSNS, respectively) for the canmaking subcategory of the coil coating point source category.

#### III. Summary of Legal Background

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's Water." (Section 101(a)). To implement the Act, EPA was to issue effluent limitations guidelines, pretreatment standards, and new source performance standards for industrial dischargers.



The Act included a timetable for issuing these standards. However, EPA was unable to meet many of the deadlines and, as a result, in 1976, it was sued by several environmental groups. In settling this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the Court. This agreement required EPA to develop a program and adhere to a schedule for controlling 65 "priority" pollutants and classes of pollutants. In carrying out this program, EPA must promulgate BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 21 major industries. See *Natural Resources Defense Council, Inc. v. Train*, 8 ERC 2120 (D.D.C. 1976), modified, 12 ERC 1833 (D.D.C. 1979), modified by Order dated August 2, 1983.

Many of the basic elements of the Settlement Agreement were incorporated into the Clean Water Act of 1977. Like the Agreement, the Act stressed control of toxic pollutants, including the 65 "priority" pollutants. In addition to strengthening the toxic control program, Section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" (BMPs) to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

Under the Act, the EPA is to set a number of different kinds of effluent limitations. These are discussed in detail in the preamble to the proposed regulation and in the development document. They are summarized briefly below:

#### 1. Best Practicable Control Technology (BPT)

BPT limitations are generally based on the average of the best existing performance by plants of various sizes, ages, and unit processes within the industry or subcategory for control of familiar (i.e. classical) pollutants.

In establishing BPT limitations, EPA considers the total cost in relation to the age of equipment and facilities involved, the processes employed, process changes required, engineering aspects of the control technologies, and nonwater quality environmental impacts (including energy requirements). The Agency balances the industry-wide cost of applying the technology against the effluent reduction.

#### 2. Best Available Technology (BAT)

BAT limitations, in general, represent the best existing performance in the

industry subcategory or category. The Act establishes BAT as the principal national means of controlling the direct discharge of toxic and nonconventional pollutants to navigable waters.

In arriving at BAT, the Agency considers the age of the equipment and facilities involved, the process employed, the engineering aspects of the control technologies, process changes, the cost of achieving such effluent reduction, and nonwater quality environmental impacts. The Agency retains considerable discretion in assigning the weight to be accorded these factors.

#### 3. Best Conventional Pollutant Control Technology (BCT)

The 1977 Amendments to the Clean Water Act added Section 301(b)(2)(E), establishing "best conventional pollutant control technology" (BCT) for discharge of conventional pollutants from existing industrial point sources. Section 304(a)(4) designated the following as conventional pollutants: BOD TSS, fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease "conventional" on July 30, 1979 (44 FR 44501).

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in Section 304(b)(4)(B), the Act requires that the BCT limitations be assessed in light of a two part "cost-reasonableness" test. *American Paper Institute v. EPA*, 660 F.2d 954 (4th Cir. 1981). The first test compares the cost for private industry to reduce its conventional pollutants with the costs to publicly owned treatment works for similar levels of reduction in their discharge of these pollutants. The second test examines the cost-effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent than BPT.

EPA published its methodology for carrying out the BCT analysis on August 29, 1979 (44 FR 50732). In the case mentioned above, the Court of Appeals ordered EPA to make certain revisions. A revised methodology for the general development of BCT limitations was proposed on October 29, 1982 (47 FR 49176). BCT limits for this industry are deferred until promulgation of the final methodology for BCT development.

Until the Agency has promulgated BCT limitations for this subcategory, permit writers should incorporate into permits BCT limitations for oil and

grease, TSS, and pH based upon best professional judgment. Since BCT limitations cannot be less stringent than BPT limitations, permit writers should regard the BPT limitations promulgated now as minimum BCT requirements.

#### 4. New Source Performance Standards (NSPS)

NSPS are based on the best available demonstrated technology (BDT). New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies.

#### 5. Pretreatment Standards for Existing Sources (PSES)

PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of publicly owned treatment works (POTW). They must be achieved within three years of promulgation. The Clean Water Act of 1977 requires pretreatment for toxic pollutants that pass through the POTW in amounts that would violate direct discharger effluent limitations or interfere with the POTW's treatment process or chosen sludge disposal method. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based, analogous to the best available technology for removal of toxic pollutants. EPA has generally determined that there is pass through of pollutants if the nationwide average percentage of pollutants removed by a well operated POTW achieving secondary treatment is less than the percent removed by the BAT model treatment system. The General Pretreatment Regulation, which serves as the framework for categorical pretreatment regulations, is found at 40 CFR Part 403.

#### 6. Pretreatment Standards for New Sources (PSNS)

Like PSES, PSNS are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of a POTW. PSNS are to be issued at the same time as NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate in their plant the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating PSES.



#### IV. Methodology and Data Gathering Efforts

The methodology and data gathering efforts used in developing the proposed regulation were summarized in the "Preamble to the Proposed Canmaking Point Source Subcategory Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards" (48 FR 6268, February 10, 1983), and described in detail in the *Development Document for Effluent Limitations Guidelines and Standards for the Coil Coating Point Source Category (Canmaking Subcategory)* EPA 440/1-83/071-b (referred to as development document). Since proposal and in response to comments, the Agency has gathered additional data and performed additional statistical and engineering analyses of new and existing data. These activities are discussed briefly below and in substantial detail in the appropriate sections of the development document. These additional data were summarized in a *Federal Register* notice (48 FR 43195, September 22, 1983) made available for public comment, and are in the public record supporting this rule.

The treatment effectiveness data base was reviewed thoroughly following proposal in order to respond to comments and assure that all relevant data were properly considered. As a result of this review, several additions and deletions were made to the Agency's treatment effectiveness data base. These changes are documented in the record along with responses to comments. Following the changes, statistical analyses performed prior to proposal were repeated. Conclusions reached at proposal were largely unchanged and little or no changes in the final limitations occurred as a result of changes in the data.

EPA conducted engineering site visits to seventeen canmaking plants in order to gather information regarding water use and in place treatment systems for wastewater discharges. In addition, EPA solicited data and clarifications of comments from eleven companies, to confirm the information provided in the Agency's 1978 and 1982 data collection portfolios regarding flow, production, and treatment systems in place. The data supplied was used to update the data base for the subcategory.

Additional data were provided by the industry on the characteristics of untreated wastewaters and on treated wastewaters discharged from canmaking operations. In addition, EPA conducted sampling and analysis for metals at seven plants and for toxic organic pollutants at five of these seven

plants to further characterize wastewaters discharged from the subcategory.

Comments on the proposal criticized the Agency's estimate of compliance costs. Following proposal, the Agency revised its analysis of the cost of model treatment systems used as the basis for limitations and standards to take into account better data on treatment equipment in place and restructured the equipment costing methodology. Section VIII of the development document and related documents in the record explain the basis for the revised costs estimates.

#### V. Control Treatment Options and Technology Basis for Final Regulations

##### A. Summary of Subcategory

Can manufacturing is included within the U.S. Department of Commerce Census Standard Industrial Classification (SIC) 3411—Metal Cans, and includes about 425 manufacturing plants.

Canmaking covers all of the manufacturing processes and steps involved in the manufacturing of various shaped metal containers which are subsequently used for storing foods, beverages and other products. Two major types of cans are manufactured: Seamed cans and seamless cans.

Seamed cans (primarily three-piece cans) are manufactured by forming a flat piece or sheet of metal into a container with a longitudinal or side seam which is clinched, welded, or soldered, and attaching formed ends to one or both ends of the container body. About 300 plants in the United States manufacture seamed cans.

Seamless cans (primarily two-piece cans) consist of a can body formed from a single piece of metal and usually a top, or two ends, that are formed from sheet metal and attached to the can body. There are several forming methods which may be used to shape the can bodies including simple drawing, drawing and redrawing, drawing and ironing (D&I), extruding, spinning, and others. About 125 plants in the United States manufacture seamless cans.

In the manufacture of seamless cans, oil is used frequently as a lubricant during the forming of the seamless body and must be removed before further processing can be performed. Typically, this is accomplished by washing the can body in a continuous canwasher using water based cleaners. This step is followed by metal surfacing steps to prepare the can for painting.

In the manufacture of seamed cans, can ends and tops, and seamless cans from coated (e.g., coil coated) stock, no oil is used and the cans do not need to

be washed after forming. These canmaking process segments are excluded from regulation because they generate no process wastewater. (See Section VIII of this preamble.)

Pollutants or pollutant parameters generated in canmaking wastewaters and regulated are: (1) Toxic metals—chromium, copper and zinc; (2) toxic organics listed as total toxic organics (TTO) (TTO is the sum of all toxic organic compounds detected in quantifiable amounts—See Appendix F of this preamble); (3) nonconventional pollutants—aluminum, manganese, fluoride, and phosphorus; and (4) conventional pollutants and pollutant parameters—oil and grease, TSS, and pH. Because of the toxic metals present, the sludges generated during wastewater treatment generally contain toxic metals.

EPA estimates that 86 of the approximately 425 can manufacturing plants in the United States generate wastewater. Three of these plants are direct dischargers, 80 are indirect dischargers, and the remaining three plants dispose of wastewaters by land application. These plants are scattered geographically throughout the United States.

##### B. Control and Treatment Technologies

Prior to proposal of the canmaking regulation, EPA considered a wide range of control and treatment options including both in-process changes and end-of-pipe treatment. These options are discussed in detail in the preamble to the proposed canmaking regulation and in the development document. No major changes have been made to the end-of-pipe technology options considered for the final rule from those considered for the proposed rule, although some changes have been made in the recommended flow reduction techniques and in the pollutant parameters regulated for pretreatment. The control and treatment technologies used as the basis for the final limitations and standards are described below.

In-process controls include flow reduction techniques utilizing reuse and recycle of canwasher rinse wastewaters. Numerous plumbing and water reuse configurations are used in canwashers, but the most frequently observed method involves the reuse of stage five sump water overflow as make-up to stage three rinsing. In some cases, stage three sump water overflow is in turn used as make-up to stage one rinsing. This technique is referred to as counterflow rinsing. Counterflow rinsing (which for this regulation is defined as having all of the makeup water for stage



3—the rinse following etching or cleaning the can—taken from the overflow from stage five—the rinse following metal surface treatment) is the model flow reduction technology for BAT, PSES, NSPS and PSNS.

Countercurrent cascade rinsing (adding cascaded rinse stages to increase rinsing efficiency) is an alternate approach to reducing water use as are other methods. These methods are described in more detail in Sections III and VII of the development document.

The model end-of-pipe treatment for BPT, BAT, NSPS, PSES and PSNS includes removal of oil and grease and toxic organic pollutants by oil skimming, chemical emulsion breaking, dissolved air flotation or a combination of these technologies; lime precipitation of metal ions, fluoride, and phosphorus; removal of precipitated solids by Stokes law sedimentation; and pH adjustment of the final effluent. Chromium reduction may also be necessary. Although not specifically included in the model end-of-pipe treatment system, cyanide precipitation may be necessary if plants use cyanide as a process chemical additive in the canmaking process. When used, cyanide should be removed and regulated. These treatment technologies are described in detail in Section VII of the development document.

The treatment effectiveness of the model treatment technologies has been evaluated by observing the performance of these technologies on canmaking and other similar wastewaters.

The data base for the performance of precipitation and sedimentation technology ("lime and settle") in reducing concentrations of chromium, copper, manganese, zinc, and TSS in canmaking wastewaters is a composite of data drawn from EPA sampling and analysis of effluents from well-operated lime and settle treatment systems at 18 plants in the copper forming, aluminum forming, battery manufacturing, porcelain enameling, and coil coating (including one canmaking plant) categories. These data, referred to as the combined metals data base (CMDB), consist of influent and effluent concentration measurements for nine pollutants. The wastewaters of these categories and canmaking wastewaters were found to be similar for treatment since they contain comparable levels of dissolved metals which can be removed by lime precipitation and solids removal.

The Agency regards the combined metals data base as the best available

measure for establishing the concentrations of TSS, chromium, copper, zinc, and manganese attainable with lime and settle treatment technology. Our determination is based on the similarity of raw and treated wastewaters of the canmaking subcategory with the raw and treated wastewaters of the categories whose data comprise the CMDB. After removal of oil, canmaking raw wastewaters contain TSS, chromium, copper, zinc, and manganese in concentrations comparable to those in the CMDB categories. The similarity of raw wastewaters is supported by a statistical analysis for homogeneity which is part of the record of this rulemaking.

The Agency had few data on achievable effluent concentrations from optimally operated lime and settle treatment systems in canmaking plants. These data were useful for confirming the applicability of achievable effluent concentrations from the CMDB to canmaking plants. The CMDB was used to establish regulatory concentrations because of the larger number of plants and data points and because of the greater sampling reliability of the data available in the CMDB in comparison to the few effluent data available from post proposal sampling. The larger data base enhanced the Agency's ability to estimate long-term performance and variability through statistical analysis.

The CMDB is discussed in more detail in this preamble in Section IX, Public Participation and Response to Comments, in Section VII of the development document, in the document "A Statistical Analysis of the Combined Metals Industries Effluent Data" and in the memorandum "Revisions to Data and Analysis of the Combined Metals Data Base" which are both in the administrative record.

Maximum concentration levels for aluminum for BPT, BAT, and NSPS were proposed on the basis of data from the coil coating and aluminum forming categories. EPA judged that the raw wastewaters of canmaking plants were similar to those of coil coating and aluminum forming plants, and that the model lime and settle treatment technology could reduce the concentrations of aluminum in canmaking plants to levels comparable to those achieved in coil coating and aluminum forming plants. Since proposal of the aluminum forming regulation, the Agency gathered additional data on aluminum from two aluminum forming plants that have well operated lime and settle end-of-pipe

treatment. The Agency also analyzed data on aluminum submitted by the Can Manufacturers Institute (CMI) and United States Brewers Association (USBA) in their comments on the canmaking proposal. The CMI and USBA data confirmed that canmaking plants' raw wastewaters contained concentrations of aluminum comparable to those found in aluminum forming wastewaters. When adjusted to exclude plants which do not employ or optimally operate the model end-of-pipe technology (lime and settle), six of eight data days of the treated effluent data submitted by CMI and USBA confirm that the concentration for aluminum used in the final regulations is achievable in canmaking plants that optimally operate the model technology. Further, we obtained Discharge Monitoring Report (DMR) data for one of the three direct dischargers in the subcategory. This plant employs and optimally operates the model end-of-pipe treatment technology (lime and settle). The DMR data show that this plant consistently met the concentration for aluminum used in the final regulation for all but two months in the past two years. Consequently, the concentrations for aluminum used in the final canmaking regulation for BPT, BAT, and NSPS are the same as those used in the final aluminum forming regulation. These concentrations are higher than those used for the proposed canmaking regulation.

Maximum concentrations for aluminum were also proposed for PSES and PSNS as an indicator to assure removal of chromium, zinc, and other metals and optimal operation of the model treatment system. Following proposal, a number of commenters pointed out that aluminum is often added by POTW and suggested that aluminum need not be regulated as an indicator since specific standards could be set for particular pollutant parameters of concern. In response to these comments, the Agency substituted PSES for manganese and copper in place of standards for aluminum. This results in an approach to aluminum in wastewaters in the canmaking subcategory which is consistent with the approach used in regulations for such sources as the aluminum forming and coil coating categories. In comments, industry has assured the Agency that making seamless cans from low manganese aluminum alloy was quite unlikely, increasing the Agency's confidence that manganese could be relied upon to assure the optimal



operation of the model (L&S) end-of-pipe treatment. In the event that a low manganese content alloy is used, the Agency is requiring notification by each discharger of the intended use of a low manganese alloy and the composition of such low manganese alloy. The Agency will evaluate the potential impact of the use of any new alloy on pollutant discharge and will propose any appropriate revisions to these limitations and standards.

Aluminum was retained as a pollutant parameter for direct dischargers in the canmaking subcategory to assure removal of other pollutants and because aluminum appears at elevated concentrations in wastewaters and since aluminum is known to cause adverse effects in receiving waters at concentrations that would be discharged from canmaking plants. See Section VI of the development document for more details.

The lower end of the pH range in the final regulation has been lowered from 7.5 at proposal to 7.0, in order to allow optimal removal of aluminum from canmaking wastewaters. This change is also based on data obtained from the aluminum forming category, and is explained in more detail in Section IX of this preamble.

Manganese and copper appear in wastewaters in the canmaking subcategory as a consequence of their use as alloying agents in the aluminum stocks used in canmaking. These pollutants are removed by the model end-of-pipe treatment technology. The achievable concentrations of manganese and copper are based upon the performance of properly operated lime and settle treatment systems as documented in the combined metals data base.

Maximum concentration values for oil and grease are the same as proposed. The Agency judged that oil skimming, chemical emulsion breaking, dissolved air flotation devices or a combination of these technologies could reduce concentrations of oil and grease in canmaking effluents to the regulated levels. Following proposal, CMI and USBA jointly submitted treated effluent data for fourteen canmaking plants, ten of which employ and optimally operate these recommended treatment technologies for the removal of oil and grease. The Agency found that the data submitted by CMI and USBA for these ten plants consistently met the proposed concentration values for oil and grease. As a result, the final achievable concentration values for oil and grease are the same as proposed.

Maximum concentration values for TTO were proposed for PSES and PSNS,

based on the application of the model treatment technologies for oil and grease removal. Because CMI and USBA claimed that process changes had eliminated toxic organics from canmaking wastewaters, after proposal, the Agency conducted sampling for toxic organic pollutants at five plants, and confirmed the presence of the six of the seven toxic organic compounds found before proposal in untreated raw effluents, plus seven additional toxic organics. These compounds were found in process wastestreams and are generally associated with natural lubricants, solvents and surface coatings. All are removed by oil and grease removal technologies. As a result, the proposed achievable treatment levels for TTO are retained in the final regulation. A definition of TTO has been added to the final regulation, which includes all fourteen toxic organic pollutants identified before and after proposal in untreated raw wastewater streams in the canmaking subcategory.

For direct dischargers, TTO is not regulated since the BPT/BCT oil and grease limitation will remove TTO. For BAT permits that are issued before BCT limitations are promulgated, permit writers should regard the BPT oil and grease limits as minimum loads for best professional judgment oil and grease limitations (see Section III of this preamble).

The final regulation includes a method to be used for the analysis of the concentration of oil and grease in wastewater samples from all subcategories of coil coating, which includes the canmaking subcategory. This method, which is described more fully in Section IX of this preamble, was presented for public comment in the September 22, 1983 Federal Register notice (48 FR 43195). No adverse comments were received.

Flow reduction is a significant part of the overall pollutant reduction technology. To assure that flow reduction is practiced, the Agency is promulgating mass-based limitations and standards. The Agency was able to establish production normalized flows so that mass-based limitations and standards could be developed. The numerical limitations and standards are expressed as a mass of pollutant allowed to be discharged per unit of production and are derived as the product of the regulatory flow and the overall treatment effectiveness. The regulatory flows are based on flow data, normalized to production, supplied by the industry. Concentration-based standards do not limit the quantity of pollutants discharged.

### C. Technology Basis for Final Regulation

A brief summary of the technology basis for the regulation is presented below. A more detailed summary is presented in the "Preamble to the Proposed Canmaking Subcategory of the Coil Coating Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards" (48 FR 6268 (February 10, 1983)), and the development document.

**BPT:** EPA is promulgating BPT mass limitations based on end-of-pipe treatment, which consists of removal of oil and grease by skimming, chemical emulsion breaking, dissolved air flotation or a combination of these technologies, and removal of metal ions, fluoride and phosphorus by lime and settle treatment technology. Chromium reduction may also be necessary in some cases. The model end-of-pipe treatment technology basis for the BPT limitations being promulgated is the same as that for the proposed limitations.

In developing BPT limitations, the Agency considered the amount of water used per unit of production (liters per 1000 cans produced). Comments on the proposed regulation criticized the flow estimates EPA used to set mass-based limitations. The regulatory flow used as the basis for BPT (referred to as regulatory flow or BPT flow) changed from the proposal to reflect updated information on plant flows and production and to reflect a more accurate assessment of flow reduction practices within the industry. The BPT flow is discussed briefly below and in more detail in Section IX of this preamble and in Section IX of the development document. The limitations presented in the final BPT regulation reflect these changes.

The flow basis for BPT is established at 215.0 l/1000 cans. Production normalized flows for plants in the subcategory range from 20.3 l/1000 cans to 964 l/1000 cans, representing a continuum from highly efficient water reuse and recycle practices to one-through rinsing at very high flows. The proposed BPT flow was based on the average production normalized wastewater flow of the 32 plants in the subcategory which EPA believed practice reuse of process wastewater within the canwasher. Commenters asserted that much of the data used to estimate flow was inaccurate. The Agency updated and verified its data for flow and recalculated flows based on the new data. The BPT flow is based on



the performance of the median plant among the 62 plants in the data base for which we have complete flow data. The median plant was chosen in preference to the mean because the industry presents a skewed distribution of flow values. For instance, five percent of the 62 plants for which we have data account for 16 percent of the total flow. The use of the median prevents a few extreme values from exerting an undue influence on the value used to characterize the industry.

Canmaking plants employ a variety of methods for reducing flow. These methods include recycle, reuse, or water-conservation practices. All plants in the subcategory can achieve the BPT flow through use of one or more of these methods. As explained in more detail in Section IX of this preamble, some commenters asserted that plant-specific factors prevent some plants from achieving reductions in flow. The Agency analyzed these factors in detail and concluded that commenters' assertions are not supported by the record.

The pollutant parameters selected for limitation at BPT are: Chromium, zinc, aluminum, fluoride, phosphorus, oil and grease, total suspended solids (TSS), and pH. These are the same pollutants that were selected for regulation in the proposed regulation.

Implementation of the BPT limitations will remove annually an estimated 2,234 kg of toxic pollutants (metals and organics), 3.71 million kg of conventional pollutants and 3.79 million kg of total pollutants (from estimated current discharge) at a capital cost, above equipment in place, of \$0.743 million and a total annual cost of \$0.645 million. (These costs assume plants will install BPT systems at the BPT regulatory flow). The Agency has determined that the effluent reduction benefits associated with compliance with BPT limitations justify the costs.

**BAT:** EPA is promulgating BAT mass-based limitations based on the BPT model end-of-pipe treatment technology and flow reduction to approximately 60 percent of the BPT flow. The model end-of-pipe treatment technology basis for the promulgated BAT is the same as that for BPT and is the same as that which was proposed. As discussed in the proposed regulation filtration at BAT was not selected because the additional pollutant removals are small. (If a polishing filter were added to a normal plant after the application of the model BAT technology, the filter would remove 24.9 kg/yr toxic pollutants at a capital cost of \$0.017 million and a total annual cost of \$0.011 million.) The Agency

received no adverse comments on this issue.

In developing BAT limitations, the Agency considered the amount of water used per unit of production (liters per 1000 cans) for each wastewater stream. Following an examination of several objective factors, including age, water use, manufacturing processes, final products, equipment, and characteristics of wastewater and make-up water, EPA also determined that wastewater reuse, recycle, and conservation practices can be uniformly adopted throughout the subcategory. To determine the best performing plants in the subcategory we evaluated the various available water reuse techniques currently used in the canmaking subcategory.

The model flow reduction technology basis for BAT at proposal was countercurrent cascade rinsing (partitioning within a rinse stage to increase rinsing efficiency and to reduce water use). In response to comments and following a reevaluation of current practices in the industry, the model flow reduction technology basis in the final regulation is changed to counterflow rinsing, which has been defined in Section V of this preamble. The Agency used this model technology as a basis for calculating the BAT regulatory flow since it is fully demonstrated in at least fourteen plants, but notes that other flow reduction techniques, including countercurrent cascade rinsing, different counterflow configurations, and water conservation practices can also be employed to achieve comparable results. Because of anomalies at two of the fourteen plants which are known to practice counterflow rinsing, twelve plants were used to establish the BAT flow.

The regulatory flow for BAT is 83.9%<sub>1000</sub> cans, based on the production normalized performance of 50 percent of the plants among the twelve plants without anomalies which practice counterflow rinsing. This BAT flow represents an increase of approximately 50 percent from the proposed BAT flow and reflects updated flow and production data provided by the industry and other changes made since proposal for BPT as discussed in the preceding section. The Agency notes that plants are achieving flow reduction to the BAT level or below using techniques other than counterflow rinsing as we have defined it. The flow reduction technology basis for BAT and alternate flow reduction practices which can be used to achieve similar results are discussed in more detail in Sections III, VII, and X of the development document. The Agency has determined

that all plants in the subcategory can achieve the BAT flow by the model flow reduction technology or by alternate technologies or practices.

The pollutants selected for regulation are: Chromium, zinc, aluminum, fluoride and phosphorus. These are the same pollutants that were selected for regulation in the proposed rule. Toxic organics are not regulated at BAT because the oil and grease limitation at BPT effectively controls these organics.

Implementation of the BAT limitations will remove annually an estimated 2,389 kg of toxic pollutants (from estimated current discharge) at a capital cost, above equipment in place, of \$0.646 million and a total annual cost of \$0.594 million. For costing purposes, the Agency retained the in-process costs based on the proposed technology because the cost difference between the proposed technology and counterflow rinsing was considered insignificant.

BAT will remove 135 kg/yr of toxic pollutants incrementally above BPT. The Agency projects no plant closures, employment impacts or foreign trade effects and has determined that the BAT limitations are economically achievable.

The date for compliance with the BAT limitations for aluminum, fluoride and phosphorus is the same as for toxic pollutants regulated, since the model technology for controlling the toxic pollutants will control these nonconventional pollutants.

**NSPS:** EPA is promulgating NSPS based on end-of-pipe treatment which is the same as the BPT and BAT end-of-pipe technology. Alternative end-of-pipe technologies which could be used for NSPS in the canmaking subcategory, including polishing filters, ultrafiltration, and reverse osmosis, were considered and rejected for NSPS since the use of these technologies would result in little incremental pollutant reduction benefits. (If a polishing filter were added to a normal plant after the application of the model NSPS technology, the filter would remove 26.40 kg/yr toxic pollutants at a capital cost of \$0.017 million and a total annual cost of \$0.009 million.)

In developing NSPS, the Agency considered the amount of water used per unit of production. Comments on the proposed regulation criticized the proposed flow of 14 1/1000 cans used for new sources, which was based upon what the Agency believed to be the performance of a 9-stage canwasher or its equivalent. As a result of comments, the Agency reevaluated the issue. The Agency evaluated verified flows of the best performing canmaking plants for which information was available. Following an evaluation of factors



which could affect achievable flow rates, including age, water use, manufacturing processes, final products, equipment, and characteristics of wastewater and make-up water. EPA established the basis for the NSPS flow upon the lowest generally applicable demonstrated plant flow in the subcategory.

The regulatory flow for NSPS is 63.6 1/1000 cans. The NSPS flow, which represents a 70 percent reduction from the BPT flow, is substantially increased from the proposed flow for NSPS to reflect updated flow and production data provided by the industry. The model plant achieves this flow by using counterflow rinsing. Other methods such as the addition of additional stages of countercurrent cascade rinsing can be used to achieve NSPS flow. (See Sections III, VII and XI of the development document.)

The pollutants selected for regulation are the same as those proposed: Chromium, zinc, aluminum, fluoride, phosphorus, oil and grease, TSS, and pH. Specific toxic organics are not being regulated because, as previously discussed the removal of oil and grease to meet the BPT oil and grease limit will adequately control the toxic organics found in canmaking wastewaters.

EPA estimates that a new direct discharge canmaking plant having the industry average annual production level would generate a raw waste of 856 kg per year of toxic pollutants. The NSPS technology would reduce these pollutant levels to 60 kg per year of these same toxic pollutants. Because the technology on which the new source flow is based is same as for BAT there would be no incremental cost above BAT. However, the Agency considered that some new sources might install additional technology to meet the new source flows. For a worst case evaluation the Agency considered that three additional stages of countercurrent cascade rinsing might be added beyond BAT. The total capital investment cost for a new model canmaking plant to install NSPS technology for a worst case situation is estimated to be \$0.493 million, compared with investment costs of \$0.382 million for a model plant to install technology equivalent to BAT. Similar figures for total annual costs are \$0.302 million for NSPS, compared with \$0.267 million for BAT. If the more expensive technology were used, NSPS investment and annual costs would be about ten percent greater than BAT costs for existing sources. These incremental costs for NSPS over BAT represents less than 0.1 percent of expected revenues for a new source

model plant. The Agency has determined that the new source performance standards will not pose a barrier to entry.

For costing, the proposed in-process costing model (installation of three additional stages to a six stage canwasher) was retained because plants can achieve the new source flow using this technique. There would be no additional costs above BAT for a new source to achieve NSPS using counterflow rinsing technology, which is used at the plant used as the basis for new sources.

**PSES:** In the canmaking subcategory of the coil coating category, the Agency has concluded that the following metals regulated under these standards (chromium, copper, zinc and manganese) pass through the POTW. The nationwide average percentage of these same metals removed by a well-operated POTW meeting secondary treatment requirements is about 58 percent to 65 percent, whereas the percentage that can be removed by a canmaking direct discharger applying the best available technology economically achievable is about 92 percent. Accordingly, these pollutants pass through a POTW.

In addition to pass through of metals, fluoride and phosphorus pass through POTW. Phosphorus removal in POTW is 10-20 percent while fluoride is not removed; BAT treatment achieves more than 90 percent removal of both, clearly indicating pass through of these pollutants.

Available information from an EPA study on POTW shows that many of the toxic organics from canmaking facilities will pass through a POTW. Removal of those toxic organic pollutants by well-operated POTW achieving secondary treatment averaged about 70 percent, while the oil skimming component of the BPT technology basis achieves removals of about 97 percent. Accordingly, EPA is promulgating a pretreatment standard for toxic organics.

To regulate the pollutants that pass through a POTW, EPA is promulgating PSES based on the application of technology equivalent to BAT, which consists of flow reduction, model end-of-pipe treatment comprised of lime and settle technology following preliminary treatment, where necessary, consisting of chromium reduction, chemical emulsion breaking, oil skimming, dissolved air flotation, or a combination of these technologies.

The Agency proposed to regulate aluminum for pretreatment as an indicator to assure that other toxic metals would be removed prior to

discharge. Commenters pointed out that aluminum is sometimes added by POTW and is largely removed by POTW. Commenters suggested that aluminum need not be regulated as an indicator for indirect dischargers since specific regulations could be set for particular pollutant parameters of concern. As a result, the Agency is promulgating PSES standards for manganese and copper in place of the proposed standard for aluminum. This decision is consistent with the approach used for regulating indirect sources in the coil coating and aluminum forming categories. The Agency is also promulgating standards for chromium, zinc, fluoride and phosphorus.

At proposal, we stated that toxic organic pollutants would be regulated as total toxic organics (TTO) and defined TTO as seven specific compounds which were found at the sampled canmaking plants at concentrations greater than the quantification level of 0.01 mg/l. Appendix F of this preamble and § 465.02 of the regulation lists those toxic organics which comprise TTO. The list of TTO presented in this regulation reflects all the toxic organic pollutants found at concentrations above the quantification level at sampled plants, including seven additional organic compounds found in wastestreams of sampled canmaking plants following proposal. However, other toxic organics may be found in canmaking wastewaters even though they were not found in the sampled wastestreams. This is because toxic organic compounds originate in lubricants, solvents and surface coatings and these compounds can vary depending upon the formulation.

Many polyaromatic hydrocarbons and organic solvents can be substituted for one another to perform the same function. If substitution does occur, the Agency believes that these other toxic organics are likely to be adequately controlled by the PSES model treatment technology and that the same pretreatment standards on TTO should apply. However, toxic organics not covered by this regulation at canmaking facilities should be considered for regulation by the control authority on a case-by-case basis.

The analysis of wastewaters for toxic organics is costly and requires sophisticated equipment. Therefore the Agency proposed to establish as an alternative to monitoring for TTO a monitoring parameter for oil and grease. Data indicate that the toxic organics are in the oil and grease and by removal of the oil and grease, the toxic organics will also be removed.



In developing these standards, the amount of water used per unit of production is considered for each waste stream. The flow basis is the same as for BAT.

The pollutants selected for regulation are: Chromium, copper, zinc, fluoride, manganese, phosphorus, and TTO.

The PSES set forth in this final rule are expressed in terms of mass per unit of production rather than concentration standards. Regulation on the basis of concentration is not appropriate because concentration-based standards do not restrict the total quantity of pollutants discharged. Flow reduction is a significant part of the model technology for pretreatment because it reduces the amount of toxic pollutants introduced into a POTW. For this reason and because production normalized flows could be established, no alternative concentration standards are promulgated for indirect dischargers.

The Agency estimates that implementation of the PSES will remove annually an estimated 63,174 kg of toxic pollutants (from estimated current discharge) at a capital cost, above equipment in place, of \$21.29 million and a total annual cost of \$17.13 million. These costs are based on the application of the model end-of-pipe treatment technology, which includes lime and settle technology for the removal of metal ions, fluoride and phosphorus, to each plant in the subcategory which does not now employ such technology. Data submitted by CMI and USBA indicate that some plants can meet PSES with existing technologies other than lime and settle. The Agency has no firm data on the number of these plants that can meet the limits with existing technology. Therefore, we have included the cost of clarifiers for these plants in subcategory PSES costs. Thus the total cost probably are overstated.

The Agency believes that one two-piece can manufacturing line is expected to close as a result of this regulation and will result in 26 job losses among indirect dischargers. The PSES standards are economically achievable for the subcategory.

The Agency has considered the deadline for compliance for PSES. Although a number of canmaking plants have installed and are properly operating the treatment technology for PSES, many have not. The installation of end-of-pipe treatment equipment may require several years in some instances. Additionally, many plants in this and other industries will be installing the treatment equipment suggested as model technologies for this regulation, which may result in delays in engineering, ordering, installing, and operating this

equipment. For all these reasons, the Agency has decided to set the PSES compliance date to be as soon as possible, but in no case later than the three years after promulgation of this regulation.

**PSNS:** EPA is promulgating PSNS based on end-of-pipe treatment and in-process controls equivalent to that used as the basis for NSPS. The regulatory flow for PSNS is also the same as that for NSPS. As discussed under PSES, pass through of the regulated pollutants will occur without adequate pretreatment and, therefore, pretreatment standards are required. Alternative end-of-pipe technologies which could be used for PSNS in the canmaking subcategory including polishing filters, ultrafiltration, and reverse osmosis, were considered and rejected for PSNS as well as NSPS since the use of these technologies would result in little incremental pollutant reduction benefits.

The pollutants regulated under PSNS are chromium, zinc, copper, manganese, fluoride, phosphorus, and TTO. The Agency has substituted manganese and copper for aluminum, as was done for PSES. Monitoring for oil and grease has been established as an alternative to monitoring for TTO as discussed under PSES.

EPA estimates that a new indirect discharge plant having the industry average annual production level would generate a raw waste of 856 kg per year of toxic metal and organic pollutants. The PSNS technology would reduce these pollutant levels to 60 kg per year of these same toxic pollutants. Because the technology on which the new source flow is based is same as for PSES there would be no incremental cost above PSES. However, the agency considered that some new sources might install additional technology to meet the new source flows. For a worst case evaluation, the Agency considered that three additional stages of counter current cascade rinsing might be added beyond PSES. The total capital investment cost for a new model canmaking plant to install the PSNS technology for a worst case situation is estimated to be \$0.493 million, compared with investment costs of \$0.382 million for a model plant to install the treatment technology equivalent to PSES. Similar figures for total annual costs are \$0.302 million for PSNS and \$0.267 million for PSES. If the more expensive technology were used, PSNS investment and annual costs would be about ten percent greater than PSES costs for existing sources. These incremental costs over PSES represent less than 0.1 percent of expected revenues for a new source

model plant, the Agency has determined that the new source performance standards will not pose a barrier to entry.

## VI. Economic Considerations

### A. Costs and Economic Impact

The Agency's economic impact assessment of this regulation is presented in the report entitled *Economic Impact Analysis of Effluent Standards and Limitations for the Canmaking Industry* (EPA-440/2-83-011). This report details the investment and annual costs for the canmaking subcategory. Compliance costs are based on engineering estimates of capital requirements for the model treatment systems described earlier in this preamble. The report assesses the impact of effluent control costs in terms of price changes, production changes, plant closures, employment effects, and balance of trade effects. The impacts for each of the regulatory model treatment technologies are discussed in the report.

The economic analysis also reflects other industry comments, additional information provided since proposal, and the use of current information on financial and economic characteristics of the industry. Since proposal, the price of cans has been reduced to \$60/1000 cans in response to industry comments and compliance costs have been revised as discussed in Section IX of this preamble and in Section VIII of the development document. As a consequence, estimated plant revenues and investment costs have decreased.

EPA estimates that of the approximately 425 can manufacturing plants in the United States 86 manufacture cans that are washed (primarily two-piece cans) and are the subject of this regulation. Of these 86 plants, three are direct dischargers and 80 are indirect dischargers. The remaining three plants dispose of process wastewaters by land application. Total investment for combined BAT and PSES is estimated to be \$21.97 million with annual costs of \$17.74 million, including depreciation and interest. These costs are expressed in 1982 dollars as are all the following costs. The Economic Impact Analysis projects one indirect discharge 2-piece can line closure, causing 26 job losses. We project no changes in price nor significant changes in production and no foreign trade impacts.

The above costs reflect EPA's estimate of required monitoring, ranging from 12 days per month for large plants to one day per month for small plants. If all plants are required either by their



control authority or their permit writer to monitor 10 days per month, then total annual costs would increase by less than \$0.90 million. One additional closure may result from this level of monitoring; the average increase in the cost of production would be negligible.

The methodology for the economic analysis is the same as that used at proposal. It is detailed in Chapter II of the economic impact analysis. Using revised compliance costs for each plant, we performed a capital requirements analysis and a profitability analysis.

The capital requirements analysis was used to assess a company's ability to make the initial capital investment needed to construct and install the required treatment systems. The analysis is based on the ratio of compliance capital investment requirements to plant annual revenues (CCI/R). This ratio provides an indication of the relative magnitude of the compliance capital investment requirements. Return on investment (ROI) (pre-tax profits as a percent of revenues) was used to assess the impact of the effluent regulations on the profitability of individual plants. The use of this technique involves a comparison of the return on investment after compliance with a threshold required return on investment. EPA expects some plants will experience slight decreases in ROI. No price increases are expected. Changes in production costs are expected to be less than 0.1 percent. No measurable balance of trade effect is expected. The Agency expects one 2-piece can production line closure with 26 job losses to result from this regulation. EPA has determined that this regulation is economically achievable.

**BPT:** The BPT regulation is expected to affect all three direct discharging plants. BPT for these three plants is projected at \$0.644 million in investment costs and \$0.591 million in annual costs (including depreciation and interest). These costs are different from the engineering compliance cost estimates presented in Section V of this preamble. The Agency believes facilities will choose the most economical means of complying with BPT and, if going directly to BAT is less expensive, will choose to install BAT technology with flow reduction in order to meet the BPT limits. This assumption was not made for purposes of Section V of this preamble. The Agency has determined that the effluent reduction benefits associated with compliance with BPT justify the costs. According to the analysis of economic impacts, no plant

closures or job losses are associated with complying with the BPT limitations.

**BAT:** All three direct dischargers will be affected by the BAT limitations. These three plants would incur investment costs estimated at \$0.646 million and total annual costs of \$0.594 million, including depreciation and interest. The incremental cost above BPT is estimated to be \$2,000 and \$3,000 in investment and annual costs respectively. These costs will not result in any plant closures or job losses. We project no changes in price, therefore, the Agency believes that compliance with BAT will be economically achievable.

**PSES:** Many of the 80 indirect dischargers will incur costs to comply with this regulation. Based upon the application of in process controls and end-of-pipe model treatment technology at all plants which do not currently utilize such technology, the Agency estimates that these 80 plants will share investment costs of \$21.32 million and annual costs of \$17.14 million, including depreciation and interest. The Agency believes that only one 2-piece can production line is expected to close and will result in twenty-six job losses. Thus the PSES are economically achievable for the subcategory.

**NSPS-PSNS:** The two-piece segment of the canmaking industry is relatively profitable and has fared well during recessionary periods. Beverage can shipments, by far the largest market for seamless cans, have generally outperformed growth in real GNP since 1972. There is presently excess capacity in certain segments of the industry but growth is expected over the next five years. EPA believes this growth trend will continue and expects new plants and major modifications to existing plants will be built in this subcategory.

EPA is promulgating NSPS and PSNS based on flow reductions beyond the BAT level, in addition to the BAT model end-of-pipe treatment technology. The model in-process technology used as a basis for NSPS and PSNS is the same as the BAT model technology. Therefore, we estimate that there is essentially zero incremental cost for NSPS and PSNS above the cost incurred for existing sources. However, the Agency has performed a sensitivity analysis assuming that the new source would use an alternate (more expensive) technology for achieving NSPS and PSNS regulatory flows: Three additional stages of countercurrent cascade rinsing. The Agency analyzed a "normal" plant and estimated compliance costs above the BAT level, comparing estimated costs for the additional treatment

technology to expected revenues. The incremental costs over the cost estimates for the BAT and PSES technologies are less than 0.1 percent of expected revenues for a normal plant. Investment costs for a new source are projected to be no more than 10 percent above BAT, and annual costs are projected to be 4 percent above BAT. Even considering the costs for the additional flow reduction technology, EPA does not believe that NSPS and PSNS will constitute a barrier to entry for new sources, nor prevent major modifications to existing sources nor produce other adverse economic effects.

#### *B. Executive Order 12291*

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. Major rules are those which impose a cost on the economy of \$100 million a year or more or have certain other economic impacts. This regulation is not a major rule because its annualized cost of \$17.73 million is less than \$100 million and it meets none of the other criteria specified in Section I paragraph (b) of the Executive Order. The economic impact analysis prepared for this proposed rulemaking meets the requirements for non-major rules.

#### *C. Regulatory Flexibility Analysis*

Pub. L. 96-354 requires EPA to prepare an Initial Regulatory Flexibility Analysis for all proposed regulations that have a significant impact on a substantial number of small entities. This analysis may be done in conjunction with or as a part of any other analysis conducted by the Agency. The economic impact analysis for this regulation discusses possible impacts upon small entities. The regulatory requirements are projected to cause one product line closure. This product line is part of a larger canmaking plant. The Agency estimates that the percentage change in production costs for small plants (defined as producing less than 500 million cans per year) is less than one percent. The Agency does not believe that small entities will be disproportionately impacted by this regulation.

#### *D. SBA Loans*

The Agency is continuing to encourage canmakers to use Small Business Administration (SBA) financing as needed for pollution control equipment. The three basic programs are: (1) The Guaranteed Pollution Control Bond Program, (2) the Section 503 Program, and (3) the Regular Guarantee Program. All the SBA loan



programs are only open to businesses that have: (a) Net assets less than \$6 million, (b) an average annual after-tax income of less than \$2 million, and (c) fewer than 250 employees. The estimated economic impacts for this category do not include consideration of financing available through these programs.

The Section 503 Program, as amended in July 1980, allows long-term loans to small and medium sized businesses. These loans are made by SBA approved local development companies. For the first time, these companies are authorized to issue Government-backed debentures that are bought by the Federal Financing Bank, an arm of the U.S. Treasury.

Through SBA's Regular Guarantee Program, loans are made available by commercial banks and are guaranteed by the SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Guarantee and Section 503 Programs contact your district or local SBA Office. The coordinator at EPA headquarters is Ms. Frances Desselle who may be reached at (202) 382-5373. For further information and specifics on the Guaranteed Pollution Control Bond Program contact: U.S. Small Business Administration, Office of Pollution Control Financing, 4040 North Fairfax Drive, Rosslyn, Virginia 22203 (703) 235-2902.

## VII. Nonwater Quality Environmental Impacts

Eliminating or reducing one form of pollution may cause other environmental problems. Sections 304(b) and 306 of the Act require EPA to consider the nonwater quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, we considered the effect of this regulation on air pollution, solid waste generation, water scarcity, and energy consumption. This regulation was circulated to and reviewed by EPA personnel responsible for nonwater quality programs. While it is difficult to balance pollution problems against each other and against energy use, we believe that this regulation will best serve often competing national goals.

The following nonwater quality environmental impacts (including energy requirements) are associated with the final regulation. The Administrator has determined that the impacts identified below are justified by the benefits associated with compliance with the limitations and standards.

### A. Air Pollution

Imposition of BPT, BAT, NSPS, PSES, and PSNS will not create any substantial air pollution problems because the wastewater treatment technologies required to meet these limitations and standards do not cause air pollution, with the possible exception of dissolved air flotation treatment systems. In EPA's judgment, the possible air pollution problems created by the use of such systems on canmaking wastewaters are not significant.

### B. Solid Waste

EPA estimates that canmaking facilities generated 7,100 kkg of solid wastes (wet basis) in 1978 from manufacturing process operations as well as a result of sludge wastewater treatment in place. These wastes consisted of treatment system sludges containing precipitated pollutants, including chromium, copper, zinc, aluminum, fluoride, manganese, and phosphorus; and oil containing toxic organics removed during oil skimming, chemical emulsion breaking, and dissolved air flotation or a combination of these technologies.

EPA estimates that BPT will contribute an additional 13,600 kkg per year of solid wastes over that which is currently being generated by the canmaking industry. BAT and PSES will increase these wastes by approximately 562,000 kkg per year beyond BPT levels. These sludges will necessarily contain additional quantities (and concentrations) of toxic metal pollutants. We estimate that NSPS and PSNS will generate approximately 6,950 kkg per year for a model plant.

The Agency examined the solid wastes that would be generated at canmaking plants by the model treatment technologies and believes they are not hazardous under Section 3001 of the Resource Conservation and Recovery Act (RCRA). This judgment is made based on the model technology of lime and settle. By the addition of a small excess of lime or other source of hydroxide ion during treatment, similar sludges, specifically toxic metal bearing sludges, generated by other industries such as the iron and steel industry passed the EPA toxicity test. See 40 CFR 261.24 (45 FR 33084 (May 19, 1980)). Thus, the Agency believes that canmaking wastewater sludges will similarly be found not hazardous if the recommended technology is applied. Since the canmaking solid wastes are not believed to be hazardous, no estimates were made of costs for disposing of hazardous wastes in accordance with RCRA requirements.

Although it is the Agency's view that solid wastes generated as a result of these guidelines are not expected to be classified as hazardous under the regulations implementing Subtitle C of the Resource Conservation and Recovery Act, generators of these wastes must test the waste to determine if the wastes meet any of the characteristics of hazardous waste. See 40 CFR 262.11 (45 FR 12732-12733 (February 28, 1980)). The Agency may also list these sludges as hazardous pursuant to 40 CFR 261.11 (45 FR 33121 (May 19, 1980)), as amended at 45 FR 76624 (November 19, 1980)).

If these wastes are identified as hazardous, they will come within the scope of RCRA's "cradle to grave" hazardous waste management program, requiring regulation from the point of generation to point of final disposition. EPA's generator standards would require generators of hazardous canmaking wastes to meet containerization, labeling, recordkeeping, and reporting requirements. In addition, if canmakers dispose of hazardous wastes off-site, they would have to prepare a manifest which would track the movement of the wastes from the generator's premises to a permitted off-site treatment, storage, or disposal facility. See 40 CFR 262.20 (45 FR 33142 (May 19, 1980)). The transporter regulations require transporters of hazardous wastes to comply with the manifest system to assure that the wastes are delivered to a permitted facility. See 40 CFR 263.20 (45 FR 86973 (December 31, 1980)). Finally, RCRA regulations establish standards for hazardous treatment, storage, and disposal facilities allowed to receive such wastes. See 40 CFR Part 464 (46 FR 2802 (January 12, 1981), 47 FR 32274 (July 26, 1982)).

Wastes which are not hazardous must be disposed of in a manner that will not violate the open dumping prohibition of section 4005 of RCRA. See 44 FR 53438 (September 13, 1979). The Agency has calculated as part of the costs for wastewater treatment the cost of hauling and disposing of these wastes in accordance with these requirements. For more details, see Section VIII of the development document.

### C. Consumptive Water Loss

Treatment and control technologies that require extensive recycling and reuse of water may require cooling mechanisms. Evaporative cooling mechanisms can cause water loss and contribute to water scarcity problems—a primary concern in arid and semi-arid regions. While this regulation assumes



water reuse, the quantity of water involved is not regionally significant. We conclude that the pollution reduction benefits of recycle and reuse technologies outweigh their impact on consumptive water loss.

#### D. Energy Requirements

EPA estimates that the achievement of BPT and BAT effluent limitations will result in a net increase of electrical energy consumption of approximately 0.11 million kilowatt-hours per year. To achieve the BAT effluent limitations, a typical direct discharger will increase total energy consumption by less than 1 percent of the energy consumed for production purposes. NSPS will not significantly add to total energy consumption since new source equipment and pumps will be smaller and therefore use less energy due to the decreased flows resulting from flow reduction. New source wastewater treatment systems will have energy requirements similar to BAT.

The agency estimates that PSES will result in a net increase in electrical energy consumption of approximately 2.93 million kilowatt-hours per year. To achieve PSES, an indirect discharger will increase energy consumption by less than 1 percent of the energy consumed for production purposes. PSNS, like NSPS, will not significantly add to total energy consumption based on a normal plant calculation.

#### VIII. Pollutants and Subcategory Segments Not Regulated

The Settlement Agreement in *NRDC v. Train, supra* authorizes the exclusion from regulation in certain instances of toxic pollutants and industry subcategories. These provisions have been rewritten in a Revised Settlement Agreement which was approved by the District Court for the District of Columbia on March 9, 1979. See *NRDC v. Costle*, 12 ERC 1833 (D.C.C. 1979).

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation specific pollutants not detectable by Section 304(h) analytical methods or other state-of-the-art methods. The toxic pollutants not detected in this subcategory and therefore, excluded from regulation are listed in Appendix B to this notice.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants detected in amounts too small to be effectively reduced by technologies known to the Administrator. Appendix C to this notice lists the toxic pollutants in this subcategory that were detected in the

effluent in amounts that are at or below the nominal limit of analytical quantification which are too small to be effectively reduced by technologies and that are therefore excluded from regulations.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants present in amounts too small to be effectively reduced by technologies considered applicable to the subcategory. Appendix D lists those toxic pollutants which are not treatable using technologies considered applicable to the subcategory.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation specific pollutants which will be effectively controlled by the technologies upon which are based other effluent limitations and guidelines, standards of performance or pretreatment standards. The toxic pollutants considered for regulation, but excluded from BPT, BAT limitations and NSPS because adequate control of these pollutants is now provided by this regulation through the control of other pollutants, are listed for this subcategory in Appendix E of this preamble.

Paragraph 8(a)(iv) and 8(b)(ii) of the Revised Settlement Agreement allow the Administrator to exclude from regulation subcategory segments for which the amount and the toxicity of pollutants in the discharge does not justify developing national regulations. Some segments of the canmaking subcategory meet this provision and are excluded from this regulation because there is no discharge of process wastewater. These segments are listed in Appendix G to this preamble.

#### IX. Public Participation and Response to Major Comments

Industry groups, individual can companies, and municipalities participated during the development of these effluent guidelines and standards. Following the publication of the proposed rule on February 10, 1983 in the *Federal Register*, we provided the development document and the economic impact analysis supporting the proposed rule to industry, government agencies, and the public sector. On April 27, 1983 in Washington, D.C., a public hearing was held on the proposed pretreatment standards at which one person presented testimony. Fourteen commenters submitted a total of approximately 330 individual comments on the proposed regulation. In addition, additional information that became part of the record was summarized in a

*Federal Register* notice (48 FR 43195, September 22, 1983), and made available for public comment. The September 22, 1983 *Federal Register* notice also described the Agency's preliminary analyses of data submitted by commenters and collected by the Agency between proposal and promulgation of this rule. Six commenters submitted about 50 comments on the data and issues raised in the September 22, 1983 notice.

All comments received have been carefully considered, and appropriate changes in the regulation have been made whenever available data and information supported those changes. Major issues raised by the comments are addressed in this section of the preamble. A summary of all comments received and detailed responses to these comments is included in a document entitled *Response to Public Comments, Proposed Canmaking Effluent Limitations and Standards* which has been placed in the public record for this regulation.

The following is a discussion of the Agency's responses to the principal comments.

#### 1. Inaccurate Flow and Production Data

*Comment:* Several companies and two trade associations complained that the flow and production data used in the proposal to calculate production normalized wastewater flow were inaccurate or out of date.

*Response:* Each of these companies and trade associations provided updated flow and production figures, which have been incorporated into the data base used in the development of this regulation. In addition, eleven inquiries were sent under the authority of section 308 of the Act to obtain further updated flow and production information, and timely responses were included in the data base. All this information was made available for public comment in the September 22, 1983, *Federal Register* notice. In response to these comments, the Agency recalculated the flow figures.

#### 2. Factors Restricting Achievable Reductions in Flow

*Comment:* Several commenters objected to the establishment of limitations and standards premised upon reductions in flow, asserting that at least thirteen factors relating to water quality and product quality affect achievable water flow reductions in canwashers. These factors include specific assertions that cans must be cleaner for beer than for soft drinks, that minerals in the intake water of some



plants in some parts of the country necessitate more or less water use, and that the geometry of the can affects water use requirements.

**Response:** The Agency analyzed each of these thirteen factors in detail, using data provided by commenters, data contained in the data collection portfolios for the industry, and data received on plant visits and in response to Agency requests for further information after proposal. EPA concluded that none of these thirteen factors will prevent the achievement of the estimated flow reductions for this regulation by any plant.

Perhaps the most strenuous objection was that the taste of beer and other malt beverages is more sensitive to contaminants than is the taste of soft drinks, and that additional rinse water is therefore required for beer cans than for soft drink cans. One commenter added that more water is necessary for light beers than for heavier pilsners, lagers, or ales for the same reason. The Agency examined canmaking plants of four companies which produce cans for both soft drinks and beer, and additional plants which produce cans for both light beer and other malt beverages. EPA found that on the basis of information supplied by the industry, wastewater flows in each plant do not vary with the intended use of the can. Further, a number of the lowest wastewater flow rates in the industry are found at plants which manufacture cans primarily intended for beer. As a result, we concluded that reduced flows are achievable regardless of whether cans are manufactured for beer or for soft drinks.

Other commenters asserted that the quality of fresh makeup water varies from location to location, and restrains the achievable flow reduction. The Agency examined supporting arguments that a high dissolved solids content requires a higher allowable flow, as well as arguments that a low dissolved solids content requires a higher allowable flow. The industry identified about three plants following proposal as experiencing product quality problems related to the quality of the fresh water supply. The Agency visited several of those plants and talked with company officials, and we do not believe that the specific product quality problems these plants are experiencing are due to an excess of dissolved solids in the fresh water supplied to the canwashers. In general, EPA concludes that while site-specific water quality factors could conceivably require additional water purification steps or the addition of water treatment chemicals in a few

instances, data submitted by commenters and other data available in the record do not support a contention that quality of makeup water limits the degree of flow reduction achievable.

Another factor mentioned by commenters is that routine production stoppages restrict a company's ability to meet reduced water flow allowances, since water flow allowances are expressed as a function of production. The Agency found no support for this contention, since our observations at canplants confirmed that canplants can reduce the supply of water to the washer during production stoppages.

Commenters also mentioned canwasher age and design, canwasher mat width, and can geometry as factors which could affect a company's ability to achieve the reduced water flow. EPA found only one of these factors, age and design, to have any demonstrable relation to water use. Water use at canmaking tends to vary with age and design, but we visited several units of varying ages and designs and found no engineering reason why improved recycle, reuse, and water conservation practices cannot be implemented at these canwashers to achieve the reduced flows of this regulation.

Commenters also asserted that the type of organic coating to be applied, the type of lubricant to be washed off, the surface finish on can tooling, and the type of label used all affect achievable reductions in flow rates. Despite requests for industry to provide data to substantiate these claims, only general statements were provided for the record. In plant visits and in subsequent information requests sent by EPA under the authority of section 308 of the Act, attempts were made to determine the possible effects of these factors, but no specific data were obtained. As a result, the Agency concludes that based on the record, these factors do not appear to prevent any plant from achieving the flows used for calculating the limitations and standards in this regulation.

### 3. Model Flow Reduction Technology for BAT and PSES

**Comment:** The model flow reduction technology presented in the proposed regulation for BAT and PSES was countercurrent cascade rinsing within a six-stage canwasher. Commenters asserted that this technology has not been adequately demonstrated in the canmaking industry and that some of the plants used to calculate BAT and PSES flow allowances were not using countercurrent cascade rinsing or were not achieving the estimated flow reduction.

**Response:** The Agency reexamined the BAT and PSES model flow reduction technology and flow estimates in response to these comments. While countercurrent cascade rinsing is used in the industry in at least three instances to reduce flow, a more common flow reduction technique is counterflow rinsing, in which water from the fifth stage of the canwasher is reused in stage three, with no makeup water added to stage three. Counterflow rinsing is used in at least fourteen plants. In a change from the proposed regulation, the Agency bases the flow in the final regulation upon the production normalized performance of the median plant<sup>1</sup> among twelve of these fourteen plants. (Two of the fourteen plants were not used in establishing the BAT and PSES flows due to plant-specific anomalies at these two plants.)

The final development document presents a number of available flow reduction techniques as alternatives, which may be used singly or in combination to achieve BAT and PSES flows. Varying combinations of flow reduction techniques will be appropriate depending upon the particular configurations of individual canwashers. However, the Agency found no technological barriers for any plant to achieve water reuse and recycle at canwashers which now practice once-through washing, nor to reducing flows at all canmaking plants to achieve the BAT and PSES of 83.9 l/1000 cans.

### 4. Combined Metals Data Base

**Comment:** The Agency proposed limitations and standards for TSS, chromium, and zinc based on concentrations calculated from the "combined metals data base" (CMDB). Several commenters objected to the use of data from other industry categories to establish the treatment effectiveness of lime and settle technologies. Commenters argue that the primary metals being treated in the categories represented in the CMDB are different from those in canmaking wastewater and, therefore, the data cannot be transferred to establish the treatability of metals found in canmaking wastewaters. Commenters also contended that the data supplied by the industry should be used in place of the CMDB. This point is addressed below in Comment 5.

Comments specifically directed to the combined metals data base contend that: (1) The data base is too small; (2)

<sup>1</sup> We define the term median plant as the plant in an even numbered population of plants that will include one half of the population.



the statistical methodology used was too complex; (3) some data were improperly included and others improperly deleted; and (4) data were included which are not representative of lime and settle technology in canmaking plants, and (5) the data base used to establish the metal finishing limits should be used instead of the combined metals data base.

*Response:* (1) The CMDB (revised slightly following proposal of the canmaking regulation) includes 162 data points from 18 plants in five industrial categories with similar wastewaters (one of these is an aluminum canmaking plant). This is an ample data base. All plants in the data base have the model end-of-pipe treatment technology of lime and settle. These data were evaluated and analyzed to establish effluent limitations on the basis of data that represent good operation of the model technology. The use of comparable data from several categories enlarges the data base and enhances the estimates of treatment effectiveness and variability over those that would be obtained from data from any one category alone. The Agency believes that the CMDB contains a sufficient number of data points for determining the treatment effectiveness of lime and settle technology.

(2) The statistical methods used to assess homogeneity and determine limitations are well known. The methods used to analyze homogeneity are known generally as analysis of variance. Effluent limitations were determined by fitting the data to a lognormal distribution and using estimation techniques that possess desirable statistical properties. These methods are described in detail in the document entitled "A Statistical Analysis of the Combined Metals Industries Effluent Data" which includes appropriate references to statistical texts, journal articles, and monographs. Following proposal of the canmaking rule, data in the CMDB were reviewed. This resulted in minor additions, deletions and corrections to the data base used to assess homogeneity and to determine treatment effectiveness in the canmaking subcategory. The homogeneity analyses performed prior to proposal were repeated on the revised data base with the result that the earlier conclusions regarding homogeneity were unchanged. The changes in the data base resulted in slight changes in the final limitations. The revisions to the data base and analysis are described in the record of this rulemaking.

(3) The Agency carefully re-examined the specific data points that commenters identified as being improperly included in the CMDB. These data points fall into two categories, effluent points associated with low pH readings and influent points associated with larger effluent measurements made on the same day (so called "inverted values"). Detailed responses to each data point referred to by commenters are provided in the response to comments document. In eliminating data from use in the data base, EPA used a pH editing rule which generally excludes data in cases where the pH is below 7.0 for extended periods of time (i.e. over two hours). The rationale for this rule was that low pH over a long period of time often indicates improper functioning of the treatment system. The time periods of low pH for the points in question cannot be determined from existing data; however, because large amounts of metals were removed and low effluent concentrations were being achieved, the pH at the point of precipitation necessarily had to be well above pH 7.0. The reason for the effluent pH falling below 7.0 cannot be determined from the available data, but it is presumed to be a pH rebound. This phenomenon is often encountered when a slow reacting acidic material is neutralized or reacts late in the treatment cycle. The Agency believes that the data in question are representative of a lime and settle treatment process which is being operated in an acceptable manner. Accordingly, the data have been retained in the CMDB.

The occurrence of an influent value less than an effluent value measured on the same day may be an indication of system malfunction. However, such values can also occur in the course of normal operation. In general, where there was no indication of treatment malfunction or mislabeling of the sample the values were retained in the data base.

(4) The Agency carefully reexamined the specific data points in the CMDB to assure that each datum came from a plant with treatment that qualified as well-operated lime and settle technology. The discovery that one plant in the CMDB did not employ lime and settle technology caused the Agency to remove the data from that plant from the CMDB. This and other minor deletions and additions caused the chromium and zinc concentrations to be increased slightly from the concentrations used at proposal.

(5) The Agency at one time considered including metal finishing data in the CMDB, however, statistical analysis

indicated that these data were not homogeneous with other metals industries' data. Differences between electroplating and the other categories were suspected on the basis of engineering assessment. The results of the statistical analysis showed there were statistically discernible differences among electroplating wastewaters and the wastewaters of other categories. Therefore, metal finishing data were removed from the CMDB.

#### 5. Treatability of Pollutants and New Treatment Effectiveness Data From Canmaking

*Comment:* The proposed regulation specifically requested sampling and analytical data from the canmaking industry, especially paired influent and effluent data points. The CMI and USBA jointly submitted paired influent and effluent sample data from fourteen canmaking plants and requested that this data be used as the basis for the treatment effectiveness of the model technology in the final regulation.

*Response:* The information submitted by CMI and USBA was carefully reviewed to evaluate: (1) The final effluent concentration values achievable for oil and grease; (2) The final effluent concentration values achievable for metals, fluoride, phosphorus, TSS, and pH; and (3) the comparability of pollutant characteristics of untreated waste streams in the canmaking industry data base with the characteristics of such waste streams used in the combined metals data base.

With respect to oil and grease, the Agency found that twelve of these fourteen plants employ the model end-of-pipe BPT technology of oil skimming, chemical emulsion breaking, dissolved air flotation, or some combination of these technologies. The remaining two plants dispose of oily wastes by contract hauling, without prior treatment. Of the twelve plants employing oil removal treatment technology, two do not properly operate these treatment facilities, as observed first-hand by EPA during plant visits. Without exception, each of the ten remaining plants with properly operated oil removal treatment technology met the proposed one-day maximum concentration values for oil and grease on all days when the treatment technology was operating well. The proposed one-day maximum concentration value for oil and grease is also consistent with the performance of oil and grease removal technologies in numerous other categories, including aluminum forming, copper forming, and coil coating. As a result, the proposed



concentration value for oil and grease is retained in the final regulation.

With respect to removal of metals, fluoride, phosphorus, and TSS, we found that only three of the fourteen plants employ and optimally operate the model end-of-pipe BPT treatment technology of lime precipitation and settling. Seven of the remaining eleven plants use dissolved air flotation (DAF) in place of sedimentation technology as the principal method for removing TSS and other pollutants. The data supplied by CMI and USBA confirms the Agency's judgment that DAF is different from lime and settle which is the model technology for this subcategory. Of the other plants sampled by CMI and USBA, one uses an inadequately designed settling basin in place of a clarifier; one employs no precipitation technology at all; and two were not optimally operated and use caustic for pH adjustment, which is inappropriate for removal of fluoride. Of the three remaining plants, the Agency determined that a total of eight days of sampling data submitted by CMI and USBA was representative of optimally operated model end-of-pipe treatment technology for metals, fluoride, phosphorus and TSS.

The achievable concentration values for TSS, chromium, and zinc were based at proposal upon the combined metals data base. As described above in comment 4, this data base has been recently reviewed and updated which has resulted in slightly less stringent values for zinc and chromium. The Agency compared the one-day concentrations of TSS, chromium, and zinc at the eight data points for CMI and USBA described above with the CMDB, and found that the CMI and USBA data met the achievable values indicated by the CMDB for all eight data points. As a result, the CMDB has been retained as the basis for establishing achievable concentration values for chromium, copper, zinc, manganese and TSS in the final regulation. EPA notes that had concentrations for TSS, chromium and zinc been based in the final regulation upon the eight data days supplied by CMI and USBA, the final limitations and standards would have been more restrictive.

Prior to proposal of the canmaking regulation, a statistical analysis confirmed that the untreated wastewaters from canmaking plants were homogeneous with the untreated wastewaters of plants in the CMDB categories. Subsequently, the Agency performed additional statistical analyses of untreated and treated wastewaters using data supplied by CMI and USBA. These analyses

confirmed the general homogeneity of canmaking wastewaters with the wastewaters of the CMDB categories.

The achievable concentration value for aluminum was based at proposal upon data from aluminum forming and coil coating. This data has recently been enlarged to include additional information received from the performance of lime and settle treatment systems at aluminum forming operations, which has resulted in a new less stringent value for aluminum in the final aluminum forming regulation. This value, 6.4 mg/l as a daily maximum, has also been used in this regulation. This new aluminum value was compared to the eight aluminum data points in the CMI and USBA submission described above, and we found that this new value for aluminum was met on six of the eight sampling days. The aluminum concentrations measured in the wastewaters of plants used for the development of the aluminum forming aluminum limitations were compared statistically with the eight aluminum effluent concentrations from the CMI and USBA data base and found not to be significantly different. Further, Discharge Monitoring Report (DMR) data for one direct discharger employing optimally operated lime and settle technology show that this plant met the concentration for aluminum used in the final regulation for all but two months in the past two years. As a result, the data on aluminum used in the final aluminum forming regulation has been used as the basis for achievable concentration values for aluminum in the final BPT, BAT, and NSPS regulations applicable to direct dischargers in the canmaking subcategory.

The lower end of the pH range in the final canmaking regulation has been lowered from 7.5 at proposal to 7.0 to allow greater flexibility for the optimal removal of aluminum from canmaking wastewaters. Data from the optimally operated lime and settle systems in the aluminum forming category show optimal aluminum removal in the range of pH 7.5 to 7.8, so that the lower end of the pH range in the final aluminum forming regulation was lowered to 7.0 in order to provide treatment plant operators with a reasonable operating range around the optimal pH level necessary to achieve removal of aluminum. The same approach has been adopted in the final canmaking regulation.

The achievable concentration values for phosphorus and fluoride were based at proposal upon data from the electroplating industry and the CMDB (for phosphorus) and the electrical

components industry (for fluoride). These values have not changed since proposal. We found that the CMI and USBA data for the eight sampling days described above met the proposed values for phosphorus and fluoride without exception. As a result, we concluded that the concentrations for these two pollutants used at proposal should be retained in the final regulation.

As described more fully in Comment 6 below, pretreatment standards for manganese and copper are established in the final regulation for indirect dischargers in the canmaking subcategory. These two metals are constituents of the aluminum alloys used in canmaking processes, and are removed from wastewaters along with other metals by the model lime and settle treatment technology. The final regulation is based upon achievable reductions in concentrations of these two pollutants, as established by the combined metals data base.

In every case where the Agency transferred data from other categories to establish achievable concentrations, the Agency compared available data on raw untreated process wastewaters and the similarity of treatment systems. In each case, EPA concluded that untreated wastewaters were similar and that the effectiveness of lime and settle treatment systems in these other industries was a representative measure of the effectiveness of lime and settle treatment systems in the canmaking subcategory.

#### 6. Regulation of Aluminum for Indirect Dischargers

**Comment:** A municipality criticized the proposed regulations for aluminum for indirect dischargers, asserting that aluminum is largely removed by POTW and thus should not be regulated. Following the September 22, 1983 Federal Register notice of the availability of new data, CMI stated that regulation of aluminum should be deleted in the final regulation in favor of regulation of the metals for which aluminum was intended to act as an indicator, particularly manganese.

**Response:** Aluminum was presented at proposal of PSES and PSNS as an indicator for the removal of other metals. The Agency evaluated all data in canmaking and other categories in which aluminum is regulated. For the aluminum forming and coil coating categories, aluminum was regulated for direct dischargers only. Regulation of aluminum for indirect dischargers in these two categories had appeared to be unnecessary because alum, an



aluminum sulfate, is often added as a treatment chemical in POTW.

Manganese and copper appear at treatable levels in effluents from the canmaking subcategory as a result of their presence as alloying agents in aluminum coil stocks used in canmaking processes. The Agency determined that regulation of manganese and copper in addition to chromium and zinc should adequately control all of the toxic metals in these effluents and assure operating effectiveness of the treatment system. As a result, the Agency agrees with commenters with regard to indirect dischargers and is promulgating PSES and PSNS for manganese and copper in place of the proposed standard for aluminum.

The regulation also requires reporting of any change to alloys with low concentrations of manganese. This information will enable the Agency to determine whether changes in this regulation are warranted. The Agency is retaining aluminum as a regulated pollutant for direct dischargers since aluminum appears at high concentrations in untreated wastewaters and has adverse impacts on receiving waters. The Agency is therefore promulgating BPT, BAT, and NSPS standards for aluminum in order to assure its removal.

#### 7. Pollutants Appearing at Treatable Levels

*Comment:* CMI and several other commenters argued that chromium, zinc, phosphorus, and total toxic organics (TTO) do not appear in waste streams at treatable levels, and should therefore not be regulated. In particular, commenters argued that chromating surface treatment is rarely used, so that chromium is not intentionally added to process wastewaters, and should therefore not be regulated.

*Response:* The sampling and analytical data supplied by CMI and USB for untreated raw process wastewater at 14 plants for a total of 39 sampling days shows chromium appearing in treatable quantities on 36 of these sampling days, zinc in treatable quantities on seven sampling days, and phosphorus in treatable quantities on three sampling days. Phosphorus appears in process wastewaters as a consequence of the use of zirconium phosphate coatings, and zinc appears as a consequence of its use as an alloying agent in the aluminum strip used for forming cans. Chromium appears as a result of its continued use in chromating surface treatment in a few instances in the industry (including one of the fourteen plants for which CMI and USB provided data), and as a result of

its appearance at treatable levels in effluents of other canmaking plants, apparently as the result of dissolution of chrome-containing alloys in canwashers by acid baths. Since these three pollutants were found at treatable levels, limitations for these pollutants are retained in the final regulation.

In response to comments on TTO, the Agency conducted sampling for toxic organic pollutants at five plants and evaluated effluent data submitted by one commenter. In addition to the seven toxic organic pollutants found in wastestreams prior to proposal, seven new toxic organic pollutants were identified at treatable levels in the untreated canmaking process wastewater streams. In every instance, these organic compounds appear to be associated with oil and grease solvents or surface coatings, and can be removed with the model end-of-pipe treatment technology recommended for the removal of oil and grease. Thus, TTO are regulated at PSES and PSNS.

#### 8. Synthetic Lubricants, and Analytical Methodology for Oil and Grease

*Comment:* Four commenters said that synthetic lubricants are supplanting natural lubricants in the industry, asserting that these synthetic lubricants are soluble rather than emulsifiable, which in turn implies a different degree of treatability. These commenters also asserted that synthetic lubricants are biodegradable and thus should not be regulated.

*Response:* Based on information supplied by one of these commenters, the Agency found that as of 1982, natural lubricants were still used on more than sixty percent of the bodymakers and on ninety percent of the cuppers on aluminum draw and iron can lines. As a result, we concluded that limitations for oil and grease are necessary in the final regulation.

Several commenters presented data indicating that the analytical method usually used for total oil and grease: (40 CFR 136.3(a) Parameter No. 90. Oil and Grease: 14th ed. *Standard Methods* Method 502 or 15th ed *Standard Methods* Method 503) is affected by fatty materials and the more polar hydrocarbons interferences which are peculiar to wastewaters in the coil coating category, including canmaking. These interferences are screened out when the method for a hydrocarbon oil and grease (Method 502E is used. EPA recognizes this interference problem and this regulation includes an oil and grease analytical method for hydrocarbon oil and grease equivalent to Method 502E.

#### 9. Mass-Based Limitations and Standards

*Comment:* Several commenters opposed mass-based limitation and standards and recommended that the Agency establish concentration-based limits instead. These commenters contend the production normalized flows, necessary for mass-based limits, have not and cannot be properly established and therefore, the standards should be based on concentration alone. Additionally, commenters said that mass-based limits make compliance determinations unnecessarily complex if not impossible. One commenter recommended that representative values for flow and production be used in setting permit limits with revision for major process changes only; this would alleviate the problem of noncompliance due to minor variations in production and flow.

For pretreatment standards, commenters contended that mass-based limits are especially inappropriate as most POTW sewer ordinances are concentration-based and as compliance determinations will depend on industry supplied data.

*Response:* The Agency is promulgating mass-based limitations and standards because flow reduction is an effective and demonstrated technology for reducing the quantity of pollutants discharged from plants in the canmaking subcategory, and because the Agency found no difficulty in establishing production normalized flows. In developing the canmaking regulation, the Agency examined the sources and amounts of water used in can manufacturing operations. EPA found that recycle, reuse, and water conservation practices were used by many plants in the subcategory, and that such practices could be implemented at all plants in the subcategory. Accordingly, flow reduction was incorporated as an integral part of the final regulation for canmaking. The inclusion of flow reduction for this subcategory is consistent with EPA's normal practice of establishing such mass-based limitations where a quantitative flow basis can be established.

The Agency has established mass-based pretreatment standards for many other categories in the past. A company may have to provide the POTW with production information to enable the POTW to determine compliance with the regulation. Such information is generally reported in a manner not readily usable by competing companies.



### 10. Compliance Costs

**Comment:** Several commenters took issue with our cost figures, asserting that the correct costs are probably three or four times greater than EPA presented at proposal.

**Response:** The Agency evaluated information submitted by commenters, and ascertained that their estimates include the cost of ultrafiltration and reverse osmosis, which are not parts of the model end-of-pipe treatment system. When this additional treatment is excluded from CMI's calculation, their costs very nearly agree with the calculations the Agency used at proposal.

The estimated costs for the final regulation are slightly lower than at proposal, due to a revised analysis of the unit costs of end-of-pipe treatment operations. This revised analysis includes a change in the procedure for costing from the procedure used at proposal, in which oil removal technologies are now costed as a single unit rather than individually as sequential unit operations. Further, the treatment in place in the subcategory was reassessed based on new information provided by companies and industry groups, and the costs of sludge hauling were reassessed. These revisions indicate that the unit costs of treatment systems at canmaking plants are lower than originally believed, and the cost basis for the final regulation was revised accordingly. These costs are described more fully in Section VIII of the development document.

As a result, EPA believes that the revised costs are accurate and may even be overstated if, as the Agency believes, some indirect dischargers can comply with the regulation without installing lime and settle treatment technology.

### 11. Economic Impacts

**Comment:** Three commenters noted that EPA had overestimated the selling price of aluminum cans in the economic impact analysis by including the cost of can ends. Commenters suggested that the appropriate price was \$60.00 per thousand cans.

**Response:** Since the manufacture of can ends is an independent production process which does not generate wastewater, the economic analysis was revised using a price of \$60.00 per thousand cans instead of the \$90.00 per thousand can price used for the proposal.

### 12. Effects of Excess Capacity and Mandatory Deposit Legislation on the Canmaking Industry

**Comment:** The commenters stated that the economic impact analysis did not address the effects of either excess production capacity or mandatory deposit legislation. They believed the economic analysis overestimated future demand for aluminum cans and therefore understated the regulatory impacts because the mandatory deposit legislation would increase the costs of handling aluminum cans. They asserted that excess capacity would be reflected in lower profit rates and inability on the part of 2-piece can manufacturers to withstand the impacts of the regulation.

**Response:** The Agency believes the growth for two-piece cans will remain strong and excess capacity will dwindle, improving the profit picture. EPA has projected an average annual growth rate of 4.3 percent for all beverage cans by 1985, which is higher than 3.6 percent GNP growth rate expected for the period 1982-1985. The Agency does not envision the occurrence of significant economic impacts.

Trade literature indicates that aluminum two-piece cans have done well in deposit law states. Since there are invariably mandatory deposit laws for glass containers as well, aluminum cans have an advantage over glass due to lower handling costs, greater recycling value, and easy storage. As a result, cans tend to gain market share at the expense of glass containers. Thus, the Agency expects no negative effects of mandatory deposit legislation on aluminum cans.

### X. Best Management Practices

Section 304(e) of the Clean Water Act gives the Administrator authority to prescribe "best management practices" (BMP). EPA is not promulgating BMP specific to canmaking.

### XI. Upset and Bypass Provisions

A recurring issue of concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is an unintentional non-compliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision in EPA's effluent limitations is necessary because such upsets will inevitably occur even in properly operated control equipment. Because technology-based limitations require only what technology can achieve, it is claimed that liability for

such situations is improper. When confronted with this issue, courts have disagreed on whether an explicit upset or excursion exemption is necessary, or whether upset or excursion incidents may be handled through exercise of EPA's enforcement discretion. Compare *Marathon Oil Co. v. EPA* 564 F.2d 1253 (9th Cir. 1977) with *Weyerhaeuser Co. v. Costle*, *supra*, and *Corn Refiners Association, et al. v. Costle*, No. 78-1069 (8th Cir., April 2, 1979). See also *American Petroleum Institute v. EPA*, 540 F.2d 1023 (10th Cir. 1976); *CPC International, Inc. v. Train*, 540 F.2d 1320 (8th Cir. 1976); *FMC Corp. v. Train*, 539 F.2d 973 (4th Cir. 1976).

An upset is an unintentional episode during which effluent limits are exceeded; a bypass, however, is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. We have, in the past, included bypass provisions in NPDES permits.

The Agency determined that both upset and bypass provisions should be included in NPDES permits and have promulgated permit regulations that include upset and bypass permit provisions (see 40 CFR 122.41, 45 FR 14166 (April 1, 1983)). The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Consequently, although permittees in the canmaking industry will be entitled to upset and bypass provisions in NPDES permits, this final regulation does not address these issues.

### XII. Variances and Modifications.

Upon the promulgation of this regulation, the appropriate effluent limitations must be applied in all Federal and State NPDES permits thereafter issued to direct dischargers in the canmaking industry. In addition, on promulgation, the pretreatment limitations are directly applicable to any indirect discharger.

For the BPT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E.I. duPont de Nemours & Co. v. Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co. v. Costle*, *supra*. This variance recognizes factors concerning a particular discharger that are fundamentally different from the factors considered in this rulemaking. However, the economic ability of the individual operator to meet the compliance cost for BPT standards is not a consideration for granting a



variance. See *National Crushed Stone Association v. EPA*, 449 U.S. 64 (1980). Although this variance clause was set forth in EPA's 1973 to 1976 industry regulations it is now included in the NPDES regulations and will not be included in the canmaking or other industry regulations. See the NPDES regulations at 40 CFR Part 122, Subparts A and D, 45 FR 14166 et seq. (April 1, 1983) for the text and explanation of "fundamentally different factors" variance.

The BAT limitations in this regulation also are subject to EPA's "fundamentally different factors" variance. In addition, BAT limitations for nonconventional pollutants are subject to modifications under Sections 301(c) and 301(g) of the Act. Aluminum, fluoride, and phosphorus are nonconventional pollutants for which BAT limitations apply under this regulation. These Section 301(c) and 301(g) statutory modifications do not apply to toxic or conventional pollutants. According to section 301(j)(1)(B), applications for these modifications must be filed within 270 days after promulgation of final effluent (See 43 FR 40859 (September 13, 1978)).

Indirect dischargers subject to PSES and PSNS are eligible for credits for toxic pollutants removed by POTW. See 40 CFR 403.7 48 FR 9404 (January 28, 1983). New sources subject to NSPS are not eligible for any other statutory or regulatory modifications. See *E. I. duPont de Nemours & Co. v. Train*, *supra*.

The economic modification section (301(c)) gives the Administrator authority to modify BAT requirements for nonconventional pollutants<sup>2</sup> for dischargers who file a permit application after July 1, 1978, upon a showing that such modified requirements will: (1) Represent the maximum use of technology within the economic capability of the owner or operator and (2) result in reasonable further progress toward the elimination of the discharge of pollutants. The environmental modification section 301(g) allows the Administrator, with the concurrence of the State, to modify BAT limitations for nonconventional pollutants from any point source upon a showing by the owner or operator of such point source satisfactory to the Administrator that:

(a) Such modified requirements will result at a minimum in compliance with BPT limitations or any more stringent

limitations necessary to meet water quality standards;

(b) Such modified requirements will not result in any additional requirements on any other point or nonpoint source; and

(c) Such modification will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities.

Section 301(j)(1)(B) of the Act requires that application for modifications under Section 301 (c) or (g) must be filed within 270 days after the promulgation of an applicable effluent guideline. Initial applications must be filed with the Regional Administrator and, in those States that participate in the NPDES Program, a copy must be sent to the Director of the State program. Initial applications to comply with 301(j) must include the name of the permittee, the permit and outfall number, the applicable effluent guideline, and whether the permittee is applying for a 301(c) or 301(g) modification or both.

Indirect dischargers subject to PSES have, in the past been eligible for the "fundamentally different factors" variance. See 40 CFR 403.13. However, on September 20, 1983, the U.S. Court of Appeals for the Third Circuit held that "FDF variances for toxic pollutants are forbidden by the Act," and remanded 403.13 to EPA. *NAMF et al. v. EPA*, Nos. 79-2256 et al. (3rd Circuit, September 20, 1983). EPA is considering the effect of that decision. Since the opinion addressed only the availability of FDF variances for PSES toxic pollutants, however, "fundamentally different factors" variances for nonconventional pollutants remain available to indirect dischargers. The Agency will soon amend 40 CFR 403.13 in accordance with the court's opinion.

In a few cases, information which would affect these PSES may not have been available to EPA or affected parties in the course of this rulemaking. As a result it may be appropriate to issue specific categorical standards for such facilities, treating them as a separate subcategory with more, or less,

stringent standards as appropriate. This will only be done if a different standard is appropriate because of aspects of the factors listed in section 301(b)(2)(A) of the Act: The age of equipment and facilities involved, the process employed, the engineering aspects of applying control techniques, nonwater quality environmental impacts (including energy requirements) or the cost of required effluent reductions (but not of ability to pay that cost).

Indirect dischargers and other affected parties may petition the Administrator to examine those factors and determine whether these PSES are properly applicable in specific cases or should be revised. Such petitions must contain specific and detailed support data, documentation, and evidence indicating why the relevant factors justify a more, or less, stringent standard, and must also indicate why those factors could not have been brought to the attention of the Agency in the course of this rulemaking. The Administrator will consider such rulemaking petitions and determine whether a rulemaking should be initiated.

### XIII. Implementation of Limitations and Standards

#### A. Relationship to NPDES Permits

The BPT and BAT limitations and NSPS in this regulation will be applied to direct dischargers in the canmaking industry through NPDES permits issued by EPA or approved state agencies, under Section 402 of the Act. As discussed in the preceding section of this preamble, these limitations must be applied in all Federal and State NPDES permits except to the extent that variances and modifications are expressly authorized. Other aspects of the interaction between these limitations and NPDES permits are discussed below.

One issue that warrants consideration is the effect of this regulation on the powers of NPDES permit-issuing authorities. The promulgation of this regulation does not restrict the power of any permitting authority to act in any manner consistent with law or these or any other EPA regulations, guidelines, or policy. For example, even if this regulation does not control a particular pollutant, the permit issuer may still limit such pollutant on a case-by-case basis when limitations are necessary to carry out the purposes of the Act. In addition, to the extent that state water quality standards or other provisions of State or Federal law require limitation of pollutants not covered by this

<sup>2</sup> Section 301(e) precludes the Administrator from modifying BAT requirements for any pollutants which are on the toxic pollutant list under Section 307(l)(1) of the Act.



regulation (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit-issuing authority.

A second topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which were considered in developing this regulation. The Agency emphasizes that although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. EPA has exercised and intends to exercise that discretion in a manner that recognizes and promotes good-faith compliance efforts.

#### B. Indirect Dischargers

For indirect dischargers, PSES and PSNS are implemented under National Pretreatment Program procedures outlined in 40 CFR 403. The table below may be of assistance in resolving questions about the operation of that program. A brief explanation of some of the submissions indicated on the table follows:

A "request for category determination" is a written request, submitted by an indirect discharger or its POTW, for a determination of which categorical pretreatment standard applies to the indirect discharger. This assists the indirect discharger in knowing which PSES or PSNS limits it will be required to meet. See 40 CFR 403.6(a).

A "baseline monitoring report" is the first report an indirect discharger must file following promulgation of an applicable standard. The baseline report includes: an identification of the indirect discharger; a description of its operations; a report on the flows of regulated streams and the results of sampling analyses to determine levels of regulated pollutants in those streams; a statement of the discharger's compliance or non-compliance with the standard; and a description of any additional steps required to achieve compliance. See 40 CFR 403.12(b).

A "report on compliance" is required of each indirect discharger within 90 days following the date for compliance with an applicable categorical pretreatment standard. The report must indicate the concentration of all regulated pollutants in the facility's regulated process wastestreams; the average and maximum daily flows of the regulated streams; and a statement of whether compliance is consistently being achieved, and if not, what additional operation and maintenance or pretreatment is necessary to achieve compliance. See 40 CFR 403.12(d).

A "periodic compliance report" is a report on continuing compliance with all

applicable categorical pretreatment standards. It is submitted twice per year (June and December) by indirect dischargers subject to the standards. The report shall provide the concentrations of the regulated pollutants in its discharge to the POTW; the average and maximum daily flow rates of the facility; the methods used by the indirect discharger to sample and

analyze the data, and a certification that these methods conform to the methods outlined in the regulation. See 40 CFR 403.12(e).

Indirect dischargers subject to PSES may obtain "fundamentally different factors" variances for nonconventional pollutants. See Section XII of this preamble.

INDIRECT DISCHARGERS SCHEDULE FOR SUBMITTAL AND COMPLIANCE

| Item                               | Applicable sources | Date or time period                         | Measured from—                                                               | Submitted to—                     |
|------------------------------------|--------------------|---------------------------------------------|------------------------------------------------------------------------------|-----------------------------------|
| Request for category determination | Existing           | 60 days                                     | From effective date of standard                                              | Director. <sup>(1)</sup>          |
|                                    | New                | 60 days                                     | From Federal Register Development Document Availability                      |                                   |
| Baseline monitoring                | All                | Prior to commencement of discharge to POTW. | From effective date of standard or final decision on category determination. | Control Authority. <sup>(2)</sup> |
|                                    | All                | 180 days                                    |                                                                              |                                   |
| Report on compliance               | Existing           | 90 days                                     | From date for final compliance                                               | Control Authority. <sup>(2)</sup> |
|                                    | New                | 90 days                                     | From commencement of discharge to POTW.                                      |                                   |
| Periodic compliance reports        | All                | June and December                           |                                                                              | Control Authority. <sup>(2)</sup> |

<sup>(1)</sup> Director (a) Chief Administrative Officer of a state water pollution control agency with an approved pretreatment program, or (b) EPA Regional Water Division Director, if state does not have an approved pretreatment program.

<sup>(2)</sup> Control Authority (a) POTW if its pretreatment program has been approved, or (b) Director of state water pollution control agency with an approved pretreatment program, or (c) EPA Regional Administrator, if state does not have an approved pretreatment program.

#### XIV. Availability of Technical Information

The basis for this regulation is detailed in four major documents. Analytical methods are discussed in "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants." EPA's technical conclusions are detailed in the "Development Document for Effluent Guidelines, New Source Performance Standards and Pretreatment Standards for the Canmaking Subcategory of the Coil Coating Point Source Category." The Agency's economic analysis is presented in "Economic Impact Analysis of Effluent Limitations and Standards for the Canmaking Industry." A summary of the public comments received on the proposed regulation is presented in a report "Responses to Public Comments, Proposed Canmaking Effluent Limitations Guidelines and Standards," which is a part of the public record for this regulation. Copies of the technical and economic documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161; (703) 487-4600. Additional information concerning the technical support documents may be obtained from the project officer Ms. Mary L. Belefski and additional information concerning the economic impact analysis may be obtained from Ms. Josette Bailey, Economic Analysis

Staff at the addresses listed under ADDRESSES in this preamble.

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* They are not effective until OMB approves them and a technical amendment to that effect is published in the Federal Register.

#### XV. List of Subjects in 40 CFR Part 465

Canmaking. Water pollution control. Metal coating and allied services. Waste treatment and disposal.

Dated: November 9, 1983.

William D. Ruckelshaus,  
Administrator.

#### Appendix A—Abbreviations, Acronyms and Other Terms Used in This Notice

Act—The Clean Water Act

Agency—The U.S. Environmental Protection Agency

BAT—The best available technology economically achievable under Section 304(b)(2)(B) of the Act

BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act

BDT—The best available demonstrated control technology processes, operating methods, or other alternatives, including where practicable, a standard permitting no discharge of pollutants under section 306(a)(1) of the Act



**BMP**—Best management practices under Section 304(e) of the Act

**BPT**—The best practicable control technology currently available under Section 304(b)(1) of the Act

**Clean Water Act**—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended by the Clean Water Act of 1977 (Pub. L. 95-217)

**Direct discharger**—A plant that discharges pollutants into waters of the United States

**Indirect discharger**—A plant that introduces pollutants into a publicly owned treatment works

**NPDES permit**—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act

**NSPS**—New source performance standards under Section 306 of the Act

**POTW**—Publicly owned treatment works

**PSES**—Pretreatment standards for existing sources of indirect discharges under Section 307(b) of the Act

**PSNS**—Pretreatment standards for new sources of direct discharges under Section 307 (b) and (c) of the Act

**RCRA**—Resource Conservation and Recovery Act (Pub. L. 94-580) of 1976, as amended

**TTO**—Total Toxic Organics

#### Appendix B—Toxic Pollutants Not Detected

##### (a) Subpart D—Canmaking Subcategory

001 Acenaphthene  
002 Acrolein  
003 Acrylonitrile  
005 Benzidine  
008 1,2,4-trichlorobenzene  
009 Hexachlorobenzene  
010 1,2-dichloroethane  
012 Hexachloroethane  
014 1,1,2-trichloroethane  
016 Chloroethane  
017 [Deleted]  
019 2-chloroethyl vinyl ether (mixed)  
020 2-chloronaphthalene  
021 2,4,6-trichlorophenol  
022 Parachlorometa cresol  
024 2-chlorophenol  
025 1,2-dichlorobenzene  
026 1,3-dichlorobenzene  
027 1,4-dichlorobenzene  
028 3,3-dichlorobenzidine  
031 2,4-dichlorophenol  
032 1,2-dichloropropane  
033 1,2-dichloropropylene (1,3-dichloropropene)  
034 2,4-dimethylphenol  
035 2,4-dinitrotoluene  
036 2,6-dinitrotoluene  
039 Fluoranthene  
040 4-chlorophenyl phenyl ether  
041 4-bromophenyl phenyl ether  
042 Bis(2-chloroisopropyl) ether  
043 Bis(2-chloroethoxy) methane  
045 Methyl chloride (dichloromethane)  
046 Methyl bromide (bromomethane)  
049 [Deleted]  
050 [Deleted]  
052 Hexachlorobutadiene  
053 Hexachloromyclopentadiene  
054 Isophorone  
056 Nitrobenzene  
057 2-nitrophenol

058 4-nitrophenol  
059 2,4-dinitrophenol  
060 4,6-dinitro-o-cresol  
061 N-nitrosodimethylamine  
063 N-nitrosodi-n-propylamine  
069 Di-N-octyl phthalate  
073 Benzo(a)pyrene (3,4-benzopyrene)  
074 3,4-Benzofluoranthene (benzo(b)fluoranthene)  
075 1,12-benzofluoranthene (benzo(b)fluoranthene)  
077 Acenaphthylene  
079 1,12-benzoperylene (benzo(ghi)perylene)  
082 1,2,5,6-dibenzanthracene dibenzo(a,h)anthracene  
083 Ideno(1,2,3-cd) pyrene (2,3-o-phénylene pyrene)  
084 Pyrene  
088 Vinyl chloride (chloroethylene)  
089 Aldrin  
090 Dieldrin  
094 4,4-DDD (p,p-TDE)  
095 Alpha-endosulfan  
096 Beta-endosulfan  
099 Endrin aldehyde  
105 Delta-BHC (PCB=polychlorinated biphenyls)  
106 PCB-1242 (Arochlor 1242)  
108 PCB-1221 (Arochlor 1221)  
109 PCB-1232 (Arochlor 1232)  
111 PCB-1260 (Arochlor 1260)  
112 PCB-1016 (Arochlor 1016)  
113 Toxaphene  
114 Antimony  
116 Asbestos  
117 Beryllium  
125 Selenium  
126 Silver  
127 Thallium  
129 2,3,7,8-tetrachloro-dibenzo-p-dioxin (TCDD)

#### Appendix C—Toxic Pollutants Detected Below the Nominal Quantification Limit

##### (a) Subpart D—Canmaking Subcategory

004 Benzene  
006 Carbon tetrachloride (tetrachloromethane)  
007 Chlorobenzene  
030 1,2-trans-dichloroethylene  
037 1,2-diphenylhydrazine  
038 Ethylbenzene  
047 Bromoform  
048 Dichlorobromomethane  
051 Chlorodibromomethane  
055 Naphthalene  
062 N-nitrosodiphenylamine  
065 Phenol  
070 Diethyl phthalate  
071 Dimethyl phthalate  
072 1,2-benzanthracene (benzo(a)anthracene)  
076 Chrysene  
078 Anthracene  
080 Fluorene  
087 Trichloroethylene  
091 Chlordane (technical mixture and metabolites)  
092 4,4-DDT  
093 4,4-DDE (p,p-DDX)  
097 Endosulfan sulfate  
098 Endrin  
100 Heptachlor  
101 Heptachlor epoxide (BHC-hexachlorocyclohexane)

102 Alpha-BHC  
103 Beta-BHC  
104 Gamma-BHC (lindane)  
107 PCB-1254 (Arochlor 1254)  
110 PCB-1248 (Arochlor 1248)

#### Appendix D—Toxic Pollutants Not Treatable Using Technologies Considered Applicable to the Subcategory

##### (a) Subpart D—Canmaking Subcategory

115 Arsenic  
118 Cadmium  
121 Cyanide  
123 Mercury

#### Appendix E—Toxic Pollutants Controlled at BPT, BAT and NSPS but Not Specifically Regulated

##### (a) Subpart D—Canmaking Subcategory

011 1,1,1-trichloroethane  
013 1,1-Dichloroethane  
015 1,1,2,2-Tetrachloroethane  
018 Bis (2-chloroethyl) ether  
023 Chloroform  
029 1,1-dichloroethylene  
044 Methylene chloride (dichloromethane)  
064 Pentachlorophenol  
066 Bis(2-ethylhexyl)phthalate  
067 Butyl benzylphthalate  
068 Di-N-butyl phthalate  
081 Phenanthrene  
085 Tetrachloroethylene  
086 Toluene  
120 Copper  
122 Lead  
124 Nickel

#### Appendix F—List of Toxic Organics Comprising Total Toxic Organics (or TTO), Controlled at PSES and PSNS

##### (a) Subpart D—Canmaking Subcategory

011 1,1,1-trichloroethane  
013 1,1-Dichloroethane  
015 1,1,2,2-Tetrachloroethane  
018 Bis (2-chloroethyl) ether  
023 Chloroform  
029 1,1-dichloroethylene  
044 Methylene chloride (dichloromethane)  
064 Pentachlorophenol  
066 Bis (2-ethylhexyl) phthalate  
067 Butyl benzylphthalate  
068 Di-N-butyl phthalate  
081 Phenanthrene  
085 Tetrachloroethylene  
086 Toluene

#### Appendix G—Segments Not Regulated

- The manufacture of sealed cans (clinched, soldered or welded)
- The manufacture of seamless cans from coated stock
- The manufacture of can ends and can tops

#### 1. The authority citation for these amendments is:

(Secs. 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), 308 and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92-500; 91 Stat. 1567, Pub. L. 95-217)



2. Section 465.01 is revised to read as follows:

**§ 465.01 Applicability.**

This part applies to any coil coating facility or to any canmaking facility that discharges pollutants to waters of the United States or that introduces pollutants to a publicly owned treatment works.

3. Section 465.02 is amended by adding new paragraphs (h), (i) and (j) to read as follows:

**§ 465.02 General definitions.**

(h) the term "can" means a container formed from sheet metal and consisting of a body and two ends or a body and a top.

(i) The term "canmaking" means the manufacturing process or processes used to manufacture a can from a basic metal.

(j) The term "Total Toxic Organics (TTO)" shall mean the sum of the mass of each of the following toxic organic compounds which are found at a concentration greater than 0.010 mg/l.

1,1,1-trichloroethane  
1,1-dichloroethane  
1,1,2,2-tetrachloroethane  
Bis (2-chloroethyl) ether  
Chloroform  
1,1-dichloroethylene  
Methylene chloride (dichloromethane)  
Pentachlorophenol  
Bis (2-ethylhexyl) phthalate  
Butyl benzyl-phthalate  
Di-N-butyl phthalate  
Phenanthrene  
Tetrachloroethylene  
Toluene

4. Section 465.03 is amended by adding new paragraphs (c) and (d) to read as follows:

**§ 465.03 Monitoring and reporting requirements.**

(c) The following determination method shall be used for the determination of the concentration of oil and grease in wastewater samples from all subcategories of coil coating (Based on Standard Methods, 15th Edition, Methods 503A and 503E). In this method, a partition gravimetric procedure is used to determine hydrocarbon (petroleum based) oil and grease (O&G-E).

(1) *Apparatus.* (i) Separatory funnel, 1 liter, with TFE<sup>1</sup> stopcock.

(ii) Glass stoppered flask, 125 ml.

(iii) Distilling flask, 125 ml.

(iv) Water bath.

(v) Filter paper, 11 cm diameter.<sup>2</sup>

(vi) Glass funnel.

(vii) Magnetic stirrer and Teflon coated stir bar.

(2) *Reagents.* (i) Hydrochloric acid, HCl, 1+1.

(ii) Trichlorotrifluoroethane.<sup>3</sup> (1,1,2-trichloro-1,2,2-trifluoroethane), boiling point 47°C. The solvent should leave no measurable residue on evaporation; distill if necessary. Do not use any plastic tubing to transfer solvent between containers.

(iii) Sodium sulfate, Na<sub>2</sub>SO<sub>4</sub>, anhydrous crystal.

(iv) Silica gel, 60 to 200 mesh.<sup>4</sup> Dry at 110°C for 24 hours and store in a tightly sealed container.

(3) *Procedure.* To determine hydrocarbon oil and grease, collect about 1 liter of sample and mark sample level in bottle for later determination of sample volume. Acidify to pH 2 or lower; generally, 5 ml HCl is sufficient. Transfer to a separatory funnel. Carefully rinse sample bottle with 30 ml trichlorotrifluoroethane and add solvent washings to separatory funnel. Preferably shake vigorously for 2 minutes. However, if it is suspected that a stable emulsion will form, shake gently for 5 to 10 minutes. Let layers separate. Drain solvent layer through a

$$\text{mg (hydrocarbon oil and grease)/l} = \frac{E \times 1000}{\text{ml sample}}$$

(5) *Use of O&G-E.* The value, O&G-E shall be used as the measure of compliance with the oil and grease limitations and standards set forth in this regulation except where total O&G is specifically required.

<sup>1</sup> Teflon<sup>®</sup> or equivalent.

<sup>2</sup> Whatman No. 40 or equivalent.

<sup>3</sup> Freon or equivalent.

<sup>4</sup> Davidson Grade 950 or equivalent.

(d) The owner or operator of any canmaking facility subject to the provisions of this regulation shall advise the permit issuing authority or POTW authority and the EPA Office of Water Regulations and Standards, Washington, D.C. 20460 whenever it has been decided that the plant will manufacture cans from an aluminum alloy containing less than 1.0 percent manganese. Such notification shall be made in writing, not less than 30 days in advance of the scheduled production and shall provide the chemical analysis of the alloy and the expected period of use.

5. Section 465.04 is revised to read as follows:

**§ 465.04 Compliance date for PSES.**

(a) For Subparts A, B, and C the compliance date for Pretreatment

funnel containing solvent-moistened filter paper into a tared clean flask. If a clear solvent layer cannot be obtained, add 1g Na<sub>2</sub>SO<sub>4</sub> to the filter paper cone and slowly drain emulsified solvent onto the crystals. Add more Na<sub>2</sub>SO<sub>4</sub> if necessary. Extract twice more with 30 ml solvent each but first rinse sample container with each solvent portion. Combine extracts in tared flask and wash filter with an additional 10 to 20 ml. solvent. Add 3.0 g silica gel. Stopper flask and stir on a magnetic stirrer for 5 minutes. Filter solution through filter paper and wash silica gel and filter paper with 10 ml solvent and combine with filtrate in tared distilling flask. Distill solvent from distilling flask in a water bath at 70°C. Place flask on a water bath at 70°C for 15 minutes and draw air through it with an applied vacuum for the final 1 minute. Cool in a desiccator for 30 minutes and weigh.

(4) *Calculations.*—Calculation of O&G-E: If the organic solvent is free of residue the gain in weight of the tared distilling flask is due to hydrocarbon oil and grease. Total gain in weight, E, is the amount of hydrocarbon oil and grease in the sample (mg):

$$\text{mg (hydrocarbon oil and grease)/l} = \frac{E \times 1000}{\text{ml sample}}$$

Standards for Existing Source (PSES) is December 1, 1985.

(b) For Subpart D, the compliance date for Pretreatment Standards for Existing Sources will be as soon as possible, but in no case later than November 17, 1986.

6. 40 CFR Part 465 is amended by adding a new Subpart D to read as follows:

**Subpart D—Canmaking Subcategory**

Sec.

465.40 Applicability; description of the canmaking subcategory.

465.41 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

465.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

465.43 New source performance standards.

465.44 Pretreatment standards for existing sources.

465.45 Pretreatment standards for new sources.

465.46 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved]



**Subpart D—Canmaking Subcategory****§ 465.40 Applicability; description of the canmaking subcategory.**

This subpart applies to discharges to waters of the United States, and introductions of pollutants into publicly owned treatment works from the manufacturing of seamless can bodies, which are washed.

**§ 465.41 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

**SUBPART D.—BPT EFFLUENT LIMITATIONS**

| Pollutant or pollutant property     | Maximum for any 1 day | Maximum for monthly average |
|-------------------------------------|-----------------------|-----------------------------|
| g (lbs)/1,000,000 cans manufactured |                       |                             |
| Cr                                  | 94.60 (0.209)         | 36.70 (0.065)               |
| Zn                                  | 313.90 (0.692)        | 131.15 (0.289)              |
| Al                                  | 1302.45 (3.048)       | 688.00 (1.517)              |
| F                                   | 12790.00 (28.197)     | 5676.00 (12.513)            |
| P                                   | 3590.50 (7.916)       | 1468.45 (3.237)             |
| O & G                               | 4300.00 (9.480)       | 2580.00 (5.688)             |
| TSS                                 | 8615.00 (19.434)      | 4192.50 (9.243)             |
| pH                                  | ( <sup>1</sup> )      | ( <sup>1</sup> )            |

<sup>1</sup>Within the range of 7.0 to 10 at all times.

**§ 465.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent

reduction attainable by the application of the best available technology economically achievable:

**SUBPART D.—BAT EFFLUENT LIMITATIONS**

| Pollutant or pollutant property     | Maximum for any 1 day | Maximum for monthly average |
|-------------------------------------|-----------------------|-----------------------------|
| g (lbs)/1,000,000 cans manufactured |                       |                             |
| Cr                                  | 36.92 (0.081)         | 15.10 (0.033)               |
| Zn                                  | 122.49 (0.270)        | 51.18 (0.113)               |
| Al                                  | 539.48 (1.189)        | 286.48 (0.592)              |
| F                                   | 4992.05 (11.001)      | 2214.96 (4.883)             |
| P                                   | 1401.13 (3.089)       | 573.04 (1.263)              |

**§ 465.43 New source performance standards.**

The following standards of performance establish the quantity of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

**SUBPART D.—NSPS EFFLUENT LIMITATIONS**

| Pollutant or pollutant property     | Maximum for any 1 day | Maximum for monthly average |
|-------------------------------------|-----------------------|-----------------------------|
| g (lbs)/1,000,000 cans manufactured |                       |                             |
| Cr                                  | 27.98 (0.062)         | 11.45 (0.025)               |
| Zn                                  | 92.86 (0.205)         | 38.90 (0.086)               |
| Al                                  | 408.95 (0.902)        | 203.52 (0.449)              |
| F                                   | 3784.20 (8.343)       | 1679.04 (3.702)             |
| P                                   | 1062.12 (2.342)       | 434.39 (0.958)              |
| O & G                               | 1272.00 (2.804)       | 763.20 (1.683)              |
| TSS                                 | 2607.60 (5.749)       | 1240.20 (2.734)             |
| pH                                  | ( <sup>1</sup> )      | ( <sup>1</sup> )            |

<sup>1</sup>Within the range of 7.0 to 10 at all times.

**§ 465.44 Pretreatment standards for existing sources.**

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40

CFR Part 403 and achieve the following pretreatment standards for existing sources.

**SUBPART D.—PSES EFFLUENT LIMITATIONS**

| Pollutant or pollutant property     | Maximum for any 1 day | Maximum for monthly average |
|-------------------------------------|-----------------------|-----------------------------|
| g (lbs)/1,000,000 cans manufactured |                       |                             |
| Cr                                  | 36.92 (0.081)         | 15.10 (0.033)               |
| Cu                                  | 158.41 (0.351)        | 83.90 (0.186)               |
| Zn                                  | 122.49 (0.270)        | 51.18 (0.113)               |
| F                                   | 4992.05 (11.001)      | 2214.96 (4.883)             |
| P                                   | 1401.13 (3.089)       | 573.04 (1.263)              |
| Mn                                  | 57.05 (0.126)         | 24.33 (0.053)               |
| TTO                                 | 26.65 (0.059)         | 12.59 (0.028)               |
| O&G (for alternate monitoring)      | 1678.00 (3.699)       | 1006.80 (2.220)             |

**§ 465.45 Pretreatment standards for new sources.**

Except as provided in § 403.7 any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

**SUBPART D.—PSNS**

| Pollutant or pollutant property     | Maximum for any 1 day | Maximum for monthly average |
|-------------------------------------|-----------------------|-----------------------------|
| g (lbs)/1,000,000 cans manufactured |                       |                             |
| Cr                                  | 27.98 (0.0617)        | 11.45 (0.025)               |
| Cu                                  | 120.84 (0.267)        | 63.80 (0.140)               |
| Zn                                  | 92.86 (0.205)         | 38.90 (0.086)               |
| F                                   | 3784.20 (8.345)       | 1679.04 (3.702)             |
| P                                   | 1062.12 (2.342)       | 434.39 (0.958)              |
| Mn                                  | 43.25 (0.095)         | 18.44 (0.041)               |
| TTO                                 | 20.35 (0.045)         | 9.54 (0.0210)               |
| O&G (for alternate monitoring)      | 1272.00 (2.804)       | 763.20 (1.683)              |

**§ 465.46 [Reserved]**

[FR Doc. 83-30860 Filed 11-16-83; 8:45 am]

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# Federal Register

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Thursday  
November 17, 1983

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## Part III

### Environmental Protection Agency

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Polychlorinated Biphenyls; Manufacture,  
Processing, Distribution in Commerce  
and Use Prohibitions; Use in Microscopy  
and Research and Development;  
Proposed Rule



# ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 761

[OPTS 62031; TSH FRL 2441-4]

### Polychlorinated Biphenyls (PCBs); Manufacture, Processing, Distribution in Commerce and Use Prohibitions; Use in Microscopy and Research and Development

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA issued a final rule, which was published in the *Federal Register* of May 31, 1979 (44 FR 31514) that, among other provisions, authorized the use of polychlorinated biphenyls (PCBs) in a non-totally enclosed manner in hydraulic systems, heat transfer systems, in microscopy as a mounting medium, and in small quantities for research and development until July 1, 1984 (44 FR 31514). EPA is proposing to amend the May 31, 1979 PCB rule by: (1) Authorizing indefinitely the use of PCBs as a mounting medium in art and historic conservation, and (2) authorizing indefinitely the use of small quantities of PCBs for use in research and development. EPA has determined that these uses of PCBs do not pose unreasonable risks to public health or the environment.

**DATES:** An informal hearing, if requested, will be held on January 16, 1984, in Washington, D.C. The exact time and location of the hearing will be available by calling the TSCA Assistance Office toll free at (800-424-9065), or, in Washington, D.C. by calling (554-1404). Comments on this proposed rule and requests to participate in the informal hearing must be submitted by January 3, 1984.

**ADDRESSES:** Comments should be submitted in triplicate to: TSCA Public Information Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, D.C. 20460.

Comments should include the docket number OPTS-62031. Comments received in connection with this Notice will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E-107, Environmental Protection Agency, 401 M St., SW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St.,

SW., Washington, D.C. 20460. Toll free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 6(e) of the Toxic Substances Control Act (TSCA) generally prohibits the use of PCBs after January 1, 1978. The statute does, however, set forth two exceptions under which EPA may, by rule, allow a particular use of PCBs to continue. Under section 6(e)(2) of TSCA, EPA may allow PCBs to be used in a "totally enclosed manner". A "totally enclosed manner" is defined by TSCA to be "any manner which will ensure that any exposure of human beings or the environment to as polychlorinated biphenyl will be insignificant, as determined by the Administrator by rule." TSCA also allows EPA to authorize the use of PCBs in a manner other than a totally enclosed manner if the Agency finds that the use "will not present an unreasonable risk of injury to health or the environment."

EPA promulgated a rule, which was published in the *Federal Register* of May 31, 1979 (44 FR 31514), to implement sections 6(e)(2) and 6(e)(3) of TSCA. This rule is listed in the Code of Federal Regulations under 40 CFR Part 761. EPA authorized, among other provisions of this rule, the non-totally enclosed use of PCBs for eleven activities. These authorizations were for the following activities: (1) Servicing of electrical transformers, (2) use in and servicing of railroad transformers, (3) use in and servicing of mining equipment, (4) use in carbonless copy paper, (5) use in pigments, (6) servicing of electromagnets, (7) use in natural gas pipeline compressors, (8) use in hydraulic systems, (9) use in heat transfer systems, (10) use in small quantities for research and development, and (11) use in microscopy mounting medium.

In the May 31, 1979 PCB Ban Rule, EPA also excluded from regulation materials containing PCBs in concentrations under 50 parts per million (ppm), and determined that the use of electrical transformers, capacitors, and electromagnets was "totally enclosed."

The Environmental Defense Fund (EDF) petitioned the U.S. Court of Appeals for the District of Columbia Circuit to review: (1) EPA's determination that the use of electrical transformers, capacitors, and electromagnets was totally enclosed, (2) EPA's decision to set a regulatory cutoff at 50 ppm, and (3) EPA's decision to authorize the continued use of the

eleven non-totally enclosed uses of PCBs. On October 30, 1980, the Court invalidated the regulatory exclusion for PCB concentrations below 50 ppm and the determination that the use of transformers, capacitors and electromagnets was totally enclosed. However, the Court decided that there was substantial evidence in the record to support EPA's decisions on the eleven use authorizations. Thus, the Court upheld the eleven use authorizations (*Environmental Defense Fund, Inc. v. Environmental Protection Agency*, 636 F.2d 1267).

Subsequent to the promulgation of the rule on May 31, 1979 and the 1980 Court decision, three of these use authorizations were amended. These amendments were promulgated for the use and servicing of PCBs in electrical equipment transformers, electromagnets, and railroad transformers. Of the remaining use authorizations, four expire on July 1, 1984: heat transfer systems, hydraulic systems, microscopy as a mounting medium, and small quantities for research and development. The four use authorizations that expire on July 1, 1984, contain various conditions.

Section 761.30(d) authorizes the use of PCBs in heat transfer systems until July 1, 1984, subject to conditions regarding testing and requirements for reducing PCB concentrations. The authorization for the use of PCBs in hydraulic systems until July 1, 1984, in § 761.30(e) contains similar requirements for testing and reducing PCB concentrations in these systems. Both of these use authorizations require testing and reduction of PCB concentration until the PCB concentration in the equipment reaches 50 ppm. (Since the May 31, 1979 PCB Ban Rule established a regulatory cutoff at 50 ppm for the manufacture, processing, distribution in commerce, and use of PCBs, EPA essentially left unregulated heat transfer and hydraulic systems containing less than 50 ppm.)

The use authorization for the use of PCBs as a mounting medium in microscopy until July 1, 1984, in § 761.30(k) contains no special conditions or requirements. The use authorization for the use of small quantities of PCBs for research and development until July 1, 1984, in § 761.30(j) requires that PCBs used in this manner be contained in hermetically sealed, five-milliliter containers.

EPA is proposing to amend the use authorizations for the use of PCBs in microscopy and in small quantities for research and development. EPA is proposing to authorize the use of PCBs



as a mounting medium in art and historic conservation indefinitely, and to authorize the use of small quantities of PCBs in research and development indefinitely.

EPA is not at this time proposing amendments to the heat transfer system and hydraulic system use authorizations. Since the rulemaking for the May 1979 regulation, no affected firm has provided EPA with documentation that despite compliance with conditions of the use authorizations for heat transfer and hydraulic systems, any system will not reach the 50 ppm level by July 1, 1984. However, EPA is in the process of conducting inspections and other activities to estimate the number of hydraulic and heat transfer systems that will be out of compliance with the 50 ppm level on July 1, 1984.

Although the 50 ppm regulatory cutoff was invalidated by the Court in its October 30, 1980 decision, the parties to the lawsuit filed a joint motion on February 20, 1981, to seek a stay of the court's mandate. On April 13, 1981, the Court entered an order in response to the February 20 joint motion. The April 13 order stayed issuance of the Court's mandate with respect to activities relating to PCBs in concentrations below 50 ppm, and further, required EPA to promulgate regulations (or explain the reasons for not proceeding with such regulations) on PCBs in concentrations below 50 ppm.

In the Federal Register of October 21, 1982 (47 FR 46980), EPA issued the first part of a two-part rulemaking to address PCBs in concentrations below 50 ppm. The October 21, 1982 rule excludes PCBs produced in certain limited manufacturing processes (closed and controlled waste manufacturing processes) from the TSCA prohibitions on manufacture, processing, distribution in commerce, and use of PCBs. The second phase of rulemaking on the manufacture, processing, distribution in commerce, and use of PCBs in concentrations below 50 ppm is scheduled for proposal on December 1, 1983. EPA will be addressing heat transfer and hydraulic systems that contain less than 50 ppm in this related rulemaking.

## II. Use Authorizations

In order to authorize a use of PCBs under section 6(e)(2)(B) of TSCA, EPA must find that such use "will not present an unreasonable risk of injury to health or the environment." To determine whether a risk is unreasonable, EPA must balance the probability that harm will occur from the use, against the adverse effects on society of the proposed regulatory action. In

determining whether an unreasonable risk is present, EPA has considered the following factors:

- (1) The effects of PCBs on human health and the environment.
- (2) The magnitude of PCB exposure to humans and the environment.
- (3) The benefits of using PCBs and the availability of substitutes for PCB uses.
- (4) The economic impact resulting from the rule's effect upon the national economy, small business, and technological innovation.

These factors are listed in section 6(c) of TSCA and are applicable to determinations concerning whether a chemical presents an unreasonable risk under section 6(a) and 6(e) of TSCA.

The remaining units of this preamble will discuss these key factors in the unreasonable risk determinations made in this rule. Finally, they will present specific findings for the determinations that the use of PCBs as a mounting medium in art and historic conservation and in small quantities for research and development do not present unreasonable risks.

### A. Effect on Human Health and the Environment

In determining whether use authorizations are warranted, EPA first considered information regarding the effects of PCBs on human health and the environment. The effects of PCBs were described in various documents which were part of the rulemaking record for the May 31, 1979 rule. EPA has reviewed this information, new information submitted to the Agency since 1979 as well as other recent literature on the effects of PCBs. The results of this analysis are presented in the document "Response to Comments on Health Effects of PCBs." Copies of this document are available through the TSCA Assistance Office (see "FOR FURTHER INFORMATION CONTACT"). Summaries of the Agency's conclusions in the areas of the health and environmental effects of PCBs are presented below.

1. *Health effects.* Based upon available information, EPA has concluded that persons exposed to PCBs can develop chloracne. Although the effects of chloracne are reversible, EPA does not consider this effect of exposure to PCBs to be insignificant.

In addition to chloracne, EPA has identified reproductive effects, developmental toxicity, and oncogenicity as additional areas of concern. Effects in these areas have been identified in animal studies and are, therefore, considered to be effects which have the potential to be produced in humans. Available data show that

some PCBs have the ability to alter reproductive processes in mammalian species, sometimes at doses that do not result in other signs of toxicity. Animal data indicate that prenatal exposure to PCBs can result in various degrees of developmental effects. Postnatal effects have also been demonstrated in immature animals following exposure to PCBs prenatally and via breast milk.

Furthermore, available animal studies suggest an oncogenic potential of PCBs (the degree of which would be dependent on exposure). Available epidemiological data are not adequate to confirm or negate the oncogenic potential in humans at this time. Although additional epidemiological research is needed in order to correlate human and animal data, EPA does not find any evidence to suggest that the animal data would not be predictive of human potential.

From available data, EPA believes that PCBs produce little or no mutagenic activity. However, more information is needed to draw a final conclusion on the potential mutagenicity of PCBs.

2. *Environmental effects.* PCBs have been shown to affect the productivity of phytoplankton and the composition of phytoplankton important freshwater invertebrates from PCBs have also been demonstrated. PCBs have also been shown to impair reproductive success in both birds and mammals.

It has also been demonstrated that PCBs are toxic to fish at very low levels. The survival rate and the reproductive success of fish can be adversely affected in the presence of PCBs. Various sublethal physiological effects attributed to PCBs have been recorded in the literature. Abnormalities in fish bone development and reproductive organs have also been associated with exposure to PCBs.

EPA has concluded that PCBs can concentrate and be transferred in freshwater and marine organisms. Transfer up the food chain from phytoplankton to invertebrates, fish, and mammals can ultimately result in human exposure to PCBs through the consumption of PCB-containing food.

### B. Potential for Exposure to PCBs

Toxicity and exposure are the two basic components of risk. As indicated above, EPA believes that in addition to chloracne, based on animal data there is a potential for reproductive effects and developmental toxicity as well as oncogenicity in humans exposed to PCBs. EPA also believes that PCBs do present a hazard to the environment.

However, minimizing exposure to PCBs should minimize any potential



risk. In determining if a particular use of PCBs presents an unreasonable risk, EPA assesses the potential for exposure of humans or the environment to PCBs as a result of the use. Further, as part of its analysis, EPA considers the need for regulatory requirements to reduce exposure or eliminate exposure associated with the use of PCBs.

1. *Exposure from the use of PCBs as a mounting medium.* PCBs, including Aroclor 1254, 1260, 5442 and 5460, have been used in microscopy since the 1930s. Although microscopists initially used quart samples of PCBs that were provided free of charge, eventually, several firms began developing and marketing PCBs as a microscope mounting medium.

In the field of microscopy, PCBs are used in art and historic conservation to preserve specimens permanently, and in the identification and preservation of small environmental, forensic, and industrial contaminant particles. The identification of these particles is based on the morphological and optical properties of these particles as they appear relative to the optical properties of PCBs. EPA estimates that there are about 850 laboratories in which PCBs are used in the preparation of permanent slides. Assuming that there are one to three microscopists per laboratory, the size of the worker population potentially exposed to PCBs from this use ranges from 850 to 2,550.

In mounting a specimen, a particle is placed on a slide, a coverslip is placed over the particle, and a drop of PCBs is placed near the interface of the coverslip and the slide. The PCBs move beneath the coverslip through capillary action and the particle is thereby permanently mounted. The slide is prepared on a lightly heated surface (which increases the volatility of the PCBs and the potential for inhalation exposure during use), and excess PCBs are wiped from the preparation with a tissue (resulting in some potential for dermal exposure). A one ounce quantity lasts typically 3-5 years. EPA estimates that about 430 ounces of PCBs currently exist in laboratories and are being used as mounting media.

Although users are exposed to only small quantities of PCB mounting medium (less than one ounce per year per user), these products do contain high concentrations of PCBs. Thus, the use of PCBs for microscopic mounting does pose some level of risk to users. However, EPA marking regulations (40 CFR Part 761, Subpart C) require the labeling of containers, and microscopists who use PCBs are for the most part highly trained workers who are accustomed to working with PCBs as

well as other potentially toxic materials. Because of the small quantities of PCBs used in this application and the highly trained nature of these workers, EPA expects that exposure to workers from this use is limited.

2. *Exposure from the use of PCBs in small quantities for research and development.* PCBs are used in toxicological and environmental testing. They are also used in analytical chemistry as "reference standards" for the analysis of unknown compounds that may contain PCBs. These uses require only small amounts of pure PCBs. Further, EPA marking regulations require containers to be labeled as containing PCBs. Laboratory workers are highly trained and are generally experienced in the handling of toxic chemicals. EPA believes that this use results only in limited exposure to PCBs.

The May 1979 PCB Ban Rule (44 FR 31514) included restrictions that further reduce the potential for exposure to PCBs from this use pattern. The use authorization requires PCBs used in research and development to be hermetically sealed in five milliliter containers. This requirement was instituted to ensure that the use of PCBs in research and development resulted in only limited exposure to PCBs.

#### C. The Benefits of Using PCBs and the Availability of Substitutes

1. *Microscopy.* PCBs have been reported to be an ideal mounting medium for light microscopy primarily because of their stability, refractive index, viscosity, and thermoplastic properties. In the past, the principal users have been mineralogists and chemical microscopists employed in chemical laboratories such as police crime laboratories, museum conservation laboratories, industrial laboratories, where contaminant particles in drugs, food, and plastics are identified, and in laboratories studying environmental contaminants.

Testimony at the September 1978 public hearing on the original authorization for the use of PCBs as a mounting medium indicated that a substitute mounting medium would be available before July 1, 1984. In re-examining this use authorization, EPA first attempted to determine if substitute materials were currently available.

In April 1983, EPA sent letters to persons who testified about this use at the September 1978 public hearing. In particular, EPA requested current information on the availability of substitute materials. Two responses indicated that an adequate substitute for use in art and historic conservation was still not yet available. One firm did

indicate that they had tested a number of different materials over the last five years, and that a potential substitute material was currently undergoing testing. A review of petitions submitted to EPA for exemption from the ban on the manufacture, processing, and distribution in commerce of PCBs indicated that at least one firm expects to develop a substitute mounting medium by January of 1984. However currently testing this material on a trial basis are less confident about the efficacy of this material.

Of the many uses of PCBs as a mounting medium, EPA believes that the use in art and historic conservation may be the only major essential use. That is, EPA believes that no adequate substitutes exist at this time for this particular use pattern. Because of the nature of art and historic conservation, rare particles must be permanently mounted in a medium that will not discolor or lose its optical properties in time. (Samples from rare art and historic works for the most part can be taken only once.) Based on information submitted by users in art and historic conservation, EPA believes that the only medium that currently displays this property, (and other beneficial properties as well) is PCB (Aroclors).

Although the stability of Aroclors makes them attractive to other users as well, EPA believes that these other users are not frequently called upon to prepare permanent slides of particles than can be considered to be rare. Other mounting media exist with similar refractive indices and viscosities to Aroclors, but these media reportedly discolor in time. EPA believes that other users prefer to use Aroclor to prepare permanent slides once instead of having to prepare new slides every 10 years, which may occur if a substitute mounting medium that lacks the stability of PCBs is used. Further, all users prefer Aroclors because they are experienced in their use. Thus, EPA believes that in areas outside of art and historic conservation, Aroclor is used more out of convenience than necessity. EPA requests information about use of PCBs that may be considered "essential." Specifically, EPA requests information describing why PCBs are necessary as a mounting medium in other areas of use.

2. *Research and development.* Other chemicals cannot be substituted in toxicological, environmental or analytical testing for PCBs.

#### D. Economic Impact of Regulatory Options

1. *Microscopy.* The May 1979 PCB Ban Rule (44 FR 31514) authorized the use of



PCBs as a mounting medium for microscope slides until July 1, 1984. In anticipation of this expiration date, EPA considered the following major options: allowing the authorization for use as a mounting medium to expire on July 1, 1984; extending the authorization to allow all or limited uses of PCBs for microscopic mounting for a limited time; and, amending the authorization to allow all or limited uses of PCBs for microscopic mounting for an indefinite period of time.

a. *Allowing the authorization to expire on July 1, 1984.* The direct cost of a ban can be represented as the lost sales to the producers (netted out against any increase in sales of substitutes), and the lost value of a permanent slide mount with desirable optical properties to the users. The cost to the producers of allowing the use authorization to expire on July 1, 1984, is about \$2,500 per year, which includes a consideration of the lost sales plus the costs of collection and disposal in EPA-approved PCB disposal facilities.

In addition, there are other potential costs associated with the loss of use of PCBs for permanent mounting. In areas such as art and historic conservation (where EPA believes that no adequate substitutes exist), the impacts of banning PCB use may be significant. However, it is difficult to estimate the monetary value of being unable to prepare a permanent slide mount of a sample of a rare art or historic work. In many industrial uses of PCBs in microscopy however, it is not clear that a permanent slide is essential and it appears that PCB use may be a function of convenience and familiarity. If a permanent slide is not essential, then the impact of banning PCB use in industrial microscopy may not be significant, since there are substitutes with features other than longevity that are comparable to PCBs. The costs associated with the loss of convenience and familiarity are not expected to be significant. EPA specifically requests information on the economic and other impacts of not authorizing the use of PCBs in microscopy in areas other than art and historic conservation, particularly with respect to the need for a permanent slide mount in specific areas of use.

b. *Extending the use authorization to allow all or limited uses of PCBs to continue for several years.* Under this option, the economic impact of an immediate ban could be reduced. First, this option would allow additional time for the development of substitutes in areas where none exist. Second, this option would allow the continued sale

and use of PCBs for the length of the extension to the authorization.

A similar option, extending the use authorization several years for use only in art and historic conservation, would result in costs approaching that of an immediate ban. This is because 85-90 percent of PCB-mounting medium is used outside art and historic conservation.

A related concern is the cost to industry and EPA of reconsidering this use authorization should it expire prior to the development of an adequate substitute for use in art and historic conservation. There is little information upon which to predict when an adequate substitute for this use pattern will be developed. EPA is soliciting information on the expected timeframe for the development of a substitute.

c. *Amending the use authorization to allow all or limited uses of PCBs to continue indefinitely.* Allowing PCBs to be used indefinitely as a mounting medium for microscope slides would have no economic impact on users or producers of the medium. Further, an indefinite use authorization could reduce the incentive to produce substitute materials in areas where no substitutes exist.

A similar option, extending the use authorization indefinitely for use only in art and historic conservation, would result in costs to producers and users that would be less than that of a total ban. However, EPA expects that the cost would not be significantly less than that of a total ban, because 85-90 percent of PCB mounting medium is produced for and used in areas outside of art and historic conservation.

Authorizing the indefinite use of PCBs only in art and historic conservation would leave 85-90 percent of the PCB mounting medium market without PCBs. This could stimulate the development of better substitute materials in other areas of use, and ultimately could lead to the development of a substitute material for art and historic conservation.

2. *Research and development.* Small quantities of PCBs are used in toxicological testing, in environmental sampling, and in analytical testing by industry, the public and governmental agencies. Analytically pure samples of PCBs are probably used every day in laboratories throughout the country. Although allowing the statutory ban to become effective is theoretically one available alternative, EPA believes an immediate ban on these uses of PCBs would be unacceptable since it would disrupt a broad range of beneficial activities throughout the United States.

Further, EPA believes that analytically pure PCBs will be needed for the foreseeable future. Thus, EPA is proposing an indefinite use authorization for the use of small quantities of PCBs in research and development. This option has no negative economic impact on producers or users of small quantities of PCBs in research and development.

#### E. Risk Benefit Assessment

1. *Use as a mounting medium in microscopy.* The use of PCBs as a mounting medium presents some level of risk to microscopists because EPA believes that PCBs are toxic and that there is a potential for exposure to these PCBs during use. EPA recognized the risks posed to users of PCB mounting medium in the May 1979 use authorization but nevertheless authorized the use until July 1, 1984. In its May 1979 decision, EPA determined that the continued use of PCBs in this manner until July 1, 1984, did not pose an unreasonable risk to public health or the environment because of the small quantities of PCBs used and the lack of an adequate substitute.

Allowing an immediate ban to take effect as of July 1, 1984, could result in substantial costs to specific groups of users for whom an adequate substitute is not yet available. At the same time, an immediate ban would be the most environmentally attractive alternative because it would result in a reduction in exposure to PCBs and could stimulate the immediate development of substitute materials.

Extending the May 1979 use authorization for several more years reduces the immediate impact of a ban, but increases human and environmental exposure to PCBs compared to a ban. Extending the authorization for several years could create uncertainty in the regulated community about the possibility of future extensions to the authorization. In addition, future extensions to this use authorization would require both Agency and industry resources. Finally, the uncertainty surrounding possible future extensions to the use authorization could have a negative influence on the commitment of resources to the development of substitute materials.

Amending the use authorization to allow the indefinite use of PCBs as a mounting medium eliminates any economic impact on producers or users of the material. However, this option is the least attractive alternative environmentally, since it allows the indefinite use of PCBs in areas where their use may not be essential. Further,



this alternative could destroy any incentive to develop substitute materials.

Limiting the use of PCBs to use only in art and historic conservation would reduce the environmental impact of an indefinite use authorization. Further, since 85-90 percent of PCB mounting medium is used in areas outside art and historic conservation, some marketplace incentive remains for the development of better substitute material that could ultimately replace PCBs in art and historic conservation. Finally, this option eliminates the uncertainty associated with a timed authorization and future costs to industry and EPA of reconsidering this use authorization. Should EPA become aware of the development of an adequate substitute for use in art and historic conservation (through its yearly review of petitions for exemption to manufacture process, and distribute in commerce PCBs), EPA will consider amending the indefinite use authorization and allow it to expire.

**2. Use of PCBs in small quantities for research and development.** The use of PCBs in research and development presents some level of risk to users because EPA believes that PCBs are toxic. While there is some potential for exposure to PCBs during their use in research and development, EPA recognized the low potential for exposure when it originally authorized the use of PCBs in small quantities for research and development until July 1, 1984. In its May 1979 decision, EPA determined that the continued use of PCBs in research and development until July 1, 1984, did not pose an unreasonable risk to public health or the environment. This was because of the importance of ongoing research on the effects of PCBs and the need, by both industry and government, to have analytical standards. EPA determined that the limited exposure associated with the use of small quantities of PCBs for research and development did not pose an unreasonable risk in light of the potential benefits of continued research.

Although allowing an immediate ban to take effect as of July 1, 1984, would reduce exposure to PCBs, EPA believes that such a ban could disrupt a broad range of beneficial ongoing activities. These activities include toxicological and environmental testing and analytical testing. Although amending the May 1979 use authorization by extending it for several years would reduce exposure to PCBs compared to an indefinite use authorization it would serve only to delay the economic impact of a ban for several years. Finally, creating an indefinite use authorization

would result in no economic impact to either producers or users of these materials, but would increase exposure to PCBs compared to the two alternatives discussed above.

**F. Findings on the Use of PCBs as a Mounting Medium in Microscopy and in Small Quantities for Research and Development**

**1. Microscopy.** In view of the analysis above, EPA proposes to authorize the use of PCBs as a mounting medium in art and historic conservation indefinitely. This means that the use of PCBs as a mounting medium in other areas of use will no longer be authorized as of July 1, 1984. EPA believes that authorizing the use of PCBs as a mounting medium in art and historic conservation indefinitely does not present an unreasonable risk for the following reasons:

a. If EPA did not authorize the use of PCBs as a mounting medium for use in art and historic conservation, mounts of rare specimens of art and historic works could discolor in time and be lost.

b. There are no substitutes for PCBs as mounting media in the area of art and historic conservation.

c. Releases of PCBs to the environment and exposure to humans and biological organisms from the use of PCBs in the relatively small field of art and historic conservation is expected to be limited.

EPA will monitor progress in the development of substitute materials for use in art and historic conservation by reviewing information submitted annually through the exemption petition process. Should substitute materials be developed, EPA will consider amending this authorization to allow it to expire.

**2. Research and development.** In view of the analysis above, EPA proposes to authorize the use of small quantities of PCBs for research and development indefinitely. EPA has concluded that the use of small quantities of PCBs for research and development indefinitely does not pose an unreasonable risk to public health or the environment for the following reasons:

a. If EPA did not authorize the use of small quantities of PCBs for research and development, beneficial toxicological, environmental, and analytical testing of PCBs would be banned.

b. Releases of PCBs to the environment and exposure to humans and other biological organisms from the use of PCBs in small quantities for research and development are expected to be minimal.

c. There are no substitutes for PCBs in research and development.

d. Analytical grade PCBs are needed for the foreseeable future.

**III. Executive Order 12291**

Under Executive Order 12291, issued February 17, 1981, EPA must judge whether a rule is a "major rule" and, therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. EPA has determined that this amendment to the PCB rule is not a major rule as the term is defined in section 1(b) of the Executive Order.

EPA has determined that the amendment is not "major" under the criteria of section 1(b) because the annual effect of the rule on the economy will be substantially less than \$100 million; it will not cause a major increase in costs or prices for any sector of the economy or for any geographic region; and it will not result in any adverse effects on competition, employment, investment, productivity, or innovation or on the ability of United States enterprises to compete with foreign enterprises in domestic or foreign markets. In fact, this proposed rule allows uses of PCBs in microscopy and research and development to continue that would otherwise be prohibited by section 6(e) of TSCA after July 1, 1984. This proposed rule, if promulgated, would avoid the disruption of a broad range of beneficial activities that would occur when the use authorizations issued in 1979 for microscopy and research and development expire on July 1, 1984.

This proposed amendment was submitted to the Office of Management and Budget (OMB) prior to publication as required by the Executive Order.

**IV. Regulatory Flexibility Act**

Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, requires EPA to prepare and make available for comment an "initial regulatory flexibility analysis" in connection with any rulemaking for which there is a statutory requirement that a general notice of proposed rulemaking be published. The initial regulatory flexibility analysis describes the effect of the proposed rule on small business entities.

Section 604(b) of the Regulatory Flexibility Act, however, provides that section 603 of the Act "shall not apply to any proposed . . . rule if the head of the Agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."

The effect of this proposed rule is to avoid the disruption of a broad range of activities and to reduce the costs of



complying with TSCA. In general, this proposed rule will reduce the burden on small businesses that would otherwise be encountered if the July 1, 1984 ban on the use of PCBs in microscopy and in small quantities for research and development were to take effect.

Since the effect of this rule avoids the economic impact associated with the disruption of art and historic conservation, and the disruption of research and development activities, I certify that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. Therefore, an initial regulatory flexibility analysis is not required and will not be completed for this rulemaking.

#### V. Paperwork Reduction Act

EPA is not proposing any recordkeeping requirements in this proposed rule.

#### VI. Official Record of Rulemaking

In accordance with the requirements of section 19(a)(3)(E) of TSCA, EPA is issuing the following list of documents which constitute the record of this proposed rulemaking. A supplementary list or lists may be published any time on or before the date the final rule is issued. However, public comments, the transcript of the rulemaking hearing, or submissions made at the rulemaking hearing or in connection with it will not be listed because these documents are exempt from Federal Register listing under section 19(a)(3). A full list of these materials will be available on request by contacting the TSCA Public Information Officer (see ADDRESSES).

##### A. Previous Rulemaking Records

(1) Official rulemaking record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibition Rule" published in the *Federal Register* of May 31, 1979, (44 FR 31514).

(2) Official rulemaking record from "Polychlorinated Biphenyls (PCBs) Disposal

and Marking Final Regulation" published in the *Federal Register* of February 17, 1978, (43 FR 7150).

(3) Official rulemaking record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution, and Use in Closed and Controlled Waste Manufacturing Processes" published in the *Federal Register* of October 21, 1982, (47 FR 46980).

(4) Official rulemaking record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Use in Electrical Equipment" published in the *Federal Register* of August 25, 1982, (47 FR 37342).

##### B. Federal Register Notices

(5) USEPA, "Polychlorinated Biphenyls (PCBs) Disposal and Marking Final Regulation", 43 FR 7150, February 17, 1978.

(6) USEPA, "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions", 44 FR 32514, May 31, 1979.

(7) USEPA, "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Use in Electrical Equipment", 47 FR 37342, August 25, 1982.

(8) USEPA, "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Use in Closed and Controlled Waste Manufacturing Processes", 47 FR 46980, October 21, 1982.

##### C. Support Documents

(9) USEPA, OPTS. EED, "Letter Soliciting Data on Use Authorization for Use of PCBs in Microscopy," April 13, 1983.

(10) Philadelphia Museum of Art, Marigene H. Butler, "Comments on Use Authorization for Microscopy," April 29, 1983.

(11) USEPA, OPTS. EED, "Record of Telephone Communication Between Martha Goodway of the Smithsonian and Denise Keehner of EPA," May 9(?), 1983.

(12) R. P. Cargille Laboratories, Inc., William J. Sacher, "Petition for PCB Processing and Distribution in Commerce Exemption," July 18, 1983.

(13) McCrone Research Institute, Walter C. McCrone, "Petition from PCB Processing and Distribution in Commerce Prohibitions," July 9, 1983.

(14) McCrone Research Institute, Walter C. McCrone, "Letter Describing Safety Precautions in Handling of PCBs," January 7, 1983.

(Sec. 6, Pub. L. 94-469; 90 Stat. 2025 (15 U.S.C. 2605))

#### List of Subjects in 40 CFR Part 761

Hazardous materials, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Environmental protection.

Dated: November 9, 1983.

William D. Ruckelshaus,  
Administrator.

#### PART 761—[Amended]

Therefore, it is proposed that in 40 CFR 761.30 paragraphs (j) and (k) be revised to read as follows:

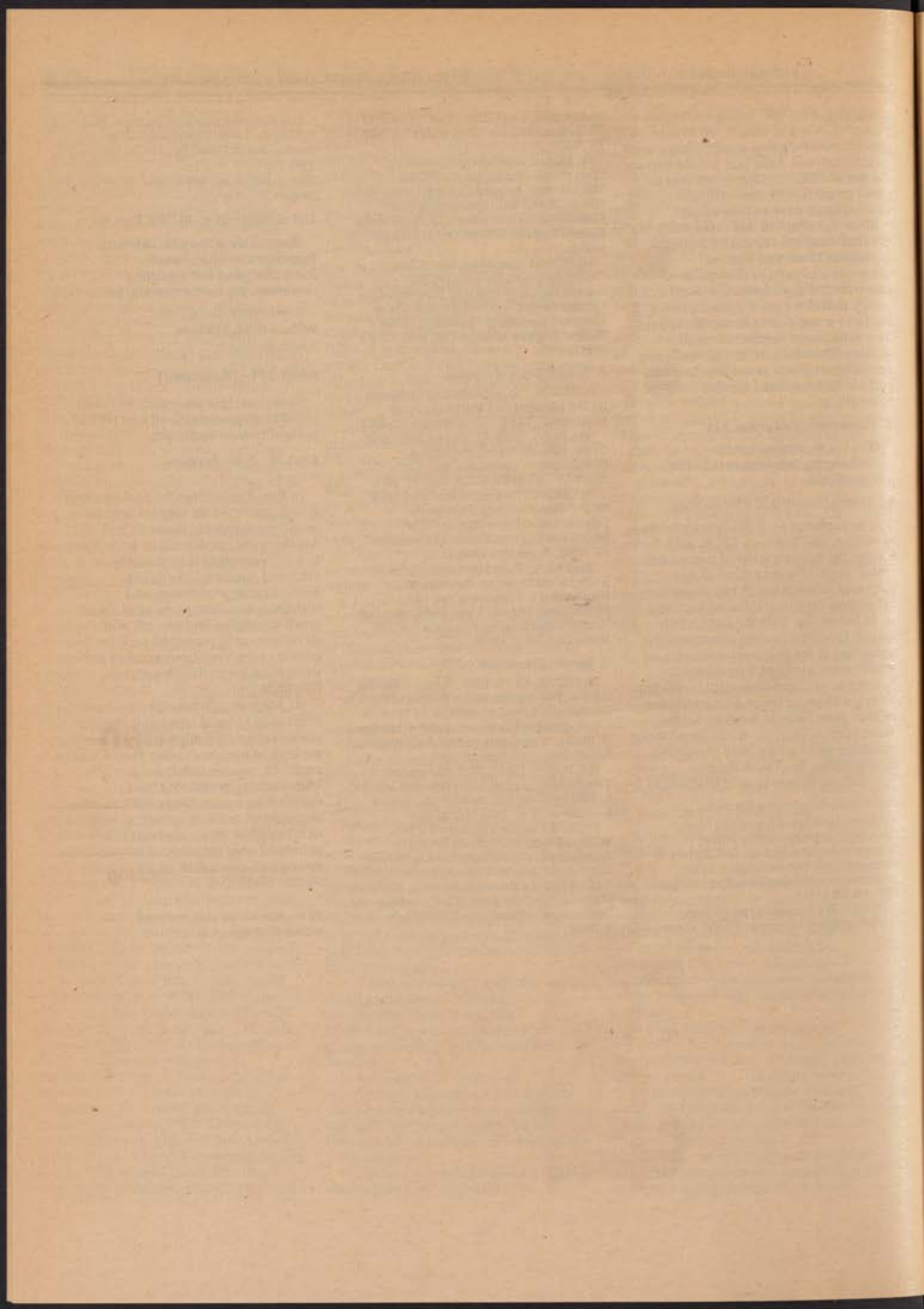
##### § 761.30 Authorizations.

(j) *Small quantities for research and development.* PCBs may be used in small quantities for research and development, as defined in § 761.3(ee), in a manner other than a totally enclosed manner, indefinitely. Manufacture, processing, and distribution in commerce of PCBs in small quantities for research and development is permitted only for persons who have been granted an exemption under TSCA section 6(e)(3)(B).

(k) *Microscopy mounting medium.* PCBs may be used in art and historic conservation as a microscopic mounting medium in a manner other than a totally enclosed manner indefinitely. Manufacture, processing, and distribution in commerce of PCBs for purposes of use as a mounting medium in art and historic conservation are permitted only for persons who are granted an exemption under TSCA section 6(e)(3)(B).

[FR Doc. 83-30661 Filed 11-16-83; 5:45 am]  
BILLING CODE 6560-50-M







# **Register**

# **federal**

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Thursday  
November 17, 1983

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## **Part IV**

### **Department of Health and Human Services**

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**Public Health Service**

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**Indian Health; Proposed Rulemaking**



# DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Public Health Service

### 42 CFR Part 36

#### Indian Health

**AGENCY:** Public Health Service, HHS.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Health and Human Services (HHS) is proposing to make technical amendments to Indian Health Service (IHS) grant regulations to make them conform to HHS regulations on grant administration, thereby eliminating duplication and conflict within the regulations.

**DATE:** Comments must be received on or before January 16, 1984.

**ADDRESS:** Written comments on these proposed rules may be sent to the Director, Indian Health Service, Room 6A-14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

**FOR FURTHER INFORMATION CONTACT:** Richard J. McCloskey, Indian Health Service, 5600 Fishers Lane, Room 6A-14, Rockville, Maryland 20857. Telephone 301-443-1116.

**SUPPLEMENTARY INFORMATION:** The Department is requiring all grant program regulations to conform to Title 45 Code of Federal Regulations, Part 74, Administration of Grants. Part 74 contains general grant administration requirements for HHS grants, including most grants made by the IHS. We propose to remove provisions in regulations governing IHS grants which conflict with, duplicate, state in different terms, or expand upon provisions in Part 74.

The IHS grant regulations which must be revised are 42 CFR Part 36, Subpart H—Grants for Development, Construction and Operation of Facilities and Services, and 42 CFR Part 36, Subpart J, Subdivision J-1—Provisions of General and Special Applicability and Subdivision J-2—Health Professions Recruitment Program for Indians. These are regulations governing grant programs administered under section 104(b) of the Indian Self-Determination Act, Pub. L. 93-638 (25 U.S.C. 450h(b)) and section 102 of the Indian Health Care Improvement Act, Pub. L. 94-437 (25 U.S.C. 1612) respectively. Regulations governing Indian scholarship programs at 42 CFR Part 36, Subpart J, Subdivisions J-3 and J-4 are not affected because Part 74 does not apply where the grantee is an individual.

In certain cases, provisions differing from Part 74 are required by statute.

Where this is the case, we propose to add language noting the exception to Part 74. There are five sections in the regulations governing grants under the Indian Self-Determination Act which are in this category. These are (1) Section 36.105(e) requiring liability insurance, (2) Section 36.107(b) concerning use of grant funds as matching shares for other federal programs, (3) Section 36.111 concerning interest earned on grant funds, (4) Section 36.115 concerning rescission of grants and (5) Section 36.116 concerning reports. These exceptions are required by sections 103(c), 104(c), 106(b), 109, and 5(c) of Pub. L. 93-638 (25 U.S.C. 450g(c), 450h(c), 450j(b), 450m, and 450c(c)), respectively.

In addition to changes for the purpose of conforming the regulations to Part 74, we are also proposing several technical amendments to:

1. Add a list of the applicable department regulations (including Part 74) for easy cross reference.
2. Change the definition of "Urban Indian organization" in § 36.302(v) to conform to the definition of that term in Section 4(h) of the Indian Health Care Improvement Act (25 U.S.C. 1603(h)), as amended by Section 2 of Pub. L. 96-537.
3. Change the citations to the statute authorizing the Indian health scholarship program to reflect redesignation of section 757 of the Public Health Service Act as section 338G of that Act by section 2709(a) of Pub. L. 97-35 (95 Stat. 908).
4. Remove the provision on liability insurance from § 36.104 governing applications for grants under the Indian Self-Determination Act and include it in § 36.105 governing project elements (proposed § 36.105(e)).
5. Remove redundant provisions on Indian preference and conformance with regulations from § 36.105 governing project elements for grants under the Indian Self-Determination Act because these matters are covered elsewhere in the regulation at § 36.121 and proposed § 36.107(a)(1) respectively.
6. Conform § 36.110 governing applications for facilities construction grants under the Indian Self-Determination Act to Office of Management and Budget (OMB) Circular A-102.
7. Remove paragraphs § 36.104(b) and § 36.312(b) requiring that a grant application be executed by an individual authorized to act for the applicant. These paragraphs are redundant in that such a requirement is already included in the OMB-approved

grant application and,

8. Remove Appendix A of Subpart H specifying minimum standards of construction and equipment. In the future standards will be included as a condition of the grant award in accordance with § 36.112.

This proposal consists of technical amendments for the most part required by Department regulations governing grants administration. However, both Pub. L. 93-638 and Pub. L. 94-437 require consultation with national and regional Indian organizations prior to any revision of the regulations. In addition, § 36.117 of the Pub. L. 93-638 regulations requires consultation with Indian tribes on any proposed amendments to the regulations and section 107(c) of Pub. L. 93-638 requires that proposed changes be presented to the respective House and Senate Committees having jurisdiction over Indian affairs. Therefore, this is being published as a notice of proposed rulemaking. Tribes and appropriate Indian organizations will be sent a copy of the notice with additional materials needed to review the proposal.

## Paperwork Reduction Act

Sections 36.104, 36.110, and 36.114 contain information reporting requirements. Section 36.114 also requires information recordkeeping requirements. These reporting and recordkeeping requirements have been approved by the Office of Management and Budget and assigned number 0915-0045. The approval expiration date is July 31, 1984.

The proposed amendments contained in this notice conform the regulations to requirements already applicable. Therefore, there are no independent cost implications. For these reasons, the Secretary has determined that the rule is not a "major rule" under Executive Order 12291, and a regulatory impact analysis is not required. Further, these regulations will not have a significant economic impact on a substantial number of small entities, and therefore do not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

## List of Subjects in 42 CFR Part 36

Alaska natives, Eskimos, Grant programs—education, health, Health, Health facilities, Health professions, Indians.



Dated: October 5, 1983.

Edward N. Brandt, Jr.,  
Assistant Secretary for Health.

Approved: October 20, 1983.

Margaret M. Heckler,  
Secretary.

## PART 36—[AMENDED]

For the reasons set out in the preamble, it is proposed to amend Subpart H and Subpart J of 42 CFR Part 36 as follows:

1. The Table of Contents for Subpart H is amended by removing reference to the appendix and revising the headings for §§ 36.108 and 36.114 to read as follows:

### Subpart H—Grants for Development, Construction, and Operation of Facilities and Services

#### 36.108 [Reserved]

#### 36.114 Applicability of other Department regulations

2. Section 36.104 is amended by removing paragraph (b) and paragraph (d)(1), by redesignating paragraph (c) as paragraph (b), by redesignating the introductory text of paragraph (d), and paragraphs (d) (2), (3) and (4) as the introductory text of paragraph (c), and paragraphs (c) (1), (2) and (3), respectively. Section 36.104 is also amended by revising paragraph (a) and paragraph (b)(7) as so redesignated, and by adding a reference to the OMB control number at the end of the section, to read as follows:

#### § 36.104 Application.

(a) Forms for applying for grants are governed by 45 CFR Part 74, Subpart N.

(b) \* \* \*

(7) An itemized budget for the budget period (normally 12 months) for which support is sought and justification of the amount of grant funds requested.

(Approved by the Office of Management and Budget under control number 0915-0045)

3. Section 36.105 is amended by removing paragraphs (d), (f) and (h) and redesignating paragraphs (e), (g) and (i) as paragraphs (d), (e), and (f), respectively, and by revising paragraph (e), as so redesignated, to read as follows:

#### § 36.105 Project elements.

(e) Keep in force adequate liability insurance in accordance with the approved application unless the Secretary, for good cause shown, has

determined that such insurance was not obtainable or appropriate or has determined that such insurance may be permitted to expire or lapse. The insurance shall provide that prior to cancellation the Secretary must be notified and must further provide that for each such policy of insurance the carrier shall waive any right it may have to raise as a defense the tribe's sovereign immunity from suit but such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower the insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

Note.—This provision is excepted from application of 45 CFR 74.15 by Section 103(c) of Pub. L. 93-638.

4. Section 36.106 is amended by revising paragraphs (b) and (c) to read as follows:

#### § 36.106 Grant award and evaluation.

(b) The Notice of Grant Awards specifies how long the Secretary intends to support the project period without requiring the project to re compete for funds. This period, called the project period, will usually be for one to two years. The total project period comprises the original project period and any extension. Generally the grant will be for a one-year budget period, any subsequent award will also be a one-year budget period. A grantee must submit a separate application for each subsequent year. Decisions regarding awards and the funding level of such awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, awards require a determination by the Secretary that funding is in the best interest of the government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

5. Section 36.107 is amended to revise paragraph (a) and add a note at the end of paragraph (b), to read as follows:

#### § 36.107 Use of project funds.

(a) A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the regulations of this subpart, the terms and conditions of the award and the

applicable cost principles prescribed in subpart Q of 45 CFR Part 74.

(b) \* \* \*

Note.—This provision is excepted from application of 45 CFR 74.53 by Section 104(c) of Pub. L. 93-638.

#### § 36.108 [Reserved]

6. Section 36.108 is removed and reserved.

7. Paragraph (b) of § 36.110 is revised to read as follows:

#### § 36.110 Facilities construction.

(b) The following requirements are applicable to each construction grant to build, renovate, modernize, or remodel a hospital, clinic, health station or quarters for housing personnel associated with such facilities.

(1) *Competitive bids.* The approval of the Secretary shall be obtained before the project is advertised or placed on the market for bidding. The approval shall include a determination by the Secretary that the final plan and specifications conform to the minimum standards of construction and equipment specified in the grant award or in HHS documents specified in the grant award.

(2) There will be no preference given to local contractors or suppliers over non-local contractors or suppliers, except as otherwise provided in these regulations.

(3) Construction contracts and subcontracts under this program are subject to the Davis-Bacon Act (40 U.S.C. 276a et seq.). For requirements that grantees must observe for enforcing compliance by contractors and subcontractors, see the section on contract provisions in the procurement standards for HHS grantees made applicable by Subpart P of 45 CFR Part 74.

(4) Minimum standards of construction and equipment. The plans and specifications for the project will conform to the minimum standards of construction and equipment specified in the grant award or in HHS documents specified in the grant award.

(5) The following provision must be included in all construction contracts let by grantee: "The Secretary of the Department of Health and Human Services shall have access at all reasonable times to work wherever it is in preparation or progress, and the contractor shall provide proper facilities for such access and inspection."

(Approved by the Office of Management and Budget under control number 0915-0045)



8. Section 36.111 is amended to add a note at the end of the section to read as follows:

**§ 36.111 Interest.**

Note.—This provision is excepted from application of 45 CFR 74.47(a) by Section 106(b) of Pub. L. 93-638.

9. Section 36.114 is revised to read as follows:

**§ 36.114 Applicability of other Department regulations.**

Several other regulations apply to grants under this subpart. These include to the extent applicable but are not limited to:

- 42 CFR Part 50, Subpart D, Public Health Service grant appeals procedure;
- 45 CFR Part 16, Procedure of the Departmental grant appeals board;
- 45 CFR Part 74, Administration of grants;
- 45 CFR Part 75, Informal grant appeals procedures, (for indirect cost rates, and other cost allocations);
- 45 CFR Part 84, Nondiscrimination on the basis of handicap in programs and activities receiving or benefitting from federal financial assistance;
- 45 CFR Part 86, Nondiscrimination on the basis of sex in education programs and activities receiving or benefitting from federal financial assistance;
- 45 CFR Part 90, Nondiscrimination on the basis of age.

Note.—To the extent they provide special benefits to Indians, grants under this subpart are exempted from the requirements of section 601 of the Civil Rights Act of 1964 (42 U.S.C. 200d), prohibiting discrimination on the basis of race, color or national origin, by regulation at 45 CFR 80.3(d) which provides, with respect to Indian health services, that, "An individual shall not be deemed subjected to discrimination by reasons of his exclusion from the benefits of a program limited by Federal law to individuals of a particular race, color, or national origin different from his." (Approved by the Office of Management and Budget under control number 0915-0045)

10. Section 36.115 is amended to add a note after paragraph (f) to read as follows:

**§ 36.115 Recission of grants.**

Note.—This section is an exception to 45 CFR Part 74, Subpart M required by section 109 of Pub. L. 93-638.

11. Section 36.116 is amended to add a note at the end of the section to read as follows:

**§ 36.116 Reports.**

Note.—This section is a requirement in addition to 45 CFR Part 74 and is required by section 5 (c) of Pub. L. 93-638.

**Appendix A to Subpart H—[Removed]**

12. Appendix A to Subpart H is removed.

(Secs. 104, 107, 25 U.S.C. 450 h (b), 450k; sec. 3, Pub. L. 83-588, 42 U.S.C. 2003)

13. The authority citation for Subpart J is revised to read as follows:

Authority: Secs. 102, 103, 106, 502, 702, and 704 of Pub. L. 94-437 (25 U.S.C. 1612, 1613, 1615, 1652, 1672 and 1674); Sec. 338G of the Public Health Service Act, 95 Stat. 908 (42 U.S.C. 254r).

14. The table of contents for subdivision J-2 is revised to read as follows:

**Subdivision J-2—Health Professions Recruitment Program for Indians**

- 36.310 Health professions recruitment grants.
- 36.311 Eligibility.
- 36.312 Application.
- 36.313 Evaluation of grant awards.
- 36.314 Use of funds.
- 36.315 Publication of list of grantees and projects.
- 36.316 Other HHS regulations that apply.

15. In § 36.301, paragraph (b) (3) is revised to read as follows:

**§ 36.301 Policy and applicability.**

- (b) \* \* \*
- (3) The award of Indian Health Scholarship grants pursuant to section 338G of the Public Health Service Act (42 U.S.C. 254r) to Indian or other student in health professions schools (Subdivision J-4);

16. Section 36.302 is amended by removing and reserving paragraphs (c) and (l), removing paragraph (v) (3), and redesignating paragraphs (v) (4) and (v) (5) as (v) (3) and (v) (4), respectively, and by revising paragraph (v) (l) to read as follows:

**§ 36.302 Definitions.**

- (v) \* \* \*
- (l) Is governed by an Indian controlled board of directors;

**§ 36.305 [Amended]**

17. The Note after § 36.305 is amended by removing paragraphs (b) and (c).

18. Section 36.312 is amended by removing paragraph (b), redesignating paragraphs (c) through (g) as (b) through (f), respectively, and by revising paragraphs (a) and (b) (5), as so redesignated, to read as follows:

**§ 36.312 Application.**

- (a) Forms for applying for grants are governed by 45 CFR Part 74, Subpart N.
- (b) \* \* \*

(5) An itemized budget for the budget period (normally 12 months) for which support is sought and justification of the amount of grant funds requested;

19. Section 36.313 is amended by removing paragraph (e) and by revising paragraphs (c) and (d) to read as follows:

**§ 36.313 Evaluation of grant awards.**

(c) The Notice of Grant Awards specifies how long the Secretary intends to support the project period without requiring the project to re-compete for funds. This period, called the project period, will usually be for one to two years. The total project period comprises the original project period and any extension. Generally the grant will be for a one year budget period, any subsequent award will also be a one year budget period. A grantee must submit a separate application for each subsequent year. Decisions regarding awards and the funding level of such awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, awards require a determination by the Secretary that funding is in the best interest of the government.

(d) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

20. Section 36.314 is revised to read as follows:

**§ 36.314 Use of funds.**

A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed in subpart Q of 42 CFR Part 74.

21. Section 36.316 is revised to read as follows:

**§ 36.316 Other HHS regulations that apply.**

Several other regulations apply to grants under this subdivision. These include but are not limited to:

- 42 CFR Part 50, Subpart D, Public Health Service grant appeals procedure;
- 42 CFR Part 16, Procedures of the Departmental grant appeals board;
- 45 CFR Part 74, Administration of grants;



45 CFR Part 75, Informal grant appeals procedures, (for indirect cost rates, and other cost allocations);

45 CFR Part 84, Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance;

45 CFR Part 86, Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance;

45 CFR Part 90, Nondiscrimination on the basis of age.

**§§ 36.317-36.319 [Removed]**

22. Sections 36.317, 36.318, and 36.319 are removed.

**§ 36.330 [Amended]**

23. Section 36.330 is amended by removing the words "Subpart IV of Part C of Title VII" and inserting in their

place the words "§§ 338A through 338G."

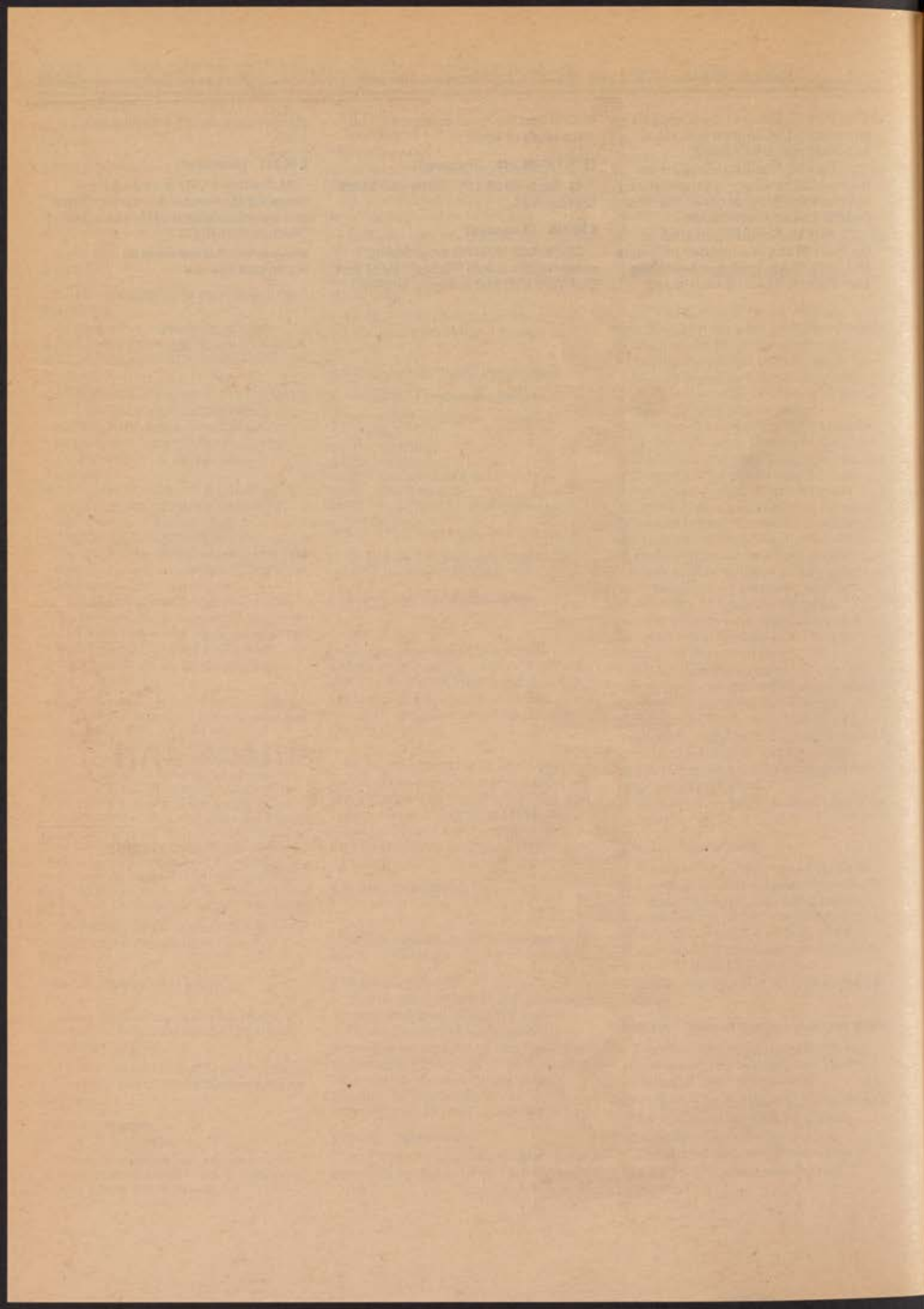
**§ 36.332 [Amended]**

24. Section 36.332 is amended by removing the words "Section 757(b)(2)" and inserting in their place the words "Section 338G(b)(2)."

[FR Doc. 83-31014 Filed 11-16-83; 8:45 am]

BILLING CODE 4160-16-M







# **federal register**

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**Thursday  
November 17, 1983**

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## **Part V**

### **Office of Management and Budget**

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**Budget Rescissions and Deferrals;  
Cumulative Report**



**OFFICE OF MANAGEMENT AND BUDGET****Cumulative Report on Rescissions and Deferrals**

November 1, 1983.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as to the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of November 1, 1983 of 20 deferrals contained in the first special message of FY 1984. These messages were transmitted to the Congress on October 3, 1983.

**Rescissions (Table A)**

No rescission proposals are currently pending before the Congress.

**Deferrals (Table B and Attachment A)**

As of November 1, 1983, \$1,907.3 million in 1983 budget authority was being deferred from obligation and another \$7.0 million in 1983 outlays was

being deferred from expenditure. Attachment A shows the history and status of each deferral reported during FY 1984.

**Information from Special Messages**

The special messages containing information on the rescissions and the deferrals covered by this cumulative report are printed in the **Federal Register** listed below:

Vol. 48, FR p. 45730, Thursday, October 6, 1983

David A. Stockman,

Director, Office of Management and Budget.

TABLE A  
STATUS OF 1984 RESCISSIONS

|                                            | Amount<br>(In millions<br>of dollars) |
|--------------------------------------------|---------------------------------------|
| Rescissions proposed by the President..... | -0-                                   |
| Accepted by the Congress.....              | -0-                                   |
| Rejected by the Congress.....              | -0-                                   |
| Pending before the Congress.....           | -0-                                   |

\*\*\*\*\*

TABLE B  
STATUS OF 1984 DEFERRALS

|                                                       | Amount<br>(In millions<br>of dollars) |
|-------------------------------------------------------|---------------------------------------|
| Deferrals proposed by the President.....              | \$1,924.7                             |
| Routine Executive releases through November 1983..... | 10.4                                  |
| Overturned by the Congress.....                       | -0-                                   |
| Currently before the Congress.....                    | \$1,914.3 <u>a/</u>                   |

a/ This amount includes \$7.0 million in outlays for a Department of the Treasury deferral (D84-16).

**Attachments**



| As of November 1, 1983<br>Amounts in Thousands of Dollars                                     | Agency/Bureau/Account | Deferral<br>Number | Amount<br>Transmitted<br>Original<br>Request | Amount<br>Transmitted<br>Subsequent<br>Change | Date of<br>Message | Cumulative<br>DMB/Agency<br>Releases | Congres-<br>sionally<br>Required<br>Releases | Congres-<br>sional<br>Action | Amount<br>Deferred<br>as of<br>11-1-83 |
|-----------------------------------------------------------------------------------------------|-----------------------|--------------------|----------------------------------------------|-----------------------------------------------|--------------------|--------------------------------------|----------------------------------------------|------------------------------|----------------------------------------|
| FUNDS APPROPRIATED TO THE PRESIDENT                                                           |                       |                    |                                              |                                               |                    |                                      |                                              |                              |                                        |
| Appalachian regional development<br>programs.....                                             |                       | DB4-1              | 10000                                        |                                               | 10-3-83            |                                      |                                              |                              | 10000                                  |
| DEPARTMENT OF AGRICULTURE                                                                     |                       |                    |                                              |                                               |                    |                                      |                                              |                              |                                        |
| Forest Service                                                                                |                       |                    |                                              |                                               |                    |                                      |                                              |                              |                                        |
| Tieber salvage sales.....                                                                     |                       | DB4-2              | 6211                                         |                                               | 10-3-83            |                                      |                                              |                              | 6211                                   |
| Expenses, brush disposal.....                                                                 |                       | DB4-3              | 42674                                        |                                               | 10-3-83            |                                      |                                              |                              | 42674                                  |
| DEPARTMENT OF COMMERCE                                                                        |                       |                    |                                              |                                               |                    |                                      |                                              |                              |                                        |
| National Oceanic and Atmospheric<br>Administration                                            |                       |                    |                                              |                                               |                    |                                      |                                              |                              |                                        |
| Promote and develop fishery<br>products and research pertaining<br>to American fisheries..... |                       | DB4-4              | 33600                                        |                                               | 10-3-83            |                                      |                                              |                              | 33600                                  |
| DEPARTMENT OF DEFENSE - MILITARY                                                              |                       |                    |                                              |                                               |                    |                                      |                                              |                              |                                        |
| Military construction,<br>all services.....                                                   |                       | DB4-5              | 414597                                       |                                               | 10-3-83            |                                      |                                              |                              | 414597                                 |
| Family housing, Air Force.....                                                                |                       | DB4-6              | 53000                                        |                                               | 10-3-83            |                                      |                                              |                              | 53000                                  |
| DEPARTMENT OF DEFENSE - CIVIL                                                                 |                       |                    |                                              |                                               |                    |                                      |                                              |                              |                                        |
| Wildlife conservation,<br>military reservations                                               |                       |                    |                                              |                                               |                    |                                      |                                              |                              |                                        |
| Wildlife conservation.....                                                                    |                       | DB4-7              | 777                                          |                                               | 10-3-83            |                                      |                                              |                              | 777                                    |
| DEPARTMENT OF ENERGY                                                                          |                       |                    |                                              |                                               |                    |                                      |                                              |                              |                                        |
| Energy programs                                                                               |                       |                    |                                              |                                               |                    |                                      |                                              |                              |                                        |
| Uranium supply and enrichment<br>activities.....                                              |                       | DB4-8              | 130000                                       |                                               | 10-3-83            |                                      |                                              |                              | 130000                                 |
| DEPARTMENT OF HEALTH AND HUMAN SERVICES                                                       |                       |                    |                                              |                                               |                    |                                      |                                              |                              |                                        |
| Office of the Assistant Secretary<br>of Health                                                |                       |                    |                                              |                                               |                    |                                      |                                              |                              |                                        |
| Scientific activities overseas<br>(special foreign currency<br>program).....                  |                       | DB4-9              | 6463                                         |                                               | 10-3-83            |                                      |                                              |                              | 6463                                   |
| Social Security Administration                                                                |                       |                    |                                              |                                               |                    |                                      |                                              |                              |                                        |
| Limitation on administrative<br>expenses (construction).....                                  |                       | DB4-10             | 10571                                        |                                               | 10-3-83            |                                      |                                              |                              | 10571                                  |
| DEPARTMENT OF THE INTERIOR                                                                    |                       |                    |                                              |                                               |                    |                                      |                                              |                              |                                        |
| Minerals Management Service                                                                   |                       |                    |                                              |                                               |                    |                                      |                                              |                              |                                        |
| Payments for proceeds, sale of<br>water, Mineral Leasing Act<br>of 1920.....                  |                       | DB4-11             | 48                                           |                                               | 10-3-83            |                                      |                                              |                              | 48                                     |



## Attachment A - Status of Deferrals - Fiscal Year 1984

| As of November 1, 1983<br>Amounts in Thousands of Dollars                                                  | Deferral<br>Number | Amount<br>Transmitted<br>Original<br>Request | Amount<br>Transmitted<br>Subsequent<br>Change | Date of<br>Message | Cumulative<br>OMB/Agency<br>Releases | Congres-<br>sionally<br>Required<br>Releases | Congres-<br>sional<br>Action | Cumulative<br>Adjustments | Amount<br>Deferred<br>as of<br>11-1-83 |
|------------------------------------------------------------------------------------------------------------|--------------------|----------------------------------------------|-----------------------------------------------|--------------------|--------------------------------------|----------------------------------------------|------------------------------|---------------------------|----------------------------------------|
| Agency/Bureau/Account                                                                                      |                    |                                              |                                               |                    |                                      |                                              |                              |                           |                                        |
| DEPARTMENT OF STATE                                                                                        |                    |                                              |                                               |                    |                                      |                                              |                              |                           |                                        |
| United States emergency refugee<br>and migration assistance fund...D84-12                                  |                    | 37928                                        |                                               | 10-3-83            |                                      |                                              |                              |                           | 37928                                  |
| United States bilateral science<br>and technology agreements.....D84-13                                    |                    | 2000                                         |                                               | 10-3-83            |                                      |                                              |                              |                           | 2000                                   |
| DEPARTMENT OF TRANSPORTATION                                                                               |                    |                                              |                                               |                    |                                      |                                              |                              |                           |                                        |
| Federal Aviation Administration<br>Facilities and equipment<br>airport and airway trust<br>fund.....D84-14 |                    | 1083268                                      |                                               | 10-3-83            |                                      |                                              |                              |                           | 1083268                                |
| DEPARTMENT OF THE TREASURY                                                                                 |                    |                                              |                                               |                    |                                      |                                              |                              |                           |                                        |
| Office of Revenue Sharing<br>State and local government<br>fiscal assistance trust fund...D84-15           |                    | 56068                                        |                                               | 10-3-83            | -2216                                |                                              |                              |                           | 53852                                  |
| State and local government<br>fiscal assistance trust fund...D84-16                                        |                    | 15209                                        |                                               | 10-3-83            | -8159                                |                                              |                              |                           | 7050                                   |
| OTHER INDEPENDENT AGENCIES                                                                                 |                    |                                              |                                               |                    |                                      |                                              |                              |                           |                                        |
| Pennsylvania Avenue Development<br>Corporation<br>Land acquisition and development<br>fund.....D84-17      |                    | 13148                                        |                                               | 10-3-83            |                                      |                                              |                              |                           | 13148                                  |
| Railroad Retirement Board<br>Milwaukee Railroad restructuring<br>administration.....D84-18                 |                    | 85                                           |                                               | 10-3-83            |                                      |                                              |                              |                           | 85                                     |
| Tennessee Valley Authority<br>Tennessee Valley Authority fund...D84-19                                     |                    | 7000                                         |                                               | 10-3-83            |                                      |                                              |                              |                           | 7000                                   |
| United States Railway Association<br>Administrative expenses.....D84-20                                    |                    | 2050                                         |                                               | 10-3-83            |                                      |                                              |                              |                           | 2050                                   |
| TOTAL, DEFERRALS.....                                                                                      |                    | 1,924,697(a)                                 |                                               |                    | -10375                               |                                              |                              |                           | 1,914,322(a)                           |

(a) All of the above amounts represent budget authority except one general revenue sharing deferral of outlays only.



# **Registered Federal Paper**

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Thursday  
November 17, 1983

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## **Part VI**

### **Department of Agriculture**

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**Animal and Plant Health Inspection  
Service**

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**Highly Pathogenic Avian Influenza;  
Interim Rule**



**DEPARTMENT OF AGRICULTURE****Animal and Plant Health Inspection Service****9 CFR Part 81****[Docket No. 83-120]****Highly Pathogenic Avian Influenza; Interim Rule****AGENCY:** Animal and Plant Health Inspection Service, USDA.**ACTION:** Interim rule.

**SUMMARY:** Because of the finding of highly pathogenic avian influenza in Pennsylvania, a document for publication in the *Federal Register* became effective November 4, 1983. The document of November 4 revised 9 CFR Part 81 to establish regulations quarantining portions of Berks, Dauphin, Lancaster, and Lebanon Counties in Pennsylvania and prohibiting the interstate movement from the quarantined area of poultry and certain other items. This action was taken until an interim rule could be issued allowing the movement of certain poultry and other items under conditions that would be adequate for preventing the spread of highly pathogenic avian influenza. In accordance with such criteria, the interim rule, as amended, allows the interstate movement from the quarantined area of certain poultry and other items. This action is warranted to relieve unnecessary restrictions on the interstate movement of certain poultry and other items from the quarantined area.

This document also expands the area quarantined because of highly pathogenic avian influenza to include portions of Cumberland, York and Chester Counties in Pennsylvania, and to include all of Lancaster County in Pennsylvania.

The interim rule, as amended, also sets forth a mechanism for disposal of and payment for certain poultry and other items. These actions are necessary to help prevent the spread of highly pathogenic avian influenza.

The interim rule, as amended, also regulates the interstate movement among States, Territories, the District of Columbia, and Puerto Rico of all types of poultry infected with or exposed to highly pathogenic avian influenza or similar poultry diseases. This action is necessary to help prevent the spread of these diseases.

The interim rule, as amended, contains provisions of two unpublished documents, one issued November 7, 1983, and the other issued November 10, 1983.

**DATES:** Effective date is November 16, 1983. Written comments must be received on or before January 16, 1984.

**ADDRESS:** Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Dr. William W. Buisch, Chief, National Emergency Field Operations Staff, VS, APHIS, USDA, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8073.

**SUPPLEMENTARY INFORMATION:****Emergency Action**

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is warranted to relieve unnecessary restrictions on the interstate movement of certain poultry and other items, to establish a mechanism for disposal of and payment for certain poultry and other items, and to impose restrictions on the movement of certain poultry and other items in order to help prevent the spread of highly pathogenic avian influenza and similar poultry diseases.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments are solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the *Federal Register*.

**Background**

Because of the finding of highly pathogenic avian influenza in Pennsylvania, a document for publication in the *Federal Register* became effective November 4, 1983 (48 FR 51422-51423, November 9, 1983). The document of November 4 revised 9 CFR Part 81 to add regulations quarantining portions of Berks, Dauphin, Lancaster, and Lebanon Counties in Pennsylvania and prohibiting the interstate movement from the quarantined area of poultry

and certain other items. The document of November 4 also retained provisions in Part 81 concerning the interstate transportation of affected or exposed live chickens, turkeys, geese, and certain materials, and retained provisions concerning cleaning and disinfection of cars, premises, containers, and other accessories.

This interim rule is a further revision of 9 CFR Part 81. Except as otherwise explained below, it retains the provisions of the document which became effective November 4. Also, except as otherwise explained below, this interim rule in essence contains the provisions of two unpublished documents, one issued November 7, 1983, and the other issued November 10, 1983.

Highly pathogenic avian influenza is a highly contagious and pathogenic viral disease of poultry. It is defined as a disease of poultry caused by any influenza virus Type A that results in not less than 75 percent mortality within 8 days in at least eight healthy susceptible chickens, 4 to 8 weeks old, inoculated by the intramuscular, intravenous, or caudal airsac route with bacteria-free infectious allantoic or cell culture fluids and using standard laboratory operating procedures to assure specificity. Clinical evidence of the disease includes decreased feed and water consumption, depression, unusual movements or positions, increased mortality, hemorrhage beneath the skin on the lower legs and feet, severe decrease in egg production, post mortem lesions, and history of the disease occurrence in the flock.

For the purposes of this document, the term "infected poultry" means:

Poultry determined by the Director of the Task Force, in such person's judgment, as being infected with highly pathogenic avian influenza on the basis of clinical evidence, epidemiological evidence, or diagnostic tests.

A footnote is added to explain that epidemiological evidence is an evaluation of clinical evidence and the degree of risk posed by the potential spread of infection based on population and exposure factors. Also, a footnote is added to explain that protocol for such diagnostic tests can be found in the "Recommended Uniform Diagnostic Procedures" published by the Committee of the American Association of Veterinary Laboratory Diagnosticians. Copies of the test protocols may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States



Department of Agriculture, Hyattsville, MD 20782.

Also, for purposes of this document the term "exposed poultry" means:

Poultry which, through the movement of poultry, individuals, feed, or other vectors has been determined by a Federal or State inspector to have had contact, directly or indirectly, with highly pathogenic avian influenza.

Certain of the provisions of the document of November 4 provided for the regulation of only three types of poultry: chickens, turkeys, and geese. The term poultry is defined to mean chickens, ducks, geese, swans, turkeys, pigeons, doves, pheasants, grouse, partridges, quail, guinea fowl, and pea fowl. In accordance with this change, all of the provisions of the interim rule, as amended, apply to all these types of poultry. This is necessary since all these types of poultry are susceptible to highly pathogenic avian influenza and similar poultry diseases and could serve as a means of spreading the diseases.

The document of November 4 provided for the regulation of the movement of certain poultry and other items among the States and the District of Columbia. In order to strengthen protection against the spread of highly pathogenic avian influenza and similar poultry diseases, the interim rule, as amended, provides for the regulation of the movement of poultry and certain other items among the States, Territories, District of Columbia, and Puerto Rico.

The document of November 4 added provisions to quarantine the following area in portions of Berks, Dauphin, Lancaster, and Lebanon Counties in Pennsylvania because of highly pathogenic avian influenza:

That portion of Pennsylvania beginning at the eastern bank of the Susquehanna River at Interstate Highway 81; then northeasterly along Interstate Highway 81 to its intersection with Interstate Highway 78; then northeasterly along Interstate Highway 78 to its intersection with PA Highway 61; then southerly along PA Highway 61 to its intersection with U.S. Highway 222; then southwesterly along U.S. Highway 222 to its intersection with U.S. Highway 30; then southwesterly along U.S. Highway 30 to the eastern bank of the Susquehanna River; then northerly along the eastern bank of the Susquehanna River to Interstate Highway 81.

The document of November 4 also added provisions designating the following articles as prohibited articles:

- (1) Live poultry,
- (2) Eggs from poultry,
- (3) Poultry carcasses or parts thereof,
- (4) Manure from poultry, and
- (5) Used poultry litter.

The document of November 4 further added provisions prohibiting these articles from moving interstate from the quarantined area in Pennsylvania.

The document of November 4 also indicated that it was to be in effect until it could be amended to allow the movement of certain live poultry and other items under conditions that would not present a significant risk of spread of highly pathogenic avian influenza. The Department has determined that the document on November 4 can in some respects be made less restrictive without danger of spread of highly pathogenic avian influenza. Accordingly, the interim rule, as amended, allows the interstate movement from the quarantined area of certain live poultry and other items under specified conditions.

#### Quarantined Area

It has been determined that highly pathogenic avian influenza has further spread within Pennsylvania. Based on clinical evidence the disease has been diagnosed on premises in Chester County, York County, and on an additional premises in Lancaster County.

As explained in the document of November 4, it is necessary that a quarantined area have easily understood boundary lines, include the premises where highly pathogenic avian influenza is found, and include at least a five mile buffer zone in every direction from premises where the disease is found. In accordance with this criteria the regulated area is expanded and redescribed as follows:

The following area in Berks, Chester, Cumberland, Dauphin, Lancaster, Lebanon, and York Counties in Pennsylvania beginning at the eastern bank of the Susquehanna River at Interstate Highway 81; then northeasterly along Interstate Highway 81 to its intersection with Interstate Highway 78; then northeasterly along Interstate Highway 78 to its intersection with PA Highway 61; then southerly along PA Highway 61 to its intersection with U.S. Highway 422; then southeasterly along U.S. Highway 422 to its intersection with Interstate Highway 176; then southerly along Interstate Highway 176 to its intersection with Interstate Highway 76; then easterly along Interstate Highway 76 to its intersection with PA Highway 82; then southerly along PA Highway 82 to its intersection with PA Highway 841; then southerly along PA Highway 841 to its intersection with U.S. Highway 1; then southwesterly along U.S. Highway 1 to its intersection with the Pennsylvania/Maryland State Line; then westerly along the Pennsylvania/Maryland State Line to the eastern bank of the Susquehanna River; then northerly along the eastern bank of the Susquehanna River to its intersection with PA Highway 372; then across the Susquehanna River on PA Highway 372 and

southwesterly along PA Highway 372 to its intersection with PA Highway 74; then northwesterly along PA Highway 74 to its intersection with Interstate Highway 83; then northerly along Interstate Highway 83 to the eastern bank of the Susquehanna River; then northerly along the eastern bank of the Susquehanna River to Interstate Highway 81.

#### Prohibited Articles

The interim rule, as amended, designates the following as prohibited articles:

- (1) Live poultry infected with or exposed to highly pathogenic avian influenza,
- (2) Manure from poultry, and
- (3) Litter that has been used by poultry.

The interim rule, as amended, further provides that a prohibited article shall not be moved interstate from a quarantine area. It is necessary to take this action because it appears that there are no feasible methods for treatment or other procedures for allowing the movement of these articles while still ensuring that they would not cause the spread of highly pathogenic avian influenza.

#### Restricted Articles

The interim rule, as amended, designates the following articles as restricted articles:

- (1) Live poultry not infected with or exposed to highly pathogenic avian influenza,
- (2) Poultry carcasses or parts thereof,
- (3) Eggs from poultry, and
- (4) Used coops, containers, troughs or other accessories for use in the handling of poultry or poultry eggs.

The interim rule, as amended, allows the interstate movement of restricted articles from a quarantined area under specified conditions. It has been determined, based on departmental expertise and experience with similar diseases, that compliance with these conditions would be adequate to allow the interstate movement of these articles without causing a significant risk of spread of highly pathogenic avian influenza. The interim rule also contains a provision specifically stating that a restricted article shall not be moved interstate from a quarantined area except in accordance with the provisions of Part 81.

The interim rule, as amended, provides that live poultry not infected with or exposed to highly pathogenic avian influenza may be moved interstate from a quarantined area accompanied by a permit if inspected prior to movement by a State or Federal inspector and not found to have clinical evidence of highly pathogenic avian



influenza, and if moved directly to a federally inspected slaughtering establishment for immediate slaughter. The interim rule, as amended, further provides that poultry carcasses or parts thereof from a poultry flock inspected by a Federal or State inspector prior to movement for slaughter and not found to have clinical evidence of highly pathogenic avian influenza, and from poultry slaughtered at a federally inspected slaughtering establishment may be moved interstate from a quarantined area. Compliance with these provisions would be sufficient to ensure that such poultry or carcasses or parts thereof would not be likely to contain highly pathogenic avian influenza virus. Also, slaughter or processing at a federally inspected slaughtering establishment would allow an additional opportunity for examination of the poultry, carcasses, or parts thereof for highly pathogenic avian influenza. Further, the carcasses or parts thereof from such live poultry are customarily cooked before being used.

These provisions are a revision of provisions in the document of November 7, which allowed the interstate movement from a quarantined area of poultry carcasses or parts thereof, without viscera, if from poultry not known to be infected with or exposed to highly pathogenic avian influenza. The revision is made to ensure that such carcasses or parts thereof are allowed to move based on findings as a result of inspections. This would help ensure that highly pathogenic avian influenza virus is not moved interstate.

The interim rule, as amended, provides that poultry eggs and poultry carcasses or parts thereof may also be moved interstate from a quarantined area under the supervision of a State or Federal inspector for incineration, rendering, or burial in a landfill (the incinerator, rendering facility, or landfill must have equipment and use procedures that are determined by the Deputy Administrator to be adequate to prevent the dissemination of highly pathogenic avian influenza and must comply with the applicable laws for environmental protection). Such incineration, rendering, or burial would be sufficient to prevent the spread of highly pathogenic avian influenza.

The interim rule, as amended, provides that poultry carcasses or parts thereof heated throughout to at least 160° F. (71° C.) may be moved interstate from a quarantined area. Also, it should be noted that provisions from the document of November 4 are changed to allow the interstate movement (regardless of whether from a

quarantined area) of carcasses or parts thereof from poultry affected with or exposed to highly pathogenic avian influenza or other similar contagious poultry diseases if the carcasses or parts thereof have been heated throughout to at least 160° F. (71° C.). Such heating would destroy any viruses which could cause such poultry diseases.

The interim rule, as amended, provides that poultry hatching eggs may be moved interstate from a quarantined area accompanied by a permit if the eggs meet certain conditions relating to holding and fumigation with formaldehyde gas and if the breeding flock which produced the eggs meets certain conditions concerning examination and testing. With respect to examination and testing, it was provided that the breeding stock producing the eggs must be determined by a Federal inspector to be negative for highly pathogenic avian influenza based on visual examination and serologic testing. These provisions are clarified by this document to specify that the negative determinations must be based on the absence of clinical evidence of the disease and the agar gel precipitin test. As an added measure for determining freedom from highly pathogenic avian influenza, additional provisions are added by this document to provide that such flock must be found negative for the disease by virologic examination of cloacal swabs, and that such poultry hatching eggs may be moved only to persons who have signed a document provided by Veterinary Services wherein such person agrees to destroy the hatching eggs or poultry therefrom if the breeding flock are determined to be infected with highly pathogenic avian influenza before the eggs are hatched. Compliance with each of these provisions would be sufficient to ensure that the eggs would not spread highly pathogenic avian influenza virus.

The documents of November 7 and 10 provided that embryonating hatching eggs may be moved interstate from a quarantined area pursuant to a permit if they originate from a breeding flock outside of the quarantined area, and if fumigated with formaldehyde gas prior to movement from the quarantined area in accordance with certain procedures. This document deletes these provisions because it appears that there are no feasible methods by which to determine whether embryonating hatching eggs originated from a breeding flock outside of the quarantined area.

The interim rule, as amended, provides that poultry table eggs and poultry eggs for processing from poultry not infected with or exposed to highly

pathogenic avian influenza may be moved interstate from a quarantined area pursuant to a permit if prior to movement they are washed free of adhering material and rinsed with warm water containing not less than 50 p/m nor more than 200 p/m of available chlorine or its equivalent, and if moved in unused flats and cases, or in plastic flats and cases washed free of adhering material since last use and rinsed with warm water containing not less than 50 p/m of available chlorine or its equivalent. Compliance with these provisions would be sufficient to ensure that these articles would not be likely to carry highly pathogenic avian influenza virus. Further, these articles are customarily cooked before being used.

The interim rule, as amended, provides that used poultry coops, containers, troughs, or other accessories for use in the handling of poultry or poultry eggs may be moved interstate from a quarantined area if prior to movement they are cleaned and disinfected with certain disinfectants. As noted above, these items were not regulated under the provisions of the document of November 4. However, without compliance with the specified provisions these articles would present a significant risk of spreading highly pathogenic avian influenza virus.

The document of November 7 added provisions providing that certain items could be moved interstate from a quarantined area only in accordance with certain conditions, including the condition that they be moved pursuant to a permit. In this connection, permits were required for such movement of the following: live poultry not infected with or exposed to highly pathogenic avian influenza; poultry hatching eggs; table eggs and eggs for processing; and used poultry coops, containers, troughs, or other accessories for use in the handling of poultry or poultry eggs.

A permit is defined as an official document issued by a State or Federal inspector for interstate movement of a restricted article. It is provided that a permit for the interstate movement of a restricted article may be obtained from a Federal or State inspector. A footnote is added indicating that inspectors may be contacted at telephone numbers available from local county agricultural extension agents. In addition, it is provided that the permit shall list the name and address of the consignor and consignee, the origin and destination locations, the number and type of articles covered, and the purpose of the movement.

The interim rule, as amended, also contains provisions for the withdrawal



of permits based on a determination that the holder of the permit has not complied with conditions for the use of the permit. Due process requirements concerning such withdrawals are also set forth in the interim rule.

The interim rule, as amended, now requires that live poultry not infected with or exposed to highly pathogenic avian influenza and poultry hatching eggs must be accompanied by a permit at the time of movement interstate from a quarantined area. It is necessary that such articles be accompanied by a permit so that they can be identified as restricted articles during movement and to advise the receiving party that such articles are required to be in compliance with the provisions of Part 81.

The interim rule, as amended, now requires that table eggs and eggs for processing designated as restricted articles must be moved pursuant to a permit. Because it is difficult when the articles are in route to determine whether the conditions for movement have been met, it is necessary to include enforcement activities prior to movement. The issuance of a permit would identify those persons moving such eggs so that appropriate enforcement activities could be conducted to assure that requirements of the interim rule are being met.

The interim rule, as amended, does not require that poultry carcasses or parts thereof heated throughout to at least 160° F. (71° C.); or poultry coops, containers, troughs, or other accessories to be moved interstate from a quarantine area pursuant to a permit. It does not seem practicable to impose such a requirement on the movement of these articles. Further, these articles can be visually inspected during movement to determine whether they comply with the requirements of the interim rule.

As noted above, poultry eggs and poultry carcasses or parts thereof are allowed to be moved interstate from a quarantined area for incineration, rendering or burial at landfill only under the supervision of a State or Federal inspector in lieu of allowing such movements pursuant to permits. This appears to be necessary to assure that such articles are actually moved for such purpose in accordance with the interim rule.

The interim rule, as amended, does not require a permit for the movement interstate from a quarantined area of poultry carcasses or parts thereof if from a poultry flock inspected by a Federal or State inspector prior to movement for slaughter and not found to have clinical evidence of highly pathogenic avian influenza, and if from poultry slaughtered at a federally inspected

slaughtering establishment. They would be identified as federally inspected products at the time of movement from the federally inspected establishment and there are no additional conditions under the interim rule about which the person moving the items would need to be informed.

#### Miscellaneous

The interim rule, as amended, allows the United States Department of Agriculture to move prohibited or restricted articles interstate for diagnostic or experimental purposes under conditions found by the Deputy Administrator to be adequate to prevent the spread of highly pathogenic avian influenza.

The interim rule, as amended, provides that the Deputy Administrator may in specific cases allow the movement of prohibited articles or restricted articles interstate, other than as provided for by regulation, under such conditions as the Deputy Administrator may prescribe in each case to prevent the spread of highly pathogenic avian influenza, and that the Deputy Administrator will promptly notify the appropriate officials of the States involved of any such action.

The document of November 4 provided that any "car" used in the handling of infected poultry could not be used in connection with the interstate movement of healthy poultry unless cleaned and disinfected in accordance with certain provisions. The term "car" was changed to "vehicle" in the document of November 7. The term "means of conveyance" is substituted for the term "vehicle" since the need for such cleaning and disinfection would apply to any means of conveyance under such circumstances.

The document of November 7 added provisions providing for supervision of the cleaning and disinfection of certain accessories and means of conveyance used in the interstate movement of poultry from quarantined areas by Federal inspectors, State inspectors, or accredited veterinarians. The reference to accredited veterinarians is deleted by this document since they are not being used for this purpose.

#### Extraordinary Emergency Provisions

Extraordinary emergency provisions which were first included in the unpublished document of November 10 are also included in this interim rule. These provisions reflect that an extraordinary emergency exists because of highly pathogenic avian influenza in Pennsylvania, and sets forth provisions specifically authorized under the Act of July 2, 1962 (21 U.S.C. 134-134h). In this

connection, the extraordinary emergency provisions provide for inspections and seizures upon any premises in Pennsylvania; disposal of poultry and other items; cleaning of pens, coops, containers, troughs, other accessories, and means of conveyance; and appraisal and payment for destruction of poultry and other items.

This document also includes changes in the extraordinary emergency provisions from the document of November 10. These changes concern inspections and seizures, and disposal of poultry and other items.

With respect to inspections and seizures, the document of November 10 provided that:

Federal inspectors designated by the Deputy Administrator and identified by an official identification card shall have authority to enter, with a warrant obtained under section 5 of the Act of July 2, 1962 (21 U.S.C. 134d), upon any premises in Pennsylvania, for the purpose of making inspections and seizures necessary under the Act of July 2, 1962, or the regulations in this Part. Such inspectors may enter upon any premises without a warrant if the person in possession of the premises voluntarily consents to their entry.

There is authority to allow State inspectors to conduct such inspections and seizures under section 5 of the Act of July 2, 1962 (21 U.S.C. 134d) if they are appointed as employees of the United States Department of Agriculture for such purpose. In order to assure that sufficient personnel would be available to conduct the necessary seizure and inspection activities, it appears that it is necessary to use State inspectors for such purposes. Accordingly, provisions are added to allow such inspections and seizures to be also performed by State inspectors appointed as employees of the United States Department of Agriculture.

This document also changes the cleaning and disinfecting provisions to allow State inspectors as well as Federal inspectors to determine whether cleaning and disinfecting provisions are met.

With respect to the disposal of the poultry and other items, the document of November 10 added provisions to allow premises to be subject to premises quarantines. In addition to retaining these provisions, a new paragraph is added to read as follows:

A premises quarantine shall remain in effect until the following conditions are met:

- (1) All poultry on such premises are depopulated;
- (2) All carcasses and parts thereof from the depopulated poultry, and any other poultry carcasses and parts thereof, eggs, products, and articles so related to the depopulated



poultry as to be likely to be a means of disseminating highly pathogenic avian influenza, are disposed of by incineration, rendering, burial in a landfill or other place, or by such other means as the Deputy Administrator determines would be adequate to prevent the spread of highly pathogenic avian influenza (the incinerator, rendering facility, place of burial, or other place of disposal must have equipment and use procedures that are determined by the Deputy Administrator to be adequate to prevent the dissemination of highly pathogenic avian influenza and must comply with the applicable laws for environmental protection);

(3) The premises are found by a Federal or State inspector to have been cleaned and disinfected in accordance with § 81.13 after the carcasses or parts thereof, eggs, products, or articles are disposed of as specified in subparagraph (2) of this paragraph;

(4) No live poultry are taken onto the premises for a 30-day period after the premises have been found to meet the cleaning and disinfection provisions of subparagraph (3) of this paragraph, and for any additional time period determined necessary by the Director of the Task Force to ensure that the premises are free of highly pathogenic avian influenza; and

(5) The Director of the Task Force has determined (by means which may include testing with test birds, and evaluation of epidemiological conditions) that highly pathogenic avian influenza has been eradicated and that the premises can be safely repopulated.

These additional provisions are necessary to ensure that premises subject to a premises quarantine would not be released from such premises quarantine except under conditions necessary to assure that the repopulation of the premises would not cause the spread of highly pathogenic avian influenza.

#### Definitions and Nonsubstantive Changes

The document of November 4 contained only one definition, a definition of the term highly pathogenic avian influenza. The interim rule, as amended, now contains definitions of the following terms that are used in the interim rule: clinical evidence, Deputy Administrator, Director of the Task Force, exposed poultry, Federal inspector, infected poultry, interstate, moved, permit, person, poultry, State, State inspector, Task Force, and Veterinary Services.

Also, certain nonsubstantive changes are made for purposes of clarification.

#### Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 and Secretary's Memorandum 1512-1 with respect to

this interim rule. Immediate action is warranted to relieve unnecessary restrictions on the interstate movement of certain poultry and other items, to establish a mechanism for disposal of and payment for certain poultry and other items and to impose restrictions on the interstate movement of certain poultry and other items in order to help prevent the spread of highly pathogenic avian influenza and similar poultry diseases.

This emergency situation also makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required in section 604 of the Regulatory Flexibility Act.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the information collection provisions that are included in this interim rule have been cleared by the Office of Management and Budget (OMB) and have been given the OMB clearance number 0579-0051.

#### List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

Under the circumstances referred to above, 9 CFR Part 81 is revised to read as follows:

### PART 81—HIGHLY PATHOGENIC AVIAN INFLUENZA AND SIMILAR POULTRY DISEASES

#### Subpart A—Definitions

Sec.

81.1 Definitions.

#### Subpart B—General Provisions

81.2 Interstate movement of infected or exposed live poultry or materials.

81.3 Contaminated means of conveyance, premises, containers, and other accessories; not to be used for interstate movement of poultry until cleaned and disinfected.

#### Subpart C—Quarantined Area Provisions

81.4 Quarantined areas.

81.5 Prohibited articles.

81.6 Restricted articles.

81.7 Permits for movement of restricted articles.

81.8 Movement by United States Department of Agriculture for diagnostic or experimental purposes; other movements.

81.9 Cleaning and disinfecting of accessories and means of conveyance.

#### Subpart D—Extraordinary Emergency Provisions

Sec.

81.10 Determination of extraordinary emergency; related determinations.

81.11 Inspections and seizures.

81.12 Disposal.

81.13 Cleaning and disinfecting.

81.14 Appraisal.

81.15 Payment.

**Authority:** Sec. 2, 23 Stat. 31, as amended; secs. 4-8, 23 Stat. 31-33, as amended; secs. 1-3, 32 Stat. 791, 792, as amended; secs. 1-4, 33 Stat. 1264, 1265; 41 Stat. 699; sec. 2, 65 Stat. 693; secs. 3 and 11, 76 Stat. 129, 130 and 132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111-113, 114a-1, 115-117, 119-126, 130, 134a, 134b, 134d, 134f, 7 CFR 2.17, 2.15, and 371.2(d).

#### Subpart A—Definitions

##### § 81.1 Definitions.

The following terms shall be construed respectively to mean:

**Clinical evidence.** Evidence, such as decreased feed and water consumption, depression, unusual movements or positions, increased mortality, hemorrhage beneath the skin on the lower legs and feet, severe decrease in egg production; post mortem lesions; and history of the disease occurrence in the flock.

**Deputy Administrator.** The Deputy Administrator, Veterinary Services, or any other official to whom authority has heretofore been delegated or may hereafter be delegated to act in the Deputy Administrator's stead.

**Director of the Task Force.** The veterinary official of Veterinary Services designated by the Deputy Administrator to supervise and perform the disease control and eradication work of the Task Force.

**Exposed poultry.** Poultry which, through the movement of poultry, individuals, feed, or other vectors has been determined by a Federal or State inspector to have had contact, directly or indirectly, with highly pathogenic avian influenza.

**Federal inspector.** An inspector of the Animal and Plant Health Inspection Service, the Agricultural Marketing Service, or the Food Safety and Inspection Service, United States Department of Agriculture, responsible for the performance of the function involved.

**Highly pathogenic avian influenza.** A disease of poultry caused by any influenza virus Type A that results in not less than 75 percent mortality within 8 days in at least 8 healthy susceptible chickens, 4-8 weeks old, inoculated by the intramuscular, intravenous, or caudal airsac route with bacteria-free infectious allantoic or cell culture fluids



and using standard laboratory operating procedures to assure specificity.

**Infected poultry.** Poultry determined by the Director of the Task Force, in such person's judgment, as being infected with highly pathogenic avian influenza on the basis of clinical evidence, epidemiological evidence,<sup>1</sup> or diagnostic tests.<sup>2</sup>

**Interstate.** From one State into or through any other State.

**Moved.** Shipped, transported or otherwise moved, or delivered or received for movement, by any person.

**Permit.** An official document issued by a State or Federal inspector for interstate movement of a restricted article.

**Person.** Any individual, partnership, corporation, association, joint venture, or any other legal entity.

**Poultry.** Chickens, ducks, geese, swans, turkeys, pigeons, doves, pheasants, grouse, partridges, quail, guinea fowl, and pea fowl.

**State.** Any State, Territory, the District of Columbia, or Puerto Rico.

**State inspector.** An inspector of a State or a political subdivision thereof, who is authorized by such State or political subdivision to perform the function involved.

**Task Force.** Special force of Federal and State personnel designated by the Deputy Administrator to control and eradicate highly pathogenic avian influenza.

**Veterinary Services.** The Veterinary Services unit of the Animal and Plant Health Inspection Service, United States Department of Agriculture.

## Subpart B—General Provisions

### § 81.2 Interstate movement of infected or exposed live poultry or materials.

(a) No live poultry infected with or exposed to highly pathogenic avian influenza or other similar contagious poultry disease, no manure from such poultry, and no litter which has been used by such poultry shall be moved interstate;

(b) No carcasses or parts thereof from poultry infected with or exposed to highly pathogenic avian influenza or other similar poultry diseases shall be moved interstate unless heated

throughout to a least 160° F. (71° C.) or unless moved interstate from a quarantined area for incineration, rendering, or burial in a landfill in accordance with § 81.6.

### § 81.3 Contaminated means of conveyance, premises, containers, and other accessories; not to be used for interstate movement of poultry until cleaned and disinfected.

No means of conveyance of premises which have contained any poultry which have been found infected with highly pathogenic avian influenza or other similar poultry disease, and no coops, containers, troughs, or other accessories used in the handling of such infected poultry, shall be used in connection with the interstate movement of poultry until the said means of conveyance, premises, coops, containers, troughs, or other accessories have been cleaned and disinfected under the supervision of a Federal or State inspector with a permitted disinfectant, as provided in §§ 71.4, 71.6, 71.7, 71.10, and 71.11 of this Subchapter, or with a 3 percent solution cresol compound, U.S.P.

## Subpart C—Quarantined Area Provisions

### § 81.4 Quarantined areas.

The following area in Berks, Chester, Cumberland, Dauphin, Lancaster, Lebanon, and York Counties in Pennsylvania is designated as a quarantined area: That portion of Pennsylvania beginning at the eastern bank of the Susquehanna River at Interstate Highway 81; then northeasterly along Interstate Highway 81 to its intersection with Interstate Highway 78; then northeasterly along Interstate Highway 78 to its intersection with PA Highway 61; then southerly along PA Highway 61 to its intersection with U.S. Highway 422; then southeasterly along U.S. Highway 422 to its intersection with Interstate Highway 176; then southerly along Interstate Highway 176 to its intersection with Interstate Highway 76; then easterly along Interstate Highway 76 to its intersection with PA Highway 82; then southerly along PA Highway 82 to its intersection with PA Highway 841; then southerly along PA Highway 841 to its intersection with U.S. Highway 1; then southwesterly along U.S. Highway 1 to its intersection with the Pennsylvania/Maryland State Line; then westerly along the Pennsylvania/Maryland State Line to the eastern bank of the Susquehanna River; then northerly along the eastern bank of the Susquehanna River to its intersection with PA Highway 372; then across the Susquehanna River and southwesterly

along PA Highway 372 to its intersection with PA Highway 74; then northwesterly along PA Highway 74 to its intersection with Interstate Highway 83; then northerly along Interstate Highway 83 to the eastern bank of the Susquehanna River; then northerly along the eastern bank of the Susquehanna River to Interstate Highway 81.

### § 81.5 Prohibited articles.

(a) The following are designated as prohibited articles:

(1) Live poultry infected with or exposed to highly pathogenic avian influenza,

(2) Manure from poultry, and

(3) Litter that has been used by poultry.

(b) A prohibited article shall not be moved interstate from a quarantined area.

### § 81.6 Restricted articles.

(a) The following are designated as restricted articles:

(1) Live poultry not infected with or exposed to highly pathogenic avian influenza,

(2) Poultry carcasses or parts thereof,

(3) Eggs from poultry, and

(4) Used coops, containers, troughs, or other accessories for use in the handling of poultry or poultry eggs.

(b) A restricted article shall not be moved interstate from a quarantined area except in accordance with the provisions in this Part.

(c) Live poultry not infected with or exposed to highly pathogenic avian influenza may be moved interstate from a quarantined area accompanied by a permit if inspected prior to movement by a State or Federal inspector and not found to have clinical evidence of highly pathogenic avian influenza, and if moved directly to a federally inspected slaughtering establishment for immediate slaughter.

(d) Poultry carcasses or parts thereof may be moved interstate from a quarantined area:

(1) If from a poultry flock inspected by a Federal or State inspector prior to movement for slaughter and not found to have clinical evidence of highly pathogenic avian influenza, and if from poultry slaughtered at a federally inspected slaughtering establishment; or

(2) If heated throughout to at least 160° F. (71° C.); or

(3) If moved under the supervision of a State or Federal inspector for incineration, rendering, or burial in a landfill (the incinerator, rendering facility, or landfill must have equipment and use procedures that are determined by the Deputy Administrator to be

<sup>1</sup> Epidemiological evidence—evaluation of clinical evidence and the degree of risk posed by the potential spread of infection based on population and exposure factors.

<sup>2</sup> Protocol for such diagnostic tests can be found in the "Recommended Uniform Diagnostic Procedures" published by the Committee of the American Association of Veterinary Laboratory Diagnosticians. Copies of the test protocols may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782.



adequate to prevent the dissemination of highly pathogenic avian influenza and must comply with the applicable laws for environmental protection).

(e) Eggs may be moved interstate from a quarantined area as follows:

(1) Poultry hatching eggs may be moved interstate from a quarantined area accompanied by a permit if the following conditions are met prior to movement:

(i) Such hatching eggs are held for a minimum of five days and after the five-day holding period the breeding flock is determined by a Federal inspector to be free of highly pathogenic avian influenza based on clinical evidence, agar gel precipitin testing, and virologic examination of cloacal swabs, and thereafter prior to movement such hatching eggs are fumigated in accordance with the following procedures:

(A) The eggs shall be fumigated with formaldehyde gas in an airtight room or cabinet. The room or cabinet shall be equipped with a fan to circulate the gas during fumigation and to expel it after fumigation.

(B) The eggs shall be placed on wire racks, in wire baskets, or on cup-type egg flats stacked outside of the egg cases (to permit air circulation) and exposed to circulating formaldehyde gas.

(C) The formaldehyde gas shall be provided by mixing 0.6 gram of potassium permanganate with 1.2 cc. of formalin (37.5 percent) for each cubic foot of space in the room. The ingredients shall be mixed in an earthenware or enamelware container having a capacity at least 10 times the volume of the total ingredients.

(D) The gas shall be circulated within the room for 20 minutes; then expelled.

(E) The temperature in the room or cabinet during fumigation shall be at least 70° F. (21° C.), and the relative humidity above 70 percent, and

(ii) Such eggs are moved only to a person who has signed a document provided by Veterinary Services wherein such person agrees to destroy the hatching eggs or poultry therefrom if the breeding flock is determined to be infected with highly pathogenic avian influenza before the eggs are hatched.

(f) Poultry table eggs and poultry eggs for processing from poultry not infected with or exposed to highly pathogenic avian influenza may be moved interstate from a quarantined area pursuant to a permit if prior to movement they are washed free of adhering material and rinsed with warm water containing not less than 50 p/m nor more than 200 p/m of available chlorine or its equivalent, and if moved in unused flats and cases,

or in plastic flats and cases washed free of adhering material since last use and rinsed with warm water containing not less than 50 p/m of available chlorine or its equivalent.

(g) Any poultry eggs may be moved interstate from a quarantined area under the supervision of a State or Federal inspector for incineration, rendering, or burial in a landfill (the incinerator, rendering facility, or landfill must have equipment and use procedures that are determined by the Deputy Administrator to be adequate to prevent the dissemination of highly pathogenic avian influenza and must comply with the applicable laws for environmental protection).

(h) Used poultry coops, containers, troughs, or other accessories for use in the handling of poultry or poultry eggs may be moved interstate from a quarantined area if prior to movement they are cleaned and disinfected with a permitted disinfectant specified in §§ 71.10 or 71.11 of this Subchapter.

#### § 81.7 Permits for movement of restricted articles.

(a) A permit for the interstate movement of a restricted article in accordance with provisions in this Part may be obtained from a State or Federal inspector<sup>3</sup> for movement. It shall list the name and address of the consignor and consignee, the origin and destination locations, the number and type of articles covered, and the purpose of the movement.

(b) Any permit which has been issued may be withdrawn by a Federal or State inspector or the Deputy Administrator if he/she determines that the holder thereof has not complied with any condition for the use of the permit. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for the decision as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

<sup>3</sup> Inspectors may be contacted at telephone numbers available from local county agricultural extension agents.

#### § 81.8 Movement by United States Department of Agriculture for diagnostic or experimental purposes; other movements.

(a) Notwithstanding other provisions in this Subchapter, a prohibited article or restricted article may be moved interstate by the United States Department of Agriculture for diagnostic or experimental purposes under conditions found by the Deputy Administrator to be adequate to prevent the spread of highly pathogenic avian influenza.

(b) Notwithstanding other provisions in this Subchapter, the Deputy Administrator may in specific cases allow the movement of prohibited articles or restricted articles interstate, other than as provided for in this Subchapter, under such conditions as the Deputy Administrator may prescribe in each case to prevent the spread of highly pathogenic avian influenza. The Deputy Administrator will promptly notify the appropriate officials of the States involved of any such action.

#### § 81.9 Cleaning and disinfecting of accessories and means of conveyance.

Coops, containers, troughs, other accessories, and means of conveyance used in the interstate movement from quarantined areas of poultry shall be cleaned and disinfected as soon as possible thereafter and before such accessories or means of conveyance are moved from the point of unloading. Such cleaning and disinfecting shall be done under the supervision of a Federal or State inspector with a permitted disinfectant specified in §§ 71.10 or 71.11 of this Subchapter. If such supervision or proper cleaning and disinfection facilities are not available at the point where the poultry is unloaded, upon permission first received from a Federal or State inspector, such accessories or means of conveyance may be forwarded to a point at which supervision and facilities are available and there be cleaned and disinfected.

#### Subpart D—Extraordinary Emergency Provisions

##### § 81.10 Determination of extraordinary emergency; related determinations.

Highly pathogenic avian influenza is a dangerous, communicable disease of poultry and it has been determined that an extraordinary emergency exists because of outbreaks of the disease in Pennsylvania and that such outbreaks threaten the poultry of the United States and seriously burden interstate and foreign commerce. It has further been determined that adequate measures to control such outbreaks cannot be taken by Pennsylvania and that the



regulations in this Part are necessary to enable the identification of poultry that are or have been affected with or exposed to such disease, and otherwise to carry out the provisions and purposes of the Act of July 2, 1962 (21 U.S.C. 134-134h). The Commissioner of Agriculture of Pennsylvania has been informed of these facts.

#### § 81.11 Inspections and seizures.

State inspectors (appointed as employees of the U.S. Department of Agriculture) and Federal inspectors, designated by the Deputy Administrator and identified by an official identification card, shall have authority to enter, with a warrant obtained under section 5 of the Act of July 2, 1962 (21 U.S.C. 134d), upon any premises in Pennsylvania, for the purpose of making inspections and seizures necessary under the Act of July 2, 1962, or the regulations in this Part. Such inspectors may enter upon any premises without a warrant if the person in possession of the premises voluntarily consents to their entry.

#### § 81.12 Disposal.

(a) Whenever the Director of the Task Force finds that any poultry upon any premises in Pennsylvania are or have been infected with or exposed to highly pathogenic avian influenza, or that any carcasses or parts thereof, eggs, or other products or articles were so related to such poultry as to be likely to be a means of disseminating the disease, the Director of the Task Force will order the owner thereof, or the owner's agent in possession thereof, to maintain them in quarantine on such premises for such period and dispose of them within such time, and in such manner as the Director of the task Force shall prescribe in accordance with section 2 of the Act of July 2, 1962 (21 U.S.C. 134a). The order shall be served upon the owner of the poultry, carcasses or parts thereof, eggs, products or articles, or the owner's agent, in person by a State inspector (appointed as an employee of the United States Department of Agriculture) or by a Federal inspector. If the owner or the owner's agent does not comply with such order, after such notice thereof, the Director of the Task Force may seize, quarantine, and dispose of the poultry, carcasses or parts thereof, eggs, products, or articles as provided in section 2 of the Act of July 2, 1962.

(b) When any poultry, carcasses or parts thereof, eggs, products, or articles are ordered to be quarantined on any premises under paragraph (a) of this

section, they shall not be moved from such premises unless authorized by the Director of the Task Force.

(c) A premises quarantine shall remain in effect until the following conditions are met:

(1) All poultry on such premises are depopulated;

(2) All carcasses and parts thereof from the depopulated poultry, and any other poultry carcasses and parts thereof, eggs, products, and articles so related to the depopulated poultry as to be likely to be a means of disseminating highly pathogenic avian influenza, are disposed of by incineration, rendering, burial in a landfill or other place, or by such other means as the Deputy Administrator determines would be adequate to prevent the spread of highly pathogenic avian influenza (the incinerator, rendering facility, place of burial, or other place of disposal must have equipment and use procedures that are determined by the Deputy Administrator to be adequate to prevent the dissemination of highly pathogenic avian influenza and must comply with the applicable laws for environmental protection);

(3) The premises are found by a Federal or State inspector to have been cleaned and disinfected in accordance with § 81.13 after the carcasses or parts thereof, eggs, products, or articles are disposed of as specified in paragraph (c)(2) of the section;

(4) No live poultry are taken onto the premises for a 30-day period after the premises have been found to meet the cleaning and disinfection provisions of paragraph (c)(3) of the section, and for any additional time period determined necessary by the Director of the Task Force to ensure that the premises are free of highly pathogenic avian influenza; and

(5) The Director of the Task Force has determined (by means which may include testing with test birds and evaluation of epidemiological conditions) that highly pathogenic avian influenza has been eradicated and that the premises can be safely repopulated.

#### § 81.13 Cleaning and disinfecting requirements.

All pens, coops, containers, troughs, other accessories, or means of conveyance found by a Federal or State inspector to have been used in the handling of any poultry or related products, carcasses or parts thereof, eggs, products, or articles subject to an order under § 81.12 shall be cleaned and disinfected in accordance with the

provisions in §§ 71.7, 71.10, and 71.11 of this Subchapter, or with a 3 percent solution cresol compound, U.S.P., unless other disposal is ordered under § 81.12.

#### § 81.14 Appraisal.

Poultry, carcasses or parts thereof, eggs, products, or articles required to be destroyed in accordance with § 81.12 shall be appraised by a Veterinary Services employee. The appraisal shall be the fair market value at the time of destruction as determined by such employee.

#### § 81.15 Payment.

(a) A claim for payment for destruction of poultry, carcasses or parts thereof, eggs, products, or articles must be presented to the Director of the Task Force before payment will be made. The claimant must state whether the items for which payment is requested are, or are not, subject to a mortgage, lien, or other security or beneficial interest held by any person other than the claimant. If the claimant is the owner and states that there is no mortgage, lien, or other such interest on the items, payment will be made to the owner. If the claimant states that there is a mortgage, lien, or other such interest, a VS Form 1-23 shall be signed by the claimant and by each person holding a mortgage, lien, or other such interest on the items, consenting to the payment of any indemnity allowed to the person specified thereon, and payment will be made to such person.

(b) Section 2 of the Act of July 2, 1962 (21 U.S.C. 134a(e)) provides that:

No payment shall be made by the Secretary for any animal, carcass, product, or article which has been moved or handled by the owner thereof or his agent knowingly in violation of a law or regulation administered by the Secretary for the prevention of the interstate dissemination of the communicable disease, for which the animal, carcass, product, or article was destroyed or a law or regulation for the enforcement of which the Secretary enters or has entered into a cooperative agreement for the control and eradication of such disease, or for any animal which has moved into the United States contrary to such law or regulation administered by the Secretary for the prevention of the introduction of communicable disease of livestock or poultry.

Done at Washington, D.C. this 16th day of November, 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-31234 Filed 11-16-83; 1:33 pm]

BILLING CODE 3410-34-M



The first part of the paper discusses the importance of the study of the history of the United States. It is pointed out that the study of history is not only a means of understanding the past, but also a means of understanding the present and the future. The author argues that the study of history is essential for the development of a nation and for the well-being of its people.

The second part of the paper discusses the role of the government in the development of the United States. It is pointed out that the government has played a major role in the development of the country, and that its actions have shaped the course of history. The author argues that the government should continue to play a role in the development of the country, and that its actions should be guided by the principles of justice and fairness.

The third part of the paper discusses the role of the individual in the development of the United States. It is pointed out that the actions of individuals have shaped the course of history, and that the individual has a responsibility to contribute to the development of the country. The author argues that the individual should strive to be a good citizen, and that he or she should work to improve the lives of others.

The fourth part of the paper discusses the role of the future in the development of the United States. It is pointed out that the future is uncertain, and that the actions of the present will shape the future. The author argues that the future should be planned, and that the actions of the present should be guided by the principles of justice and fairness.



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Thursday, November 17, 1983

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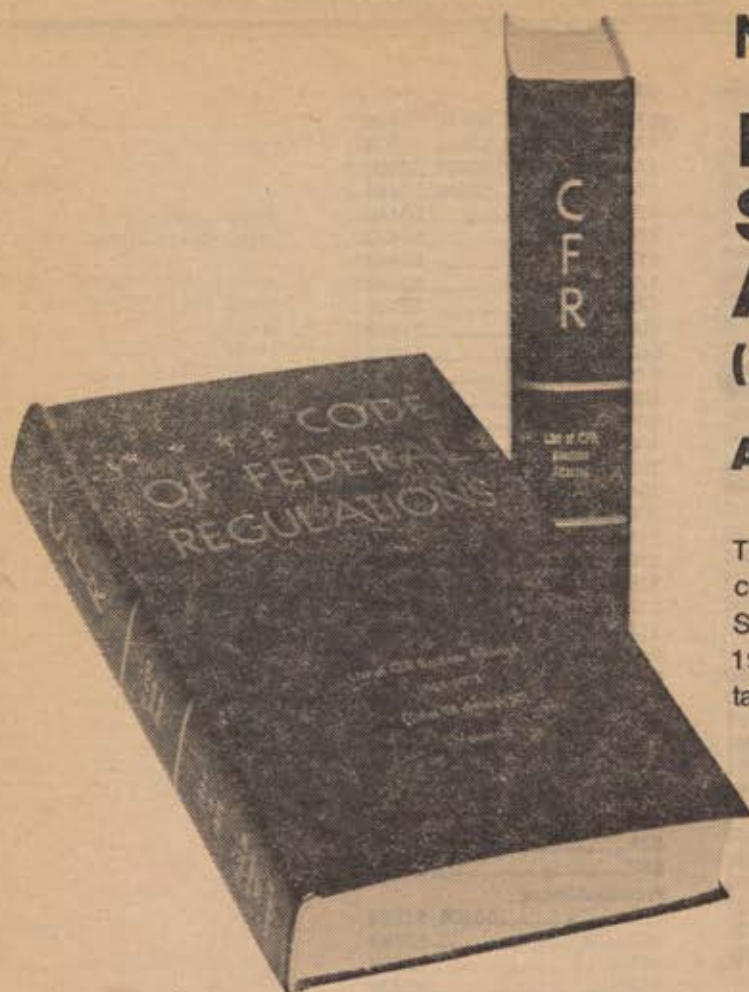
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## New Publication

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