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Federal Register

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Environmental Protection Agency

Air Traffic Control

Federal Aviation Administration

Aviation Safety

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Chemicals

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Classified Information

Federal Emergency Management Agency

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Federal Crop Insurance Corporation

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Government Procurement

Health and Human Services Department

Hazardous Materials Transportation

Research and Special Programs Administration

Marine Safety

Coast Guard

Maritime Carriers

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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.

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Housing and Urban Development Department

Radiation Protection

Nuclear Regulatory Commission

Surface Mining

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DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 810

Revision of the United States Standards for Rye

Correction

In FR Doc. 84-14034 beginning on page 22059 in the issue of Friday, May 25, 1984, make the following corrections:

§ 810.402 [Corrected]

1. On page 22061, in the second

column, § 810.402(j), in the eleventh and twelfth lines, "Faribanks-Morse of" should read "Fairbanks-Morse or".

§ 810.403 [Corrected]

2. Also on page 22061, in the third column, § 810.403(b), in the seventh line, "and" should read "an".

§ 810.406 [Corrected]

3. On page 22062, § 810.406, the table should read as follows:

Grade	Minimum test weight per bushel (pounds)	Maximum limits of—			
		Damaged kernels		Foreign material	
		Total (percent)	Heat damaged (percent)	Total (percent)	Foreign matter other than wheat (percent)
U.S. No. 1 ¹	56.0	2.0	0.2	3.0	1.0
U.S. No. 2 ¹	54.0	4.0	0.2	6.0	2.0
U.S. No. 3 ¹	52.0	7.0	0.5	10.0	4.0
U.S. No. 4	49.0	15.0	3.0	10.0	6.0

U.S. Sample grade. U.S. Sample grade shall be rye which:

- (1) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, or 4; or
- (2) Contains 8 or more stones, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis*), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), or 2 or more rodent pellets, bird droppings, or an equivalent quantity of other animal filth per 1,000 grams of rye; or
- (3) Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or
- (4) Is heating or otherwise of distinctly low quality.

¹ Rye in grade U.S. No. 1 may contain not more than 10.0 percent, in grade U.S. No. 2 not more than 15.0 percent, and in grade U.S. No. 3 not more than 25.0 percent of thin rye.

§ 810.408 [Corrected]

4. Also on page 22062, § 810.408(a), the first two lines in the second column should read: "when less than one percent shall not be stated. A fraction of a percent shall".

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Part 918

[Georgia Peach Regulation 3, Amdt. 1]

Fresh Peaches Grown in Georgia; Amendment of Grade and Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment of interim rule with request for comments.

SUMMARY: This amendment revises minimum grade requirements currently in effect for peaches grown in Georgia shipped fresh to markets outside the State. Amendment of these requirements is necessary to promote orderly marketing in the interests of producers and consumers.

DATES: Effective Date: June 8, 1984.

Comments due: July 16, 1984.

ADDRESS: Send two copies of comments to the Hearing clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch,

F&V, ANS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This amended 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 amended rule is issued under the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of fresh peaches grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). Georgia fresh peach shipments are currently regulated by grade and size under § 918.326 Georgia Peach Regulation 3, which became effective April 30, 1984. The amendment is based on information submitted by the Industry Committee established under this marketing order, and upon other available information.

This amended rule revises current grade requirements for fresh Georgia peach shipments to allow peaches with bacterial spots and sprayburn not scored as serious damage to be shipped. As amended the minimum grade would be 85 percent U.S. No. 1 quality, with additional allowances for peaches with (1) bacterial spots and sprayburn not scored as serious damage, (2) well-healed hail marks and split pits, and (3) not more than 1 percent decay. The minimum size requirements remain unchanged, as do other regulatory requirements. The amendment also makes certain nonsubstantive format changes in the regulation for clarification purposes.

The committee met by telephone on June 6, 1984, to consider supply and market conditions and other factors affecting the need for amending the current grade and size regulation for Georgia peaches. The committee recommended that current grade requirements be amended based on an appraisal of the current and prospective growing and marketing conditions for this season's remaining Georgia peach crop. The committee report that a major portion of the remaining peach crop is affected by bacterial spots and sprayburn, and this condition is

resulting in excessive cullage of useable fruit during the packing operation as the fruit does not meet current grade requirements. The committee also recommended that the amendment be made effective as soon as possible to prevent further losses. Amending current minimum grade requirements for Georgia peach shipments is necessary to promote orderly marketing of the remaining 1984 crop.

Accordingly, the Secretary finds that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in other public procedures, and postpone the effective date of this amended rule 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 purposes of the Act. Georgia peach handlers have been apprised of this amended rule's provisions and the effective date, and the amendment relieves restrictions on the handling of Georgia peaches. The amended rule provides a 30-day comment period. A longer comment period would be contrary to the public interest, as any comments on the effect of the amended rule need to be received within 30 days, so that any necessary changes can be made promptly in the amended grade and size regulations. All comments received will be considered prior to finalization of this amended interim rule. It is found that amendment of the interim rule will tend to effectuate the declared policy of the Act.

List of subjects in 7 CFR Part 918

Marketing agreements and order, Peaches, Georgia.

PART 918—[AMENDED]

Therefore, § 918.326 is revised to read as follows:

§ 918.326 Georgia Peach Regulation 3.

(a) On and after June 8, 1984: signature of this amendment of the interim rule):

(1) *Nonadjacent Markets*: No handler shall ship peaches to destinations in other than adjacent markets unless such peaches grade at least 85 percent U.S. No. 1 quality, except for bacterial spots and sprayburn not scored as serious damage, well-healed hail marks and split pits, and not more than 1 percent

decay: *Provided*, That such peaches are a least 1 1/4 inches in diameter, except that the minimum diameter requirement is 1 3/4 inches for peaches grading at least U.S. Extra No. 1 *Provided further*, That the maturity requirements in § 918.400 are suspended for all such nonadjacent market shipments.

(2) *Adjacent Markets*: No handler shall ship peaches to destinations in adjacent markets unless such peaches meet the grade and size requirements specified in paragraph (a)(1) of this section: *Provided*, That peaches shipped to adjacent markets in closed containers marked as specified in § 918.130 are exempt from such grade and size requirements if they are at least 1 1/4 inches in diameter. *Provided further*, That peaches shipped to adjacent markets in bulk are exempt from all such grade and size requirements, and the inspection requirement in § 918.64 shall not apply.

(3) *Size Tolerances*: Size tolerances applicable to the minimum size requirements specified in this section are as follows: Not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than the minimum size specified.

(b) "U.S. No. 1", U.S. Extra No. 1, and "diameter" mean the same as defined in the United States Standards for Peaches (7 CFR 51.1210-51.1223).

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

Dated: June 8, 1984.

Thomas R. Clark,

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

[FR Doc. 84-15938 Filed 6-13-84; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 930

Cherries Grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia and Maryland; Amendment of Certain Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This action specifies alternate means by which growers of

tart cherries may obtain diversion credit in lieu of placing such cherries in a reserve pool; revises the diversion fee schedule applicable to the supervision of the diversion of restricted percentage cherries and; specifies additional requirements for cherries placed into a reserve pool. These changes are necessary to facilitate procedures governing the processing of diverted cherries and to clarify requirements for cherries placed into a reserve pool. This interim rule also invites written comment by interested persons on the appropriateness of these revisions.

DATES: Effective Date: June 14, 1984.

Comments due by June 29, 1984.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

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 rule 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 tart cherry crop for the benefit of producers and consumers and will not substantially affect costs for the directly regulated persons.

These rules and regulations are issued under Marketing Order No. 930 (7 CFR Part 930), regulating the handling of tart cherries grown in eight states. The order is effective under the Agricultural Marketing Agreement Act of 1937, as Amended (7 U.S.C. 601-674). These actions are based upon the recommendation and information submitted by the Cherry Administrative Board (hereinafter referred to as the "Board") and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

Whenever the Secretary, upon recommendation of the Board, establishes free and restricted percentages for a given crop year, only free percentage cherries may be disposed of in normal channels of trade. Restricted percentage cherries must be placed into a reserve pool or diverted into an authorized use. The changes with respect to diverted cherries are

necessary to prevent such cherries from entering into normal channels of trade and were unanimously recommended by the Board at its meeting on May 9, 1984. One change requires growers to submit to the Board a copy of an agreement between such grower and the processor who will handle such grower's diverted cherries certifying that such cherries shall be used in an authorized manner. Another change specifies the means by which growers may divert their restricted percentage cherries and specifies market outlets for cherries diverted to foreign countries. It has also been necessary to increase diversion fees to recover costs incurred in the supervision by the Board of the diversion of restricted percentage cherries.

Cherries placed into a reserve pool must be either U.S. Grade A or U.S. Grade B. However, U.S. Grade B cherries have a significant allowance for pits. In previous sales of pool cherries, cherries which were U.S. Grade B for pits had to be discounted in price in order to be sold. To prevent this situation from recurring, the Board has recommended that all cherries placed into a reserve pool meet the requirements for U.S. Grade A with respect to pits.

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

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this final rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

List of Subjects in 7 CFR Part 930

Marketing agreement and orders,
Cherries.

PART 930—[AMENDED]

1. Amend § 930.101 Diversion Application, by adding a new paragraph (c) to read:

§ 930.101 Diversion application.

(c) Each producer who elects to divert cherries by other than leaving such cherries unharvested, shall include with such producer's application for diversion, a copy of an agreement between such producer and the processor to whom such producer will deliver diverted cherries. Such agreement, signed by the producer and the processor (or such processor's designated representative) shall indicate the method of diversion to be utilized, the approximate number of pounds of cherries to be so diverted, and the processor's agreement to supply the Board with documentation sufficient to prove that diverted cherries are packed and utilized in the indicated manner.

2. Amend § 930.102 Diversion Fees, by revising the table at paragraph (a)(1) and the introductory text of paragraph (a)(1) is reprinted for the convenience of the reader:

§ 930.102 Diversion fees.

(a) * * *

(1) Schedule of Fees to be Assessed Applicant:

Fee	Total acres to be diverted
\$50.00.....	50 acres or less.
\$75.00.....	51-100 acres.
\$100.00.....	101-150 acres.
\$150.00.....	151-200 acres.
\$200.00.....	201 acres or more.

* * *

3. Revise § 930.103 Diversion to read as follows:

§ 930.103 Diversion.

Diversion shall be accomplished by: Processing restricted percentage cherries into juice or juice concentrate by pressing such cherries fresh or freezing them unpitted; Processing restricted percentage cherries into dried products; or Exporting restricted percentage cherries to foreign countries other than Canada or Japan. Diversion may also be accomplished by leaving restricted percentage cherries unharvested: *Provided*, That such cherries shall remain on the tree until final inspection and shall not be removed from the premises other than by record approval: *Provided Further*,

That unless an alternate method of tree selection is requested by an applicant and is approved by the Board, the trees involved with non-harvest shall be designated on a random basis by the Board through its authorized representatives.

4. Amend § 930.104 Reserve Pool requirements, by revising the provisos in paragraphs (c) and (d) to read:

§ 930.104 Reserve pool requirements.

* * *

(c) * * * *Provided*, That not less than 50 percent of said reserve pool cherries shall grade not lower than U.S. Grade A, and the remainder not lower than U.S. Grade B except that such cherries must meet the requirements for U.S. Grade A with respect to pits (52.801-52.812 of this Title) unless otherwise exempted by the Board.

(d) * * * *Provided*, That not less than 50 percent of said reserve pool cherries shall grade not lower than U.S. Grade A, and the remainder not lower than U.S. Grade B except that such cherries must meet the requirements for U.S. Grade A with respect to pits (52.801-52.812 of this Title) unless otherwise exempted by the Board.

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

Dated: June 8, 1984.

Thomas R. Clark,

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

[FR Doc. 84-15935 Filed 6-13-84; 8:45 am]

BILLING CODE 4310-02-M

Rural Electrification Administration

7 CFR Part 1736

Electric Standards and Specifications

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby amends 7 CFR 1736.97, Incorporation by Reference of Electric Standards and Specifications, by revising REA Bulletin 50-70 (U-1), REA Specification for 15 kV and 25 kV Primary Underground Power Cable. The specification has been revised to include ethylene propylene rubber insulated power cable to bring it in conformity with the latest industry standards. Changes include revision of concentric neutral coating requirements, insulation shielding requirements, and inclusion of

ethylene propylene rubber as accepted insulation.

EFFECTIVE DATE: June 14, 1984.

FOR FURTHER INFORMATION CONTACT:

Mr. Vikramaditya Railan, Distribution Branch, Engineering Standards Division, Rural Electrification Administration, Room 1256-S, Washington, D.C. 20250, telephone (202) 382-0095. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing the chosen option is available from Mr. Railan at the above address.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*), the Rural Electrification Administration (REA) is amending 7 CFR 1736.97(b), Incorporation by Reference of Electric Standards and Specifications, by revising REA Bulletin 50-70 (U-1), REA Specification for 15 kV and 25 kV Primary Underground Power Cable.

This action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of \$100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity and, therefore, has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees.

The final rule, supporting documentation and comments received by REA concerning the proposed rule shall be available for public inspection at the above location from 8:15 a.m. to 4:45 p.m., Monday through Friday, excluding holidays.

Background

The Rural Electrification Administration (REA) maintains regulations pertaining to system design and construction for REA electric borrowers for selection of material and equipment. These regulations are contained in 7 CFR Chapter XVII. Part 1736, Electric Standards and Specifications, contains rules for manufacturers, REA and REA borrowers for selection of material and equipment. Section 1736.97(b), List of Bulletins, contains a list of all REA specifications which have been approved by the Office of the Federal Register for incorporation by reference. Bulletin 50-70 (U-1)

contains the REA Specification for 15 kV and 25 kV Primary Underground Power Cable. REA has revised this specification by making changes which include acceptance of ethylene propylene rubber as insulation, revision of concentric neutral coating requirements and insulation shielding requirements. Ethylene propylene rubber is an established cable insulation and its addition to polyethylene and crosslinked polyethylene may give REA electric borrowers a wider choice in diverse application of power cables. In addition to this, voids and protrusion limits have been established for the insulation shield and concentric neutral wires have been allowed to be clad with a galvanized metallurgically bonded layer of low carbon steel. This action may encourage manufacture of a better quality product for REA electric borrowers and may decrease the cost of manufacture.

The proposed rule was published in the *Federal Register* on December 21, 1983. Interested parties were given sixty (60) days in which to express their views on the proposed rule. The notice in the *Federal Register* elicited only one comment on the proposed rule. The commentor stated that non-tree resistant polyethylene insulation compounds have had a high failure rate and, therefore, should be prohibited from Specification U-1.

REA chose not to implement this comment for the following reasons: (1) REA lists material and equipment meeting certain national standards. Non-tree resistant polyethylene insulation compounds meet such national standards; and (2) REA electric borrowers are free to choose from a wide selection of cable insulations. REA would, nevertheless, continue to monitor the failure reports of various insulation compounds.

List of Subjects in 7 CFR Part 1736

Electric utilities, Engineering standards.

PART 1736—[AMENDED]

In view of the above, REA hereby amends 7 CFR Part 1736. In § 1736.97, paragraph (b) is amended by revising the entry for Bulletin 50-70 (U-1) to read as follows:

§ 1736.97 Incorporation by reference of electric standards and specifications.

(b) *List of Bulletins*

Bulletin 50-70 (U-1), REA Specification for 15 kV and 25 kV Primary Underground Power Cable (6-84)

(7 U.S.C. 901 *et seq.*)

Dated: June 4, 1984.

Jack Van Mark,
Acting Administrator.

[FR Doc. 84-16019 Filed 6-13-84; 8:45 am]

BILLING CODE 3410-15-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 30, 40, 50, 51, 61, 70, 72, and 110

Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions and Related Conforming Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule and confirmation of effective date.

SUMMARY: In a final rule published in the *Federal Register* on March 12, 1984 (49 FR 9352), the Nuclear Regulatory Commission revised its regulations to implement section 102(2) of the National Environmental Policy Act of 1969 (NEPA), as amended, consistent with NRC's domestic licensing and related regulatory authority. This notice amends this final rule to include the approval of its collection of information requirements that were approved by the Office of Management and Budget on June 6, 1984, and to confirm the effective date of the final rule as June 7, 1984. This notice also removes the section, published May 9, 1984 (49 FR 19627), that set out information collection requirements approved by OMB as of December 31, 1983, because this section has been superseded by the revision to Part 51 and OMB approval of the information collection requirements contained in that revision.

EFFECTIVE DATE: June 7, 1984.

FOR FURTHER INFORMATION CONTACT:

Jane R. Mapes, Senior Regulations Attorney, Regulations Division, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: 301-492-8695.

SUPPLEMENTARY INFORMATION: The collection of information requirements in this final rule were not approved by the Office of Management and Budget (OMB) at the proposed rule stage because the proposed rule was published prior to April 1, 1981, when

the Paperwork Reduction Act became effective.

List of Subjects in 10 CFR Part 51

Administrative practice and procedure, Environmental impact statements, Nuclear materials, Reporting and recordkeeping requirements.

PART 51—[AMENDED]

Therefore, make the following amendments:

1. On page 9380, the statement on the Paperwork Reduction Act Review is revised to read as follows:

Paperwork Reduction Act Review

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval number 3150-0021.

§ 51.4a [Removed]

2. Section 51.4a is removed.
3. On page 9383, paragraph (b) of § 51.12 is revised to read as follows:

§ 51.12 Application of subpart to ongoing environmental work.

(b) No environmental report or any supplement to an environmental report filed with the NRC and no environmental assessment, environmental impact statement or finding of no significant impact or any supplement to any of the foregoing issued by the NRC before June 7, 1984, need be redone and no notice of intent to prepare an environmental impact statement or notice of availability of these environmental documents need be republished solely by reason of the promulgation on March 12, 1984, of this revision of Part 51.

4. On page 9384, § 51.17 is revised to read as follows:

§ 51.17 Information collection requirements; OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). OMB has approved the information collection requirements contained in this part under control number 3150-0021.

(b) The approved information collection requirements in this part appear in §§ 51.16, 51.41, 51.45, 51.50, 51.51, 51.52, 51.53, 51.54, 51.55, 51.60, 51.61, 51.62, 51.66, 51.68, and 51.69.

Dated at Washington, D.C., this 11th day of June 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-16011 Filed 6-13-84; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Part 20

Change in Mailing Address for Submittal of Personnel Monitoring Reports

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations that affect NRC licensees who are required to submit periodic personnel monitoring reports. The amendments reflect the transfer of the occupational radiation exposure data collection function to a different NRC office, thus requiring a change in the mailing address.

EFFECTIVE DATE: June 14, 1984.

FOR FURTHER INFORMATION CONTACT:

Barbara Brooks, Occupational Radiation Protection Branch, Division of Radiation Programs and Earth Sciences, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301-427-4577.

SUPPLEMENTARY INFORMATION: Effective January 8, 1984, the Office of Resource Management (RM) was reorganized in order to achieve more efficient use of its staff resources. Coincident with the reorganization, the former RM functions of collecting, reviewing, and coding radiation exposure information were transferred to the Occupational Radiation Protection Branch of the Office of Nuclear Regulatory Research.

This action is being taken in order to inform NRC licensees of the change in the mailing address to be used for the submittal of personnel monitoring reports. These amendments relate solely to minor matters of agency management and do not alter the rights or interests of licensees. Accordingly, the notice and comment procedures of the Administrative Procedure Act, 5 U.S.C. 553, are inapplicable and the amendments may be made effective on publication in the Federal Register.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were

approved by the Office of Management and Budget approval number 3150-0014.

List of Subjects in 10 CFR Part 20

Byproduct material, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

For the reasons set out in the preamble and 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 NRC is adopting the following amendments to 10 CFR Part 20.

Authority: The authority for this document is: Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201), and Sec. 201, Pub. L. 93-438, 88 Stat. 1242, as amended (42 U.S.C. 5841).

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. In § 20.407, the introductory paragraph is revised to read as follows:

§ 20.407 Personnel monitoring reports.

Each person described in § 20.408 of this part shall, within the first quarter of each calendar year, submit to the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, the reports specified in paragraphs (a) and (b) of this section, covering the preceding calendar year.¹

2. In § 20.408, paragraph (b) is revised to read as follows:

§ 20.408 Reports of personnel monitoring on termination of employment or work.

(b) When an individual terminates employment with a licensee described in paragraph (a) of this section, or an individual assigned to work in such a licensee's facility, but not employed by the licensee, completes the work assignment in the licensee's facility, the licensee shall furnish to the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, a report of the individual's exposures to radiation and radioactive material, incurred during the period of employment or work assignment in the licensee's facility, containing information recorded by the

¹ A licensee whose license expires or terminates prior to, or on the last day of the calendar year, shall submit reports at the expiration or termination of the license, covering that part of the year during which the license was in effect.

licensee pursuant to §§ 20.401(a) and 20.108. Such report shall be furnished within 30 days after the exposure of the individual has been determined by the licensee or 90 days after the date of termination of employment or work assignment, whichever is earlier.

Dated at Bethesda, Maryland, this 30 day of May, 1984.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 84-16012 Filed 6-13-84; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-45-AD; Amdt. No. 39-4859]

Airworthiness Directive; AMI Industries, Inc., Seat Models 716 and 865

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing airworthiness directive (AD) applicable to AMI Industries, Inc. Models 716 and 865 crew seats which requires installation of seat frame braces on certain crew seats. This Action is necessary because certain Beech Model 18 airplanes have interference between the frame brace required by the AD, installed on the inboard side of the pilot's seat, and an adjacent housing. This amendment specifies a redesigned brace for this application and extends the compliance time.

DATE: Effective June 13, 1984.

ADDRESSES: The applicable service information may be obtained from: AMI Industries, Inc., P.O. Box 370, Colorado Springs, Colorado 80901. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Denver Aircraft Certification Office, 10455 East 25th Avenue, Suite 307, Aurora, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Woodford R. Boyce, Manager, Denver Aircraft Certification Office, FAA, Northwest Mountain Region, 10455 East 25th Avenue, Suite 307, Aurora, Colorado 80010; telephone (303) 340-5576.

SUPPLEMENTARY INFORMATION: The FAA issued Amendment 39-4752 (48 FR 48804; October 21, 1983), AD 83-21-06, to

require installation of seat frame braces on applicable AMI crew seat Models 716 and 865. Subsequent to the issuance of the AD, it was discovered that interference exists between the new seat brace and an adjacent housing on certain Beech Model 18 airplanes. An exemption was granted to extend the AD compliance date to April 26, 1984, for these airplanes to allow for redesigning, testing, and the manufacture of new parts. This amendment provides for installation of alternate Brace Kit No. 865K90000-3 in place of the brace kit which does not fit these airplanes, in accordance with AMI revised Service Bulletin No. 25-10-865-01, Revision B, dated February 22, 1984. In addition, it has been determined that the compliance time may be further extended without compromising safety and thereby preclude the necessity of removing aircraft from service until the new kits can be installed. The final compliance date is, therefore, extended 90 days to July 31, 1984.

This document is necessary to prevent the affected aircraft from being removed from service. In addition, it provides for an alternate brace kit which will properly clear the adjacent housing to the seats as covered in the original AD and thereby, provides an alternate means of compliance. Accordingly, notice and public procedure hereon are unnecessary and insofar as aircraft would be otherwise grounded when safety does not require it, notice and public procedure would be contrary to the public interest. Further, good cause having been shown therefor, the amendment may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 83-21-06, Amendment 39-4752 (48 FR 48804, October 21, 1983), by revising the second and third paragraphs to read as follows:

"Compliance required on or before July 31, 1984, unless previously accomplished.

To prevent the possible failure of crew seats, reinforce the crew seat frame assembly P/N 865J10005-1 by installation of AMI Industries, Inc., seat frame brace kit P/Ns 865K90000-1 or 865K90000-3 in accordance with AMI Industries, Inc., Service Bulletin No. 25-10-865-01, Revision B, dated February 22, 1984, or later FAA approved revision."

This amendment becomes effective June 13, 1984.

(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 11.89))

Note.—The Federal Aviation Administration has determined that this document involves and amendment that only adds and alternate means of compliance and extends the compliance time, and does not impose any additional regulatory or economic burden on any person. This amendment is, therefore, not major under Executive Order 12291 (46 FR 13193; February 19, 1981) and not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. For these reasons and because few, if any, Beech 18 airplanes are operated by small entities, I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, on April 26, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-15926 Filed 6-13-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-AWP-4]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the description of the control zone for Chino Airport, Chino, California. A control extension was originally established for an approach procedure that no longer exists. Since controlled airspace protection is no longer needed for this approach, the control extension is no longer required.

DATES: Effective Date: August 30, 1984. Comments must be received on or before August 1, 1984.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Airspace and Procedures Branch, AWP-530, Post Office Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007.

The official docket may be examined in the office of Western-Pacific Regional

Counsel, Room 6W14, at 15000 Aviation Blvd., Lawndale, California.

An informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, Room 6E16, 15000 Aviation Blvd., Lawndale, California.

FOR FURTHER INFORMATION CONTACT:

Tom Huntington, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Blvd., Lawndale, California 90261, telephone (213) 536-6182.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves the release of controlled airspace no longer required for IFR operations due to cancellation of a VOR approach procedure to Chino Airport, and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to amend the description of the Chino, California, Control Zone by deleting the control extension that lies 1.5 miles each side of the Ontario, California, VORTAC by (renamed Paradise, California VORTAC) 303° radial, extending from the 3-mile radius area to one mile northwest of the VORTAC.

(Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6, dated January 3, 1984)

Under the circumstances presented, this action reduces a burden on airspace users and is so minor in nature that the FAA does not anticipate significant public interest. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective on the next charting date.

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.m.t., August 30, 1984, as follows:

§ 71.171 Chino, California. [Amended]

By deleting the words "and within 1.5 miles each side of the Ontario, California, VORTAC 303° radial, extending from the 3-mile radius area to 1 mile northwest of the VORTAC."

(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 Los Angeles, California, on June 1, 1984.

Richard L. Devereaux,

Acting Director, Western-Pacific Region.

[FR Doc. 84-15929 Filed 6-13-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-AWP-12]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone, and Transition Area, Monterey, California (Monterey Peninsula Airport)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the transition area and control zone at Monterey Peninsula Airport, Monterey, California. This action provides the necessary controlled airspace for a localizer approach with distance measuring equipment (DME) being installed for Runway 28 at Monterey Peninsula Airport.

EFFECTIVE DATE: August 30, 1984.

FOR FURTHER INFORMATION CONTACT:

Tom Huntington, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (213) 536-6182.

SUPPLEMENTARY INFORMATION:

History

On April 16, 1984, the FAA proposed to amend Part 71, of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area and control zone at Monterey Peninsula Airport, Monterey, California (49 FR 14967). These changes were necessitated to provide controlled airspace protection for aircraft executing a new instrument approach procedure to Runway 28. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. All comments received were favorable. Except for editorial changes, this amendment is the same as that proposed in the notice. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in FAA Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the transition area and control zone at Monterey Peninsula Airport, Monterey, California. This action will provide the necessary controlled airspace for a localizer approach with distance measuring equipment (DME) being installed for Runway 28 at Monterey Peninsula Airport.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

Adoption of Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., August 30, 1984, as follows:

§ 71.171 Monterey, California [Revised]

Within a 5-mile radius of the Monterey Peninsula Airport (lat. 36°35'20" N., long. 121°51'00" W.); within 2 miles each side of the 317° bearing from the Monterey ILS LMM, extending from the 5-mile radius zone to 7 miles NW of the LMM, excluding the portion

within the Fort Ord, California, control zone; within 3.5 miles each side of the localizer east course extending from the 5-mile radius zone to 17.5 miles east of the Runway 28 landing threshold.

§ 71.181 Monterey, California [Revised]

That airspace extending upward from 700 feet above the surface within a 13-mile radius of Fritzsche AAF, Fort Ord, California (lat. 36°40'55" N., long. 121°45'40" W.), excluding the portion south of lat. 36°32'00" N.; within 5 miles north and 3.5 miles south of 114° bearing from the Monterey Peninsula Airport (lat. 36°35'17" N., long. 121°50'53" W.) to a point 20 miles southeast of Monterey Peninsula Airport; within 5 miles each side of the Big Sur VORTAC 109° radial to a point 25 miles northeast of the Big Sur VORTAC; within a 3-mile radius of Watsonville Municipal Airport (lat. 36°56'15" N., long. 121°47'15" W.); within 3 miles each side of the Salinas VORTAC 330° radial, extending from the 3-mile radius area to the 13-mile radius of Fritzsche AAF and within 3 miles each side of the Watsonville localizer course extending from the 3-mile radius to 5 miles south of Runway 1 threshold of the Watsonville Airport; that airspace extending upward from 1200 feet above the surface bounded by a line beginning at lat. 37°05'00" N., long. 122°43'15" W.; to lat. 37°08'45" N., long. 122°34'45" W.; thence southeast via V-27 to lat. 37°00'00" N., to lat. 37°00'00" N., long. 121°29'30" W.; to lat. 36°23'00" N., long. 121°03'20" W.; to lat. 36°03'30" N., long. 121°29'00" W.; thence southeast via V-27 to long. 121°03'00" W.; to lat. 35°30'00" N., long. 121°03'00" W., to lat. 35°30'00" N., long. 121°37'00" W., to the point of beginning; that airspace extending upward from 5,000 feet MSL bounded on the northwest by a line 12 miles southeast of the parallel to the Big Sur VOR 047° radial, on the northeast by V-25, on the south by a line extending from the southwest boundary of V-25, and lat. 35°33'00" N., to lat. 35°33'00" N., long. 121°03'00" W., thence south to the northeast boundary of V-27 and long. 121°03'00" W., and on the southwest by V-27.

(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 11.65))

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 Los Angeles, California, on June 1, 1984.

Richard L. Devereaux,

Acting Director, Western-Pacific Region.

[FR Doc. 84-15928 Filed 6-13-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-ACE-08]

Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points; Alteration of Transition Area—Chariton, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Chariton, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Chariton Municipal Airport, Chariton, Iowa, utilizing the Des Moines, Iowa, VORTAC as a navigational aid. The intended effect of this section is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

DATES: Effective date—August 30, 1984. Comments must be received on or before July 15, 1984.

ADDRESSES: Send comments on the rule to: Federal Aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, 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 Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage an additional instrument approach procedure to the Chariton Municipal Airport, Chariton, Iowa, is being established utilizing the Des Moines VORTAC as a navigational aid. The establishment of this new instrument approach procedure based on this navigational aid entails alteration of the transition area at Chariton, Iowa, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Although this action will slightly alter and increase the size of the transition area and is in the form of a final rule, it was not preceded by notice and public procedure because (1) no flight paths are affected by this action, (2) no public or private-use airports are located in or near the increased portion of the transition area, (3) the increased size of the transition area is minimal and (4) no objections were anticipated through circularization of a Notice of Proposed Rulemaking. However, interested persons are being given the opportunity to comment on the final rule. When the comment period ends, the FAA will use the comments submitted, together with any other available information, to review the regulation. If this review indicates that changes to the rule are appropriate, the FAA will initiate rulemaking proceedings to amend it. Comments that include facts supporting the views and suggestions expressed will be of the most help in evaluating the appropriateness of the rule.

List of Subjects in 14 CFR Part 71

Airspace, Transition areas.

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.M.T., August 30, 1984 by altering the following transition area:

Chariton, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Chariton Municipal Airport (Latitude: 41°01'13"N, Longitude: 93°21'44"W) and within 3 miles east and 5 miles west of the 352° bearing from the Chariton Municipal Airport extending from the 5-mile radius area to 8 miles north 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 § 11.69 of the Federal Aviation Regulations (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 Kansas City, Missouri, on May 31, 1984.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 84-15927 Filed 6-13-84; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Part 100

[CGD2 84-05]

Special Local Regulations; Portsmouth Sternwheel Regatta, Portsmouth, Ohio

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for Miles 355.5 to 357.0, Ohio River for the Portsmouth Sternwheel Regatta. This event will be held on June 24, 1984, at Portsmouth, Ohio. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on June 24, 1984, only between the hours of 2:00 p.m. and 6:00 p.m., and between the hours of 10:00 p.m. and 10:30 p.m. local time.

FOR FURTHER INFORMATION CONTACT: Cdr. R. B. Bower, Chief, Boating Technical Branch, Second Coast Guard District, 1430 Olive St., St. Louis, MO 63103, (314) 425-5971.

SUPPLEMENTARY INFORMATION: This special local regulation is issued pursuant to 46 U.S.C. 454 and 33 CFR 100.35, for the purpose of promoting the safety of life and property on the Ohio River between miles 355.5 and 357.0 during the "Portsmouth Sternwheel Regatta" on June 24, 1984.

This event will consist of boat races and a fireworks display which could pose hazards to navigation in the area. (The boat races are expected to begin at 2:00 p.m. and end at 6:00 p.m. and the

fireworks display is expected to begin at 10:00 p.m. and end at 10:30 p.m. local time, on this date.) Therefore, these special local regulations are deemed necessary for the promotion of safety of life and property in the area during this event. A notice of proposed rule making has not been published for these regulations and they are being made effective less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. The revised application to hold the event was not received until May 18, 1984, and there was not sufficient time remaining to publish proposed rules in advance of the event, or to provide for a delayed effective date.

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

Drafting Information

The drafters of this regulation are BMCM W. L. Giessman, USCGR, Project Officer, Boating Technical Branch, and Lt. T. A. Councilor, USCG, Project Attorney, Second Coast Guard District Legal Office.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation [water].

PART 100—[AMENDED]

Final Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-0206 to read as follows:

§ 100.35-0206 Ohio River, miles 355.5 through 357.0.

(a) *Regulated Area:* The following portion of the Ohio River will be closed to commercial navigation or mooring from 2:00 p.m. until 6:00 p.m. (local time)

and from 10:00 p.m. until 10:30 p.m. (local time) on June 24, 1984.

(1) The area between Mile 355.5-357.0 Ohio River is designated the regatta area. The above times represent a guideline for possible river closure times not to exceed four (4) hours in duration.

(b) *Special Local Regulations:* Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. The rules contained in the above two sentences shall not apply to participants in the event or vessels of the patrol, while they are operating in the performance of their assigned duties.

(1) The Patrol Commander may be reached on Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(c) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the Patrol Vessel. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) The Patrol Commander may establish vessel size and speed limitations and operating conditions.

(e) The Patrol Commander may restrict vessel operation within the marine event area to vessels having particular operating characteristics.

(f) The Patrol Commander may terminate the marine event at any time it is deemed necessary for the protection of life and property.

(g) This § 100.35-0206 will become effective at 2:00 p.m. (local time) on June 24, 1984, and will no longer be effective after 10:30 p.m. (local time) on June 24, 1984.

(46 U.S.C. 454, 46 U.S.C. 1461(d), 46 U.S.C. 1483, 46 U.S.C. 1484(b), 49 U.S.C. 1655(b)(1), 33 CFR 100.35, 33 CFR 100.50, 49 CFR 1.45(b), 49 CFR 1.46(n)(1))

Dated: May 25, 1984.

S. B. Vaughn,

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

[FR Doc. 84-16008 Filed 6-13-84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OAR-FRL 2607-7]

Air Programs; Approval and Promulgation of Implementation Plans; Rhode Island; Temporary Sulfur Dioxide Bubble Revision for University of Rhode Island in Kingston, Rhode Island; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This document corrects an error contained in a final rulemaking notice that appeared in the *Federal Register* of Tuesday, May 15, 1984, (49 FR 20494). This action is necessary to correct a typographical error in an emission limitation citation.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, FTS 223-4868, (617) 223-4868.

On page 20494 in the first column under the heading *Background*, the last sentence of the first paragraph is corrected to read, "Under § 8.3.2 sources must continue to meet the applicable SIP emission rate for total suspended particulates (TSP) of 0.10 pounds per million BTU actual heat input on a plantwide basis."

Dated: June 1, 1984.

Michael R. Deland,
Regional Administrator, Region I.

[FR Doc. 84-15953 Filed 6-13-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 8

National Security Information

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule sets forth FEMA procedures delegating original classification authority and for the systematic and mandatory review for declassification of classified information. This rule is necessary to implement the requirements of section 5.3(b) of Executive Order 12356, National Security Information.

EFFECTIVE DATE: July 16, 1984.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 835, 500 C Street SW., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Arlan L. Kinney, Director, Office of Security, FEMA, Telephone (202) 287-0700.

SUPPLEMENTARY INFORMATION: This regulation provides information to the public for obtaining information that may be declassified. Notice of proposed rulemaking was published on February 16, 1984, with comment due April 16, 1984. (49 FR 5976.) No comments were received. No changes except for minor editorial changes have been made in the final version. This regulation is not a major rule within the terms of Executive Order 12291, nor does it have significant economic impact on a substantial number of small businesses. Hence no regulatory impact analyses are being prepared. It deals with administrative matters and has no impact on the environment and is within categorical exemption clauses under 44 CFR Part 10. There are no collection of information requirements, hence the regulation is not subject to 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 8

Classified information.

Accordingly Chapter 1 of Title 44, Code of Federal Regulations is amended by adding a new Part 8 as follows:

PART 8—NATIONAL SECURITY INFORMATION

Sec.

- 8.1 Purpose.
- 8.2 Original Classification Authority.
- 8.3 Senior FEMA Official Responsible for the Information Security Program.
- 8.4 Mandatory Declassification Review Procedures.

Authority: Reorganization Plan No. 3 of 1978, Executive Orders 12148 and 12356.

§ 8.1 Purpose.

(a) Section 5.3(b) of Executive Order (EO) 12356, "National Security Information" requires agencies to promulgate implementing policies and regulations. To the extent that these regulations affect members of the public, these policies are to be published in the *Federal Register*.

(b) This notice provides public notification of the FEMA procedures for processing requests for the mandatory review of classified information, section 3.4(d) of E.O. 12356.

§ 8.2 Original classification authority.

(a) The Director, Federal Emergency Management Agency (FEMA), has the authority to classify information originally as TOP SECRET, as designated by the President in the *Federal Register*, Vol 47, No. 91, May 11,

1982, in accordance with section 1.2(a)(2), E.O. 12356.

(b) In accordance with section 1.2(d)(2), E.O. 12356, the following positions have been delegated ORIGINAL TOP SECRET CLASSIFICATION AUTHORITY by the Director, FEMA:

- (1) DEPUTY DIRECTOR, FEMA
- (2) ASSOCIATE DIRECTOR, EMERGENCY OPERATIONS DIRECTORATE, FEMA
- (3) DIRECTOR, OFFICE OF SECURITY

(c) The positions delegated ORIGINAL TOP SECRET CLASSIFICATION AUTHORITY in section 8.2(b), above, are also delegated ORIGINAL SECRET and CONFIDENTIAL CLASSIFICATION AUTHORITY by virtue of this delegation. Any further delegation of original classification authority, for any classification level, will be accomplished only by the Director of FEMA.

§ 8.3 Senior FEMA official responsible for the information security program.

The Director of Security, FEMA, has been designated as the senior official to direct and administer the FEMA information security program, in accordance with section 5.3(a), E.O. 12356.

§ 8.4 Mandatory declassification review procedures.

(a) All information classified by FEMA under E.O. 12356 or predecessor orders shall be subject to a review for declassification if such a review is requested by a United States citizen or permanent resident alien, a Federal agency or a State or local government.

(b) Requests for declassification review shall be submitted to the Office of Security, Federal Emergency Management Agency, Washington, D.C. 20472. All requests shall be in writing and reasonably describe the information sought with sufficient clarity to enable the appropriate FEMA component to identify the information sought. Any requests that do not sufficiently identify the information sought shall be returned to the requestor and he or she shall be asked to clarify the request and/or provide additional information.

(c) If within 30 days the requestor does not respond to the agency's request for clarification or additional information, the FEMA Office of Security shall notify the requestor that no further action can be taken on the request. If the requestor's response to the agency's request for clarification and/or additional information is inadequate, the Office of Security shall

notify him or her that no further action will be taken until such time as the agency is provided with adequate information concerning the request. In addition, the agency's response will set forth the agency's explanation of the deficiencies of the request.

(d) Once a request meets the foregoing requirements for processing, it will be acted upon as follows:

(1) Receipt of all requests shall be acknowledged within ten (10) working days.

(2) FEMA action upon a request shall be completed within sixty (60) calendar days.

(e) The Director of Security shall designate a FEMA component to conduct the declassification review. This will normally be the originating component. The designated program or staff office shall conduct the review and forward its recommendation(s) to the Office of Security. Information no longer requiring protection under E.O. 12356 shall be declassified and released unless withholding is otherwise authorized under applicable law. When information cannot be declassified in its entirety, FEMA will make a reasonable effort to release those declassified portions of the requested information that constitute a coherent segment. If the information may not be released in whole or part, the requestor shall be given a brief statement as to the reason for the denial, a notice of the right to appeal the determination to the Director of FEMA and a notice that such an appeal must be filed within sixty (60) calendar days to be considered.

(f) If the request requires the rendering of services for which fees may be charged under 31 U.S.C. 9701, such fees may be imposed in accordance with the provisions of 44 CFR Part 5, subpart C.

(g) The following procedures shall be followed when denials of requests for declassification are appealed:

(1) The Director shall, within fifteen (15) working days of receipt of the appeal, convene a meeting of the FEMA Information Security Oversight Committee (ISOC). Representation on the FEMA ISOC shall include the Director of Security or his representative, a representative of the component that denied the original request, a representative from the Office of General Counsel, a representative from the Office of Public Affairs and the Special Assistant for Security Policy.

(2) If the ISOC upholds the appeal in its entirety, the information will be released in accordance with the provisions of section 8.4(e), above.

(3) If the ISOC denies the appeal, in part or in its entirety, then it will forward the appeal with their

recommendation(s) to the Director of FEMA, for a final determination. A reply will be forwarded to the requestor enclosing the declassified releasable information if any, and an explanation for denying the request in whole or in part.

(4) Final action on appeals shall be completed within thirty (30) working days of receipt of appeal.

Dated: June 8, 1984.

Louis O. Giuffrida,

Director.

[FR Doc. 84-15921 Filed 6-13-84; 8:45 am]

BILLING CODE 8710-01-M

44 CFR Part 64

[Docket No. FEMA 6607]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the *Federal Register*.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287-0222, 500 C Street, Southwest, FEMA—Room 509, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have

adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et. seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the *Federal Register*.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended.) This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not

have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as

a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of

effective dates appears for each listed community.

List of Subject in 44 CFR Part 64

Flood insurance, Flood plains.

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

§ 64.6 List of eligible communities.

State and county	Location	Community	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date ¹
Region I					
Massachusetts:					
Worcester	Ashburnham, town of	250290B	July 23 1975, emergency; June 15, 1984, regular; June 15, 1984, suspended.	July 19, 1974, and Sept. 17, 1976.	June 15, 1984.
Dukes	Tisbury, town of	250073C	June 20, 1975, emergency; June 15, 1984, regular; June 15, 1984, suspended.	Mar. 22, 1974, June 11, 1976, and Oct. 1, 1983.	Do.
Vermont: Caledonia	Hardwick, town and village of	500027B	Aug. 9, 1973, emergency; June 15, 1984, regular; June 15, 1984, suspended.	June 28, 1974, and May 31, 1977.	Do.
Region II					
New Jersey: Essex	Orange, city of	340192A	Oct. 2, 1973, emergency; June 15, 1984, regular; June 15, 1984, suspended.	Nov. 26, 1976	June 15, 1984.
New York:					
Dutchess	East Fishkill, town of	361336B	July 24, 1975, emergency; June 15, 1984, regular; June 15, 1984, suspended.	Nov. 1, 1974, and July 9, 1976.	Do.
Do	Hyde Park, town of	361338B	May 6, 1976, emergency; June 15, 1984, regular; June 15, 1984, suspended.	Dec. 20, 1974, and Oct. 22, 1976.	Do.
Saratoga	Moreau, town of	360723	Aug. 11, 1975, emergency; June 15, 1984, regular; June 15, 1984, suspended.	May 28, 1976	Do.
Schenectady	Rotterdam, town of	360740B	May 22, 1974, emergency; June 15, 1984, regular; June 15, 1984, suspended.	June 14, 1974, and July 30, 1976.	Do.
Saratoga	Saratoga Springs, city of	360726B	June 24, 1975, emergency; June 15, 1984, regular; June 15, 1984, suspended.	Sept. 20, 1974, and July 30, 1976.	Do.
Do	Saratoga, town of	360727B	July 30, 1975, emergency; June 15, 1984, regular; June 15, 1984, suspended.	Sept. 13, 1974, and June 25, 1976.	Do.
Steuben	Woodhull, village of	360787B	June 20, 1975, emergency; June 15, 1984, regular; June 15, 1984, suspended.	Aug. 9, 1974, and June 25, 1976.	Do.
Region III					
West Virginia: Hancock	Unincorporated areas	540047B	Aug. 21, 1975, emergency; June 15, 1984, regular; June 15, 1984, suspended.	Aug. 2, 1974, and July 22, 1977.	June 15, 1984.
Region IV					
Mississippi: Harrison	Unincorporated areas	285255B	July 17, 1970, emergency; June 15, 1984, regular; June 15, 1984, suspended.	Sept. 18, 1970, July 1, 1974, June 15, 1978, and Oct. 1, 1983.	June 15 1984.
Tennessee:					
Montgomery	Clarksville, city of	470137C	July 31, 1975, emergency; June 15, 1984, regular; June 15, 1984, suspended.	Sept. 6, 1974, Aug. 6, 1976, and Sept. 5, 1980.	Do.
Sumner	Millersville, city of	470388A	Aug. 30, 1982, emergency; June 15, 1984, regular; June 15, 1984, suspended.		Do.
Montgomery	Unincorporated areas	470136B	Sept. 2, 1975, emergency; June 15, 1984, regular; June 15, 1984, suspended.	Aug. 30, 1974, and Feb. 24, 1978.	Do.
Sevier	Pigeon Forge, city of	475442C	Nov. 13, 1971, emergency; Sept. 1, 1972, regular; June 15, 1984, suspended.	Nov. 12, 1971, Sept. 1, 1972, July 1, 1974, Oct. 1, 1976, and Dec. 8, 1978.	Do.
Rutherford	Unincorporated areas	470165B	Jan. 30, 1975, emergency; June 15, 1984, regular; June 15, 1984, suspended.	May 26, 1978	Do.
Region V					
Michigan: Midland and Bay	Midland, city of	260140B	Jan. 20, 1975, emergency; June 15, 1984, regular; June 15, 1984, suspended.	May 3, 1974, and Aug. 1, 1975.	June 15, 1984.
Minnesota: Nobles	Worthington, city of	270321B	May 28, 1974, emergency; June 15, 1984, regular; June 15, 1984, suspended.	May 3, 1974, and Oct. 22, 1976.	Do.
Region VI					
Louisiana: Jefferson Parish	Westwego, city of	220094C	Apr. 27, 1973, emergency; June 15, 1984, regular; June 15, 1984, suspended.	July 16, 1976, Dec. 28, 1976, and Mar. 11, 1977.	June 15, 1984.
Region VII					
Iowa: Dubuque	Sageville, city of	190122B	Nov. 20, 1974, emergency; June 15, 1984, regular; June 15, 1984, suspended.	Nov. 1, 1974, and Mar. 5, 1976.	June 15, 1984.

State and county	Location	Community	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date ¹
Region IX					
California:					
San Diego	Unincorporated areas	060284C	Mar. 5, 1971, emergency; June 15, 1984, regular; June 15, 1984, suspended.	July 19, 1977, and Oct. 20, 1981.	June 15, 1984.
Santa Cruz	Watsonville, city of	060357C	Jan. 17, 1975, emergency; June 15, 1984, regular; June 15, 1984, suspended.	Mar. 22, 1974, Nov. 21, 1975, and Jan. 14, 1977.	Do.
Nevada: White Pine	Ely, city of	320023A	July 19, 1974, emergency; June 15, 1984, regular; June 15, 1984, suspended.	Dec. 10, 1976	Do.

¹ Date certain Federal assistance no longer available in special flood hazard areas.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: June 6, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-15922 Filed 6-13-84; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Part 572

[Docket No. 84-26]

Rules Governing Agreements by Ocean Common Carriers and Other Persons Subject to the Shipping Act of 1984

AGENCY: Federal Maritime Commission.

ACTION: Interim rule.

SUMMARY: The Commission instituted this proceeding by Federal Register notice of May 29, 1984 (49 FR 22296-22318), in order to issue rules implementing those sections of the Shipping Act of 1984 that govern agreements. The collection of information requirements of these interim rules have been granted interim clearance by the Office of Management and Budget (OMB), and are, therefore, effective on June 18, 1984, to the same extent as the balance of the interim rules. A new section has been added to reflect the interim control number assigned by OMB to these information collection requirements.

DATE: Interim Rule effective June 18, 1984.

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

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission is amending these interim rules by adding a new section which reflects the interim control number assigned by OMB to the information collection requirements of the rules.

List of Subjects in 46 CFR Part 572

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

PART 572—[AMENDED]

Therefore, Part 572 of Title 46 of the Code of Federal Regulations is amended as follows:

Add § 572.991 to Subpart I to read as follows:

§ 572.991 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

This section displays the control number assigned to information

collection requirements of the Commission in this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511. The Commission intends that this section comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of the Office of Management and Budget (OMB) for each agency information collection requirement:

Section	Current OMB control No.
572.101 through 572.902	3072-0045

(Secs. 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 15, 16, 17 and 18 of the Shipping Act of 1984 (46 U.S.C. app. 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1709, 1710, 1712, 1714, 1715, 1716 and 1717))

By the Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 84-15975 Filed 6-13-84; 8:45 am]

BILLING CODE 6730-01-M

Proposed Rules

Federal Register

Vol. 49, No. 116

Thursday, June 14, 1984

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 427

[Docket No. 0813S; Amdt. No. 1]

Oat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation. USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby proposes to amend Appendix A to the Oat Crop Insurance Regulations (7 CFR Part 427) to include additional counties recently approved by FCIC's Board of Directors for oat crop insurance, to list counties inadvertently omitted from previous county listing publications, and to republish Appendix A in its entirety to reflect all counties currently designated for oat crop insurance. The intended effect of this rule is to update the list of counties wherein oat crop insurance is otherwise authorized to be offered under the provisions of the Oat Crop Insurance Regulations and to notify all interested parties in the additional affected counties that they are now eligible to participate in the program.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than July 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.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512-1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity,

and effectiveness of these regulations under that memorandum. The sunset review date established for these regulations is February 1, 1987.

Merritt W. Sprague, Manager, FCIC, has determined that this action: (1) Is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not have an annual effect on the economy of \$100 million or more; and (2) will not increase the Federal paperwork burden for individuals, small business, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule applies are: Title—Corp Insurance; Number 10.450.

As set forth in the notice related to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities, requiring intergovernmental consultation with State and local officials, are excluded from the provisions of Executive Order No. 12372.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

Under the provisions of 7 CFR 427.1, before any insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which oat crop insurance shall be offered. The Board of Directors has approved additional counties for oat crop insurance and the Manager proposes to make crop insurance available in those counties effective with the 1984 and succeeding crop years. The proposed additional counties are listed and identified in Appendix A by an asterisk (*).

In reviewing the county listing for oat crop insurance, FCIC noted that several counties had been inadvertently omitted from previous regulations published in the Federal Register. These counties are included in Appendix A and are identified by two asterisks (**).

To be sure that Appendix A lists every county wherein oat crop insurance is otherwise authorized to be offered, FCIC is republishing Appendix A in its entirety.

The public is invited to submit written comments, data, and opinion on this proposed rule for 30 days after publication in the Federal Register. All comments made pursuant to this action will be available for public inspection in

the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 427

Crop insurance, Oat.

Proposed Rule

PART 427—[AMENDED]

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Oat Crop Insurance Regulations (7 CFR Part 427), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority Citation for 7 CFR Part 427 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 427 is amended by revising and reissuing Appendix A thereto to read as follows:

Appendix A.—Counties Designated for Oat Crop Insurance

The following counties are designated for Oat Crop Insurance under the provisions of 7 CFR 427.1.

Alabama

*Autauga	*Jackson
Baldwin	*Jefferson
*Blount	*Lamar
*Butler	*Lauderdale
*Calhoun	*Lawrence
*Chambers	*Lee
*Cherokee	*Limestone
*Chilton	*Lowndes
*Carke	*Macon
*Coffee	*Madison
*Colbert	*Marengo
*Conecuh	*Marshall
*Covington	*Mobile
*Crenshaw	*Monroe
*Cullman	*Montgomery
*Dale	*Morgan
*Dallas	*Perry
*De Kalb	*Pickens
*Escambia	*Pike
*Etowah	*Randolph
*Fayette	*Russell
*Franklin	*Sumter
*Geneva	*Talladega
*Greene	*Washington
*Hale	*Wilcox
*Henry	*Winston
*Houston	

Alaska

*Southeast Fairbanks

Arizona

*Cochise	*Pima
*Greenlee	*Pinal
*Maricopa	

Arkansas

Arkansas
 *Ashley
 *Baxter
 *Carroll
 *Chicot
 *Clark
 *Cleveland
 *Conway
 *Crawford
 *Crittenden
 *Cross
 *Drew
 *Faulkner
 *Franklin
 *Fulton
 *Grant
 *Hempstead
 *Howard
 *Independence
 *Jackson
 *Johnson
 *Lafayette

*Lawrence
 *Lee
 *Logan
 *Lonoke
 *Marion
 *Miller
 *Monroe
 *Nevada
 *Ouachita
 *Perry
 *Phillips
 *Pike
 *Poinsett
 *Prairie
 *Randolph
 *Saline
 *Sebastian
 *Stone
 *Washington
 *White
 *Woodruff
 *Yell

California

*Alameda
 *Amador
 *Butte
 *Colusa
 *Contra Costa
 *Fresno
 *Glenn
 *Kern
 *Kings
 *Lake
 *Lassen
 *Los Angeles
 *Madera
 *Marin
 *Mendocino
 *Merced
 *Modoc
 *Monterey
 *Placer
 **Plumas

*Riverside
 *Sacramento
 *San Benito
 *San Bernardino
 *San Joaquin
 *San Luis Obispo
 *San Mateo
 *Santa Barbara
 *Santa Clara
 *Shasta
 *Sierra
 *Siskiyou
 *Solano
 *Sonoma
 *Stanislaus
 *Sutter
 *Tehama
 *Tulare
 *Yolo
 *Yuba

Colorado

*Adams
 *Alamosa
 *Arapahoe
 *Archuleta
 *Baca
 *Bent
 *Boulder
 *Cheyenne
 **Conejos
 *Costilla
 *Crowley
 **Delta
 *Dolores
 *Douglas
 *Eagle
 *Elbert
 *El Paso
 *Fremont
 **Garfield
 *Grand
 *Jefferson
 *Kiowa
 *Kit Carson
 *La Plata

*Larimer
 *Las Animas
 *Lincoln
 **Logan
 *Mesa
 *Moffat
 *Montezuma
 **Montrose
 *Morgan
 *Otero
 *Ouray
 **Phillips
 *Prowers
 *Pueblo
 *Rio Blanco
 **Rio Grande
 *Routt
 **Saguache
 *San Miguel
 *Sedgwick
 **Washington
 **Weld
 *Yuma

Connecticut

*Hartford
 *Litchfield

*New Haven

Delaware

*Kent
 *New Castle

*Sussex

Florida

*Alachua
 *Calhoun

*Citrus
 *Columbia

*Dixie
 *Escambia
 *Gadsden
 *Gilchrist
 *Gulf
 *Hamilton
 *Holmes
 *Jackson
 *Jefferson
 *Lafayette
 *Leon

*Appling
 *Atkinson
 *Bacon
 *Baker
 *Banks
 *Barrow
 *Bartow
 *Berrien
 *Bibb
 *Bleckley
 *Brantley
 *Brooks
 *Bryan
 *Bulloch
 *Burke
 *Butts
 *Calhoun
 *Candler
 *Carroll
 *Chatham
 *Chattooga
 *Clay

*Franklin
 *Fulton
 *Glascock
 *Gordon
 *Grady
 *Greene
 *Gwinnett
 *Habersham
 *Haralson
 *Hart
 *Heard
 *Henry
 *Houston
 *Irwin
 *Jackson
 *Jasper
 *Jeff Davis
 *Jefferson
 *Jenkins
 *Johnson
 *Jones
 *Lamar
 *Lanier
 *Laurens
 *Lee
 *Lincoln
 *Lowndes
 *McDuffie
 *Macon
 *Madison
 *Marion
 *Meriwether
 *Miller
 *Mitchell
 *Monroe
 *Montgomery
 *Morgan
 *Newton
 *Oconee
 *Oglethorpe
 *Peach

*Ada
 *Adams
 *Bannock
 *Bear Lake

*Levy
 *Liberty
 *Madison
 *Marion
 *Okaloosa
 *St Lucie
 *Santa Rosa
 *Suwannee
 *Wakulla
 *Walton
 *Washington

Georgia

*Clayton
 *Coffee
 *Bacon
 *Colquitt
 *Columbia
 *Cook
 *Coweta
 *Crawford
 *Crisp
 *Decatur
 *De Kalb
 *Dodge
 *Dooly
 *Dougherty
 *Early
 *Effingham
 *Elbert
 *Emanuel
 *Evans
 *Fayette
 *Floyd
 *Forsyth

Georgia

*Pierce
 *Pike
 *Polk
 *Pulaski
 *Putnam
 *Quitman
 *Rabun
 *Randolph
 *Richmond
 *Rockdale
 *Schley
 *Screven
 *Seminole
 *Spalding
 *Stephens
 *Stewart
 *Sumter
 *Talbot
 *Taliaferro
 *Tattnall
 *Taylor
 *Telfair
 *Terrell
 *Thomas
 *Tift
 *Toombs
 *Treutlen
 *Troup
 *Turner
 *Upson
 *Walton
 *Ware
 *Warren
 *Washington
 *Wayne
 *Webster
 *Wheeler
 *Wilcox
 *Wilkes
 *Wilkinson
 *Worth

Idaho

*Benewah
 *Bingham
 **Blaine
 *Boise

**Bonner
 *Bonneville
 **Boundary
 **Butte
 *Camas
 **Canyon
 **Caribou
 **Cassia
 *Clark
 *Clearwater
 *Custer
 *Elmore
 *Franklin
 **Fremont
 **Gem
 *Gooding
 **Idaho
 **Jefferson

**Adams
 *Alexander
 *Bond
 *Boone
 *Brown
 *Bureau
 *Calhoun
 *Carroll
 *Cass
 **Champaign
 **Christian
 **Clay
 *Clinton
 *Coles
 *Cook
 *Crawford
 *Cumberland
 *DeKalb
 *De Witt
 **Douglas
 **Du Page
 **Edgar
 *Edwards
 *Effingham
 *Fayette
 **Ford
 *Franklin
 **Fulton
 *Greene
 *Grundy
 **Hancock
 **Henderson
 *Henry
 **Iroquois
 *Jackson
 *Jasper
 *Jefferson
 *Jersey
 *Jo Daviess
 *Johnson
 *Kane
 **Kankakee
 **Kendall
 *Knox
 **Lake
 *LaSalle
 *Lawrence

**Adams
 **Allen
 *Bartholomew
 *Benton
 **Blackford
 **Boone
 *Brown
 *Carroll
 *Cass
 *Clark
 *Clay
 *Clinton
 *Crawford
 *Davies
 *Dearborn

*Jerome
 *Kootenai
 **Latah
 *Lemhi
 **Lewis
 *Lincoln
 **Madison
 **Minidoka
 **Nez Perce
 *Oneida
 *Owyhee
 *Payette
 *Power
 *Teton
 **Twin Falls
 **Valley
 *Washington

Illinois

*Lee
 **Livingston
 **Logan
 **McDonough
 *McHenry
 **McLean
 *Macoupin
 *Madison
 **Marshall
 **Mason
 *Massac
 *Menard
 *Mercer
 *Monroe
 *Montgomery
 *Morgan
 **Moultrie
 *Ogle
 **Peoria
 *Perry
 *Piatt
 **Pike
 *Pope
 *Pulaski
 **Putnam
 *Randolph
 *Richland
 **Rock Island
 *St. Clair
 *Sangamon
 *Schuyler
 *Scott
 *Shelby
 **Stark
 *Stephenson
 **Tazewell
 *Union
 *Vermilion
 *Wabash
 *Warren
 *Washington
 *White
 *Whiteside
 *Will
 *Williamson
 *Winnebago
 **Woodford

Indiana

*Decatur
 **DeKalb
 *Delaware
 *Dubois
 **Elkhart
 *Fayette
 *Floyd
 **Fountain
 *Franklin
 **Fulton
 *Grant
 *Greene
 *Hamilton
 *Hancock
 *Harrison

**Hendricks
*Henry
*Howard
**Huntington
*Jasper
**Jay
*Jefferson
*Jennings
*Johnson
*Knox
**Kosciusko
**Lagrange
**Lake
**La Porte
*Lawrence
**Madison
*Marion
**Marshall
*Martin
**Miami
*Monroe
**Montgomery
*Morgan
*Newton
**Noble
*Ohio
*Orange
*Owen
*Parke

Iowa

Adair
Adams
Allamakee
Appanoose
Audubon
Benton
Black Hawk
Boone
Bremer
Buchanan
Buena Vista
Butler
Calhoun
Carroll
Cass
Cedar
Cerro Gordo
Cherokee
Chickasaw
Clarke
Clay
Clayton
Clinton
Crawford
Dallas
Davis
Decatur
Delaware
Des Moines
Dickinson
Dubuque
Emmet
Fayette
Floyd
Franklin
Fremont
Greene
Grundy
Guthrie
Hamilton
Hancock
Hardin
Harrison
Henry
Howard
Humboldt
Ida
Iowa
Jackson
Jasper

Kansas

**Allen **Anderson

*Perry
*Pike
*Porter
*Posey
*Pulaski
**Putnam
**Randolph
*Ripley
**Rush
*St. Joseph
*Scott
*Shelby
*Spencer
*Starke
**Steuben
*Switzerland
**Tippecanoe
*Tipton
*Union
*Vanderburgh
*Vermillion
**Wabash
*Warren
*Warrick
*Washington
*Wayne
**Wells
**White
**Whitley

**Atchison
*Barber
*Barton
**Bourbon
**Brown
*Butler
*Chase
**Chautauqua
**Cherokee
*Cheyenne
*Clark
*Clay
**Cloud
*Coffey
*Comanche
**Cowley
**Crawford
Dickinson
*Doniphan
**Douglas
*Edwards
*Elk
*Ellis
*Ellsworth
*Finney
*Ford
**Franklin
**Geary
*Gove
*Graham
*Grant
*Gray
*Greeley
**Greenwood
*Hamilton
*Harper
**Harvey
*Haskell
*Hodgeman
**Jackson
*Jefferson
**Jewell
*Johnson
*Kearny
**Kingman
*Kiowa
**Labette
*Lane
**Leavenworth
*Lincoln
**Linn

Kentucky

*Adair
*Allen
*Anderson
*Ballard
*Barren
*Bourbon
*Boyle
*Bracken
*Breckinridge
*Butler
*Calloway
*Campbell
*Carroll
*Casey
*Christian
*Clark
*Clinton
*Crittenden
*Cumberland
*Davies
*Edmonson
*Fayette
*Fleming
*Fulton
*Garrard
*Grant
*Graves
*Grayson
*Green
*Greenup
*Hardin

*Logan
**Lyon
**McPherson
Marion
**Marshall
*Meade
*Miami
*Mitchell
**Montgomery
**Morris
*Morton
**Nemaha
**Neosho
*Ness
*Norton
**Osage
*Osborne
**Ottawa
*Pawnee
**Phillips
**Pottawatomie
*Pratt
*Rawlings
**Reno
*Republic
*Rice
*Riley
*Rooks
*Rush
*Russell
**Saline
*Scott
*Sedgwick
*Seward
**Shawnee
*Sheridan
**Sherman
*Smith
**Stafford
*Stanton
*Stevens
**Sumner
*Thomas
*Trego
**Wabash
*Wallace
**Washington
*Wichita
*Wilson
*Woodson
*Wyandotte

*Spencer
*Taylor
*Todd
*Trimble
*Union

Louisiana

Acadia
*Avoyelles
*Beauregard
*Bossier
*Caddo
*Catahoula
*Concordia
*East Carroll
*Franklin
*Iberville
*Lafayette

Maine

*Androscoggin
**Aroostook
*Cumberland
*Franklin
*Hancock
*Kennebec
*Oxford

Maryland

*Allegany
*Anne Arundel
*Baltimore
*Calvert
**Carroll
*Cecil
*Charles
**Frederick
**Garrett
*Hartford

Massachusetts

*Berkshire
*Dukes

Michigan

**Alcona
*Alger
*Allegan
*Alpena
*Antrim
**Arenac
*Baraga
Barry
**Bay
*Benzie
**Berrien
**Branch
Calhoun
**Cass
*Charlevoix
**Cheboygan
**Chippewa
**Clare
Clinton
*Crawford
**Delta
**Dickinson
Eaton
**Emmet
Genesee
**Gladwin
*Gogebic
**Grand Traverse
**Gratiot
**Hillsdale
**Houghton
Huron
**Ingham
Ionia
**Isco
*Iron
Isabella
Jackson
**Kalamazoo
*Kalkaska
Kent

*Warren
*Washington
*Wayne
*Webster
*Woodford

*Madison
*Morehouse
*Ouachita
*Red River
*Richland
*Tangipahoa
*Tensas
*Washington
*West Carroll
*Winn

*Penobscot
*Piscataquis
*Sagadahoc
*Somerset
*Waldo
*Washington
*York

*Howard
*Kent
*Montgomery
*Prince George's
*Queen Anne's
*St. Mary's
*Somerset
**Washington
*Wicomico

*Franklin
*Plymouth

*Lake
*Lapeer
**Leelanau
*Lenawee
**Livingston
*Luce
**Mackinac
**Macomb
*Manistee
*Marquette
*Mason
**Mecosta
**Menominee
**Midland
**Missaukee
**Monroe
Montcalm
**Montmorency
**Muskegon
**Newaygo
**Oakland
*Oceana
**Ogemaw
**Ontonagon
**Osceola
*Oscoda
**Otsego
**Ottawa
**Presque Isle
*Roscommon
**Saginaw
St. Clair
**St. Joseph
Sanilac
*Schoolcraft
*Shiawassee
*Tuscola
**Van Buren
Washtenaw
*Wayne
**Wexford

Minnesota

*Aitkin
Anoka
Becker
Beltrami
Benton
Big Stone
Blue Earth
Brown
**Carlton
Carver
**Cass
Chippewa
Chisago
Clay
Clearwater
*Cook
Cottonwood
Crow Wing
Dakota
Dodge
Douglas
Faribault
Fillmore
Freeborn
Goodhue
Grant
Hennepin
Houston
Hubbard
Isanti
**Itasca
Jackson
Kanabec
Kandiyohi
Kittson
**Koochiching
Lac Qui Parle
*Lake
Lake of the Woods
Le Sueur
Lincoln
Lyon
McLeod
Mahnomon
Marshall

Martin
Meeker
Mille Lacs
Morrison
Mower
Murray
Nicollet
Nobles
Norman
Olmsted
East Otter Tail
West Otter Tail
Pennington
Pine
Pipestone
East Polk
West Polk
Pope
*Ramsey
Red Lake
Redwood
Renville
Rice
Rock
Roseau
**St. Louis
Scott
Sherburne
Sibley
Stearns
Steele
Stevens
Swift
Todd
Traverse
Wabasha
Wadena
Waseca
Washington
Watsonwan
Wilkin
Winona
Wright
Yellow Medicine

Mississippi

*Alcorn
*Amite
*Bolivar
*Carroll
*Claiborne
*Clay
*Coahoma
*Copiah
*Covington
*Forrest
*George
*Harrison
*Hinds
*Holmes
*Humphreys
*Issaquena
*Jasper
*Jefferson Davis
*Jones
*Lamar
*Lawrence
*Leake
*Lee
*Leflore
*Lincoln

*Lowndes
*Madison
*Marion
*Neshoba
*Newton
*Noxubee
*Panola
*Pearl River
*Pike
*Prentiss
*Quitman
*Simpson
*Stone
*Sunflower
*Tallahatchie
*Tishomingo
*Walthall
*Warren
*Washington
*Wayne
*Webster
*Wilkinson
*Winston
*Yazoo

Missouri

*Adair
*Andrew
*Atchison
*Audrain
*Barry
*Barton
*Bates
*Benton
*Bollinger

*Boone
*Buchanan
*Butler
*Caldwell
*Callaway
*Camden
*Cape Girardeau
*Carroll
*Carter

*Cass
*Cedar
*Chariton
*Christian
**Clark
*Clay
*Clinton
*Cole
*Cooper
*Crawford
*Dade
*Dallas
*Davies
**De Kalb
*Dent
*Douglas
*Franklin
*Gasconade
*Gentry
*Greene
*Grundy
*Harrison
*Henry
*Hickory
*Holt
*Howard
*Howell
*Iron
*Jackson
*Jasper
*Jefferson
*Johnson
*Knox
*Laclede
*Lafayette
*Lawrence
*Lewis
*Lincoln
*Linn
*Livingston
*McDonald
*Macon
*Madison
*Marion

Montana

**Beaverhead
**Big Horn
*Blaine
*Broadwater
*Carbon
*Carter
*Cascade
*Chouteau
*Custer
*Daniels
*Dawson
*Deer Lodge
*Fallon
*Fergus
*Flathead
*Gallatin
*Garfield
*Glacier
*Golden Valley
*Granite
Hill
**Jefferson
Judith Basin
*Lake
**Lewis & Clark
*Liberty
*Lincoln
*McCone

Rockingham

*Hunterdon
*Mercer
*Morris
*Salem

New Hampshire

New Jersey

*Somerset
*Sussex
*Warren

*Mercer
*Miller
*Mississippi
*Moniteau
*Monroe
*Montgomery
*Morgan
**Newton
*Nodaway
*Osage
*Pemiscot
*Perry
*Pettis
*Phelps
*Pike
*Platte
*Polk
*Pulaski
*Putnam
*Ralls
*Randolph
*Ray
*Reynolds
*Ripley
*St. Charles
*St. Clair
*St. Genevieve
*St. Francois
*St. Louis
*Saline
*Schuyler
*Scotland
*Scott
*Shannon
*Shelby
*Stoddard
*Stone
*Sullivan
*Texas
*Vernon
*Warren
*Washington
*Wayne
*Webster
*Worth
*Wright

New Mexico

*Chaves
*Cibola
*Colfax
*Curry
*De Baca
*Dona Ana
*Eddy
*Guadalupe
*Harding
*Hidalgo
*Lea
*Luna

*Mora
*Otero
*Quay
*Rio Arriba
*Roosevelt
*San Juan
*San Miguel
*Santa Fe
*Socorro
*Torrance
*Union
*Valencia

Nebraska

*Adams
Antelope
*Arthur
*Banner
*Blaine
Bonne
**Box Butte
Boyd
*Brown
*Buffalo
Burt
Butler
**Cass
Cedar
*Chase
*Cherry
**Cheyenne
*Clay
Colfax
Cuming
**Custer
Dakota
Dawes
*Dawson
*Deuel
Dixon
**Dodge
**Douglas
*Dundy
*Fillmore
*Franklin
**Frontier
*Furnas
Gage
*Garden
*Garfield
*Gosper
*Greeley
*Hall
*Hamilton
*Harlan
*Hayes
*Hitchcock
Holt
**Howard
***Jefferson

**Johnson
*Kearney
*Keith
**Keya Paha
*Kimball
Knox
**Lancaster
**Lincoln
*Logan
*Loup
*McPherson
Madison
*Merrick
*Morrill
**Nance
**Nemaha
*Nuckolls
**Otoe
**Pawnee
*Perkins
*Phelps
Pierce
Platte
*Polk
*Red Willow
**Richardson
*Rock
**Saline
**Sarpy
Saunders
*Scotts Bluff
**Seward
Sheridan
**Sherman
*Sioux
Stanton
*Thayer
*Thomas
Thurston
*Valley
Washington
Wayne
*Webster
*Wheeler
*York

Nevada

*Churchill
*Clark
*Douglas
*Elko
*Humboldt
*Lander
*Lincoln

*Lyon
**Mineral
*Nye
*Pershing
*Washoe
*White Pine

New York

*Albany
Allegany
*Broome
Cattaraugus
Cayuga
**Chautauque
**Chemung
**Chenango
*Clinton
**Columbia
*Cortland

*Delaware
*Dutchess
Erie
*Essex
**Franklin
*Fulton
Genesee
Greene
Herkimer
Jefferson
**Lewis

Livingston
Madison
Monroe
Montgomery
Niagara
Oneida
Onondaga
Ontario
*Orange
Orleans
**Oswego
Otsego
*Rensselaer
**St. Lawrence
**Saratoga

*Schenectady
**Schoharie
**Schuyler
Seneca
Steuben
*Suffolk
*Sullivan
**Tioga
Tompkins
*Ulster
**Washington
Wayne
Wyoming
Yates

North Carolina

*Alamance
*Alexander
*Anson
*Ashe
*Avery
*Beaufort
*Bladen
*Brunswick
*Burke
*Cabarrus
*Caldwell
*Camden
*Caswell
*Catawba
*Chatham
*Chowan
*Cleveland
*Columbus
*Craven
*Cumberland
*Currituck
*Davidson
*Davie
*Duplin
*Durham
*Edgecombe
*Forsyth
*Franklin
*Gaston
Gates
*Granville
*Greene
*Guilford
*Halifax
*Hartnett
*Henderson
*Hertford
*Hoke
*Hyde

*Iredell
*Johnston
*Jones
*Lee
*Lenoir
*Lincoln
*McDowell
*Mecklenburg
*Montgomery
*Moore
*Nash
*Northampton
*Orange
*Pamlico
*Pasquotank
*Perquimans
*Person
*Pitt
*Polk
*Randolph
*Richmond
*Robeson
*Rockingham
*Rowan
*Rutherford
*Sampson
*Scotland
*Stanly
*Stokes
*Surry
*Tyrrell
*Union
*Vance
*Wake
*Warren
*Washington
*Wayne
*Wilson
*Yadkin

North Dakota

Adams
Barnes
Benson
Billings
Bottineau
Bowman
Burke
Burleigh
Cass
Cavalier
Dickey
Divide
Dunn
Eddy
Emmons
Foster
Golden Valley
Grand Forks
Grant
Griggs
Hettinger
Kidder
Lamoure
Logan
McHenry
McIntosh
McKenzie

McLean
Mercer
Morton
Mountrail
Nelson
Oliver
Pembina
Pierce
Ramsey
Ransom
Renville
Richland
Rolette
Sargent
Sheridan
Sioux
Slope
Stark
Steele
Stutsman
Towner
Traill
Walsh
Ward
Wells
Williams

Ohio

**Adams
Allen
Ashland
Ashabula
*Athens
Auglaize
**Belmont
*Brown
**Butler
Carroll
**Champaign
**Clark
*Clermont
Clinton
Columbiana
Coshocton
Crawford
*Cuyahoga
Darke
Fefiance
**Delaware
**Erie
Fairfield
*Fayette
*Franklin
**Fulton
*Gallia
**Geauga
*Greene
*Guernsey
*Hamilton
**Hancock
Hardin
*Harrison
**Henry
*Highland
*Hocking
Holmes
Huron
*Jackson
**Jefferson
Knox
*Lake
*Lawrence

**Licking
Logan
Lorain
**Lucas
**Madison
Mahoning
**Marion
Medina
*Meigs
Mercer
*Miami
*Monroe
*Montgomery
*Morgan
**Morrow
**Muskumung
*Noble
**Ottawa
Paulding
**Perry
*Pickaway
*Pike
Portage
**Preble
Putnam
Richland
*Ross
**Sandusky
*Scioto
Seneca
Shelby
Stark
**Summit
Trumbull
**Tuscarawas
**Union
Van Wert
*Vinton
**Warren
*Washington
Wayne
**Williams
Wood
**Wyandot

Oklahoma

*Adair
*Alfalfa
*Atoka
*Beaver
*Beckham
*Blaine
*Bryan
*Caddo
*Canadian
*Carter
*Cherokee
*Choctaw
*Cimarron
*Cleveland
*Coal
*Comanche
*Cotton
*Craig
*Creek
*Custer
*Delaware
*Dewey
*Ellis
*Garfield
*Garvin
*Grady
*Grant
*Greer
*Harmon
*Harper
*Haskell
*Hughes
*Jackson
*Jefferson
*Johnston
*Kay
*Kingfisher
*Kiowa

*Latimer
*Le Flore
*Lincoln
*Logan
*Love
*McClain
*McCurtain
*McIntosh
*Major
*Marshall
*Mayes
*Murray
*Muskogee
*Noble
*Nowata
*Okfuskee
*Oklahoma
*Okmulgee
*Osage
*Ottawa
*pawnee
*Payne
*Pittsburg
*Pontotoc
*Pottawatomie
*Roger Mills
*Rogers
*Seminole
*Sequoyah
*Stephens
*Tillman
*Tulsa
*Wagoner
*Washington
*Washita
*Woods
*Woodward

Oregon

*Baker
**Benton
**Clackamas
*Columbia
*Crook
*Deschutes
*Douglas
**Gilliam
**Harney
Jackson
*Jefferson
*Josephine
Klamath
*Lake
**Lane

**Linn
**Malheur
*Marion
*Morrow
*Multnomah
Polk
*Sherman
*Umatilla
**Union
**Wallowa
*Wasco
**Washington
*Wheeler
*Yamhill

Pennsylvania

**Adams
**Allegheny
Armstrong
*Beaver
Bedford
Berks
**Blair
Bradford
**Bucks
Butler
Cambria
**Carbon
Centre
Chester
Clarion
**Clearfield
**Clinton
Columbia
Crawford
Cumberland
Dauphin
**Elk
Erie
**Fayette
*Forest
Franklin
*Fulton
*Greene
**Huntingdon
Indiana
*Jefferson
Juniata

*Lackawanna
**Lancaster
Lawrence
Lebanon
Lehigh
**Luzerne
Lycoming
*McKean
Mercer
**Mifflin
**Monroe
**Montgomery
**Montour
**Northampton
Northumberland
Perry
*Pike
**Potter
Schuylkill
Snyder
Somerset
**Sullivan
**Susquehanna
Tioga
Union
**Venango
**Warren
Washington
*Wayne
Westmoreland
**Wyoming
York

South Carolina

*Abbeyville
*Aiken
*Allendale
*Anderson
*Bamberg
*Barnwell
*Beauford
*Berkeley
*Calhoun
*Cherokee
*Chester
*Chesterfield
*Clarendon
*Colleton
*Darlington
*Dillon
*Dorchester
*Edgefield
*Fairfield
*Florence
*Georgetown
*Greenville
*Greenwood

*Hampton
*Horry
*Jasper
*Kershaw
*Lancaster
*Laurens
*Lee
*Lexington
*McCormick
*Marion
*Marlboro
*Newberry
*Oconee
*Orangeburg
*Pickens
*Richland
*Saluda
*Spartanburg
Sumter
*Union
*Williamsburg
*York

South Dakota

Aurora
Beadle
Bennett
Bon Homme
Brookings
Brown

Brule
Buffalo
Butte
Campbell
Charles Mix
Clark

Clay
 Codrington
 Corson
 *Custer
 Davison
 Day
 Deuel
 Dewey
 Douglas
 Edmunds
 **Fall River
 Faulk
 Grant
 Gregory
 **Haakon
 Hamlin
 Hand
 Hanson
 Harding
 Hughes
 Hutchinson
 Hyde
 **Jackson
 Jerould
 **Jones
 Kingsbury
 Lake

Tennessee

*Bedford
 *Benton
 *Bledsoe
 *Bradley
 *Cheatham
 *Chester
 *Claiborne
 *Clay
 *Coffee
 *Cumberland
 *De Kalb
 *Dickson
 *Dyer
 *Payette
 *Fentress
 *Franklin
 *Giles
 *Grainger
 *Greene
 *Grundy
 *Hamblen
 *Hamilton
 *Hardeman
 *Hardin
 *Hawkins
 *Henry
 *Hickman
 *Houston
 *Humphreys
 *Jefferson
 *Johnson
 *Knox
 *Lauderdale
 *Lawrence

Texas

Archer
 *Armstrong
 *Atascosa
 *Austin
 *Bailey
 *Bandera
 *Bastrop
 *Baylor
 *Bee
 *Bell
 *Bexar
 *Blanco
 *Borden
 *Bosque
 *Bowie
 *Brazos
 *Briscoe
 *Brown
 *Burlison

*Lawrence
 *Lincoln
 *Lyman
 *McCook
 *McPherson
 *Marshall
 **Mead
 *Mellette
 *Miner
 *Minnehaha
 *Moody
 **Pennington
 *Perkins
 *Potter
 *Roberts
 *Sanborn
 *Shannon
 *Spink
 *Stanley
 *Sully
 *Todd
 *Tripp
 *Turner
 *Union
 *Walworth
 *Yankton
 *Ziebach

Coryell
 *Cottle
 *Crockett
 *Crosby
 *Dallam
 *Dallas
 *Dawson
 *Deaf Smith
 *Delta
 *Denton
 *De Witt
 *Dickens
 *Dimmit
 *Donley
 *Duval
 *Eastland
 *Ellis
 *El Paso
 *Erath
 *Falls
 *Fannin
 *Fayette
 *Fisher
 *Floyd
 *Foard
 *Franklin
 *Freestone
 *Frio
 *Gaines
 *Garze
 *Gillespie
 *Glasscock
 *Goliad
 *Gonzales
 *Gray
 *Grayson
 *Grimes
 *Guadalupe
 *Hale
 *Hall
 *Hamilton
 *Hansford
 *Hardeman
 *Harrison
 *Hartley
 *Haskell
 *Hays
 *Hemphill
 *Henderson
 *Hill
 *Hood
 *Hopkins
 **Houston
 *Howard
 *Hudspeth
 *Hunt
 *Hutchinson
 *Irion
 *Jack
 *Jackson
 *Johnson
 *Jones
 *Karnes
 *Kaufman
 *Kendall
 *Kent
 *Kerr
 *Kimble
 *King
 *Kinney
 *Knox
 *Lamar
 *Lamb
 *Lampasa
 *La Salle
 *Lavaca
 *Lee
 *Leon

*Beaver
 *Box Elder
 *Cache
 *Carbon
 *Davis

Limestone
 *Lipscomb
 *Llano
 *Lubbock
 *Lynn
 *McCulloch
 *McLennan
 *McMullen
 *Madison
 *Martin
 *Mason
 *Maverick
 *Medine
 *Menard
 *Midland
 *Milam
 *Mills
 *Mitchell
 *Montague
 *Moore
 *Motley
 *Navarro
 *Nolan
 *Ochiltree
 *Oldham
 *Palo Pinto
 *Parker
 *Parmer
 *Pecos
 *Polk
 *Potter
 *Presidio
 *Rains
 *Randall
 *Reagan
 *Real
 *Red River
 *Reeves
 *Roberts
 *Robertson
 *Rockwall
 *Runnels
 *Rusk
 *Sabine
 *San Saba
 *Schleicher
 *Scurry
 *Sackelford
 *Shelby
 *Sherman
 *Somervell
 *Stephens
 *Stonewall
 *Swisher
 *Tarrant
 *Taylor
 *Terry
 *Throckmorton
 *Titus
 *Tom Green
 *Travis
 *Tyler
 *Uvalde
 *Van Zandt
 *Victoria
 *Walker
 *Washington
 *Wheeler
 *Wichita
 *Wilbarger
 *Williamson
 *Wilson
 *Wise
 *Wood
 *Yoakum
 *Young
 *Zavala

Utah

*Duchesne
 *Emery
 *Garfield
 *Grand
 *Iron

*Juab
 *Kane
 *Millard
 *Morgan
 *Rich
 *Salt Lake
 *San Juan
 **Sanpete
 *Sevier

Vermont

*Addison
 *Bennington
 *Caledonia
 *Chittenden
 *Essex
 *Franklin
 *Grand Isle

Virginia

*Accomack
 *Albermarle
 *Alleghany
 *Amelia
 *Amherst
 *Appomattox
 *Augusta
 *Bedford
 *Bland
 *Botetourt
 *Brunswick
 *Buckingham
 *Campbell
 *Caroline
 *Carroll
 *Charles City
 *Charlotte
 *Chesterfield
 *Clarke
 *Craig
 *Culpeper
 *Cumberland
 *Dickenson
 *Dinwiddie
 *Essex
 *Fauquier
 *Floyd
 *Fluvanna
 *Franklin
 *Frederick
 *Giles
 *Gloucester
 *Goochland
 *Grayson
 *Greene
 *Greensville
 *Halifax
 *Hanover
 *Henrico
 *Henry
 *Highland
 *Isle of Wight
 *James City
 *King and Queen
 *King George

Washington

*Lewis
 *Lincoln
 *Okanogan
 *Pend Oreille
 *Pierce
 *San Juan
 *Skagit
 *Skamania
 *Snohomish
 *Spokane
 *Stevens
 *Thurston
 *Wahkiakum
 *Walla Walla
 *Whatcom
 *Whitman
 *Yakima

West Virginia

*Barbour	*Morgan
*Berkeley	*Nicholas
*Fayette	*Ohio
*Grant	*Pendleton
*Greenbrier	*Pleasants
*Hampshire	*Pocahontas
*Hardy	*Preston
*Jackson	*Putnam
*Jefferson	*Raleigh
*Marion	*Randolph
*Marshall	*Roane
*Mason	*Summers
*Mercer	*Tucker
*Mineral	*Tyler
*Monongalia	*Upshur
*Monroe	*Wood

Wisconsin

**Adams	Marathon
Ashland	Marquette
Barron	*Menominee
Bayfield	*Milwaukee
Brown	Monroe
Buffalo	Oconto
**Burnett	Oneida
Calumet	Outagamie
Chippewa	**Ozaukee
Clark	Pepin
Columbia	Pierce
Crawford	Polk
Dane	Portage
Dodge	Price
Door	Racine
Douglas	Richland
Dunn	Rock
Eau Claire	Rusk
*Florence	St. Croix
Fond du Lac	Sauk
Forest	Sawyer
Grant	Shawano
Green	Sheboygan
Green Lake	Taylor
Iowa	Trempealeau
*Iron	Vernon
Jackson	*Vilas
Jefferson	Walworth
Juneau	**Washburn
Kenosha	Washington
Kewaunee	Waukesha
La Crosse	Waupaca
Lafayette	Waushara
Langlade	Winnebago
Lincoln	Wood
Manitowoc	

Wyoming

*Albany	**Lincoln
**Big Horn	**Natrona
**Campbell	**Niobrara
**Carbon	**Park
**Converse	**Platte
Crook	**Sheridan
**Fremont	*Teton
**Goshen	*Uinta
**Hot Springs	**Washakie
**Johnson	**Weston
**Laramie	

Done in Washington, D.C., on January 6, 1984.

Peter F. Cole,
Secretary, Federal Crop Insurance
Corporation.

Dated: June 5, 1984.

Edward Hews,
Acting Manager.

[FR Doc. 84-15729 Filed 6-13-84; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 430

[Doc. No. 1099S; Amdt. No. 2]

Sugar Beet Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby proposes to amend Appendix A to the Sugar Beet Crop Insurance Regulations (7 CFR Part 430) to include additional counties recently approved by FCIC's Board of Directors for sugar beet crop insurance, and to republish Appendix A in its entirety to reflect all counties currently designated for sugar crop insurance. The intended effect of this rule is to update the list of counties wherein sugar beet crop insurance is otherwise authorized to be offered under the provisions of the Sugar Beet Crop Insurance Regulations and to notify all interested parties in the additional affected counties that they are now eligible to participate in the program.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than July 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.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512-1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under that memorandum. The sunset review date established for these regulations is February 1, 1987.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not have an annual effect on the economy of \$100 million or more; and (2) will not increase the Federal paperwork burden for individuals, small business, and other persons, and (3) 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 this

proposed rule applies are: Title—Crop Insurance; Number 10.450.

As set forth in the final rule related notice to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities, requiring intergovernmental consultation with State and local officials, are excluded from the provisions of Executive Order No. 12372.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore no Regulatory Flexibility Analysis was prepared.

Under the provisions of 7 CFR 430.1, before any insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which sugar beet crop insurance shall be offered. The Board of Directors has approved additional counties for sugar beet crop insurance and the Manager proposes to make crop insurance available in those counties effective with the 1984 and succeeding crop years. The proposed additional counties are listed and identified in Appendix A by an asterisk ("*").

To be sure that Appendix A lists every county wherein sugar beet crop insurance is otherwise authorized to be offered, FCIC is republishing Appendix A in its entirety.

The public is invited to submit written comments, data, and opinions on this proposed rule for 30 days after publication in the *Federal Register*. All comments made pursuant to this action will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subject in 7 CFR Part 430

Crop insurance, Sugar beets.

Proposed Rule

PART 430—[AMENDED]

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Sugar Beet Crop Insurance Regulations (7 CFR Part 430), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority Citation for 7 CFR Part 430 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 430 is amended by revising and reissuing Appendix A thereto to read as follows:

Appendix A—Counties Designated for Sugar Beet Crop Insurance

The following counties are designated for Sugar Beet Crop Insurance under the provisions of 7 CFR 430.1.

Arizona

Maricopa *Yuma
Pinal

California

Butte Sacramento
Colusa San Benito
*Contra Costa San Joaquin
Fresno *San Luis Obispo
Glenn *Santa Barbara
Imperial *Santa Clara
Kern Solano
Kings Stanislaus
Los Angeles Sutter
Madera Tulare
Merced Yolo
Monterey

Colorado

Adams Morgan
Boulder Phillips
Kit Carson Sedgwick
Larimer Weld
Logan Yuma

Idaho

Ada Lincoln
Bingham Minidoka
Canyon Owyhee
Cassia *Payette
Elmore Power
*Gooding Twin Falls
Jerome *Washington

Kansas

*Cheyenne Sherman
*Sheridan Wallace

Michigan

*Arenac Midland
Bay Saginaw
*Gratiot Sanilac
Huron Tuscola
*Lenawee

Minnesota

Chippewa West Polk
Clay Redwood
Faribault Renville
Grant *Sibley
Kandiyohi Swift
Kittston Traverse
Lac Qui Parle Wilkin
Marshall Yellow Medicine
Norman

Montana

Big Horn Rosebud
Carbon Stillwater
Dawson Treasure
Prairie Yellowstone
Richland

Nebraska

Box Butte Morrill
Chase *Perkins
*Deuel Scotts Bluff
*Keith Sioux

New Mexico

Curry

North Dakota

Cass Grand Forks

McKenzie
Pembina
Richland

Trall
Walsh
Williams

Ohio

Hancock Putnam
Henry Sandusky
Lucas *Seneca
Ottawa Wood

Oregon

Malheur

Texas

Castro Parmer
Deaf Smith Randall

Wyoming

Big Horn Park
Goshen Washakie

Done in Washington, D.C., on May 8, 1984.

Peter F. Cole,
Secretary, Federal Crop Insurance
Corporation.

Dated: June 5, 1984.

Edward Hews,
Acting Manager.

[FR Doc. 84-15727 Filed 6-13-84; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 431

[Doc. No. 1100S; Amdt. No. 2]

Soybean Crop Insurance Regulations

AGENCY: Federal Crop Insurance
Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby proposes to amend Appendix A to the Soybean Crop Insurance Regulations (7 CFR Part 431) to include additional counties recently approved by FCIC's Board of Directors for soybean crop insurance, to list counties inadvertently omitted from previous county listing publications, and to republish Appendix A in its entirety to reflect all counties currently designated for soybean crop insurance. The intended effect of this rule is to update the list of counties wherein soybean crop insurance is otherwise authorized to be offered under the provisions of the Soybean Crop Insurance Regulations and to notify all interested parties in the additional affected counties that they are now eligible to participate in the program.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than July 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.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512-1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under that memorandum. The sunset review date established for these regulations is October 1, 1987.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not have an annual effect on the economy of \$100 million or more; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule applies are: Title—Crop Insurance; Number 10.450.

As set forth in the notice related to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities are excluded from the provisions of Executive Order No. 12372, requiring intergovernmental consultation with State and local officials.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

Under the provisions of 7 CFR 431.1, before any insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which soybean crop insurance shall be offered. The Board of Directors has approved additional counties for soybean crop insurance and the Manager proposes to make crop insurance available in those counties effective with the 1984 and succeeding crop years. The proposed additional counties are listed and identified in Appendix A by an asterisk ("*").

In reviewing the county listing for soybean crop insurance, FCIC noted that several counties had been inadvertently omitted from previous regulations published in the *Federal Register*. These counties are included in Appendix A and are identified by two asterisks ("**").

To be sure that Appendix A lists every county wherein soybean crop insurance is otherwise authorized to be offered, FCIC is republishing Appendix A in its entirety.

The public is invited to submit written comments, data, and opinions on this proposed rule for 30 days after publication in the **Federal Register**. All comments made pursuant to this action will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 431

Crop insurance, Soybean.

Proposed Rule

PART 431—[AMENDED]

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Soybean Crop Insurance Regulations (7 CFR Part 431), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority Citation for 7 CFR Part 431 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 431 is amended by revising and reissuing Appendix A thereto to read as follows:

Appendix A.—Counties Designated for Soybean Crop Insurance

The following counties are designated for Soybean Crop Insurance under the provisions of 7 CFR 431.1.

Alabama

Autauga	Jackson
Baldwin	* Jefferson
** Barbour	Lamar
** Bibb	Lauderdale
** Blount	Lawrence
Bullock	** Lee
Butler	Limestone
Calhoun	Lowndes
** Chambers	Macon
Cherokee	Madison
** Chilton	Marengo
** Choctaw	Marion
** Clarke	Marshall
** Cleburne	Mobile
Coffee	Monroe
Colbert	Montgomery
Conecuh	Morgan
Covington	Perry
Crenshaw	Pickens
Cullman	Pike
** Dale	** Randolph
Dallas	Russell
Dekalb	** St. Clair
Elmore	Shelby
Escambia	Sumter
Etowah	Talladega
** Fayette	** Tallapoosa
Franklin	** Tuscaloosa
Geneva	** Walker
Greene	** Washington
Hale	Wilcox
Henry	** Winston
Houston	

Arkansas

Arkansas	Ashley
----------	--------

* Benton
** Bradley
** Calhoun
Chicot
Clark
Clay
** Cleburne
** Cleveland
Conway
Craighead
Crawford
Crittenden
Cross
** Dallas
Desha
Drew
Faulkner
** Franklin
Greene
** Hempstead
** Hot Spring
** Howard
Independence
Jackson
Jefferson
** Johnson
Lafayette
Lawrence
Lee

Kent
New Castle

Alachua
* Bay
* Bradford
Calhoun
Columbia
Escambia
Gadsden
Gilchrist
* Gulf
Hamilton
Holmes
Jackson
Jefferson

Appling
Atkinson
Bacon
Baker
** Baldwin
** Banks
** Barrow
Bartow
Ben Hill
Berrien
** Bibb
Bleckley
* Brantley
Brooks
** Bryan
Bullock
Burke
** Butts
Calhoun
Candler
* Carroll
** Catoosa
** Chatham
** Chattooga
** Clarke
** Clay
** Clayton
Coffee
Colquitt
* Columbia
Cook
** Coweta
Crawford
Crisp

Lincoln
Little River
** Logan
Lonoke
Miller
Mississippi
Monroe
** Nevada
** Ouachita
** Perry
Phillips
** Pike
Poinsett
** Pope
Prairie
Pulaski
Randolph
St. Francis
** Saline
* Scott
** Sebastian
** Sevier
** Sharp
* Stone
** Washington
White
Woodruff
** Yell

Delaware

Sussex

Florida

** Leon
Levy
** Liberty
Madison
** Marion
Okaloosa
** Pasco
Santa Rosa
* Sumter
Suwannee
** Union
** Walton
Washington

Georgia

Decatur
Dodge
Dooly
Dougherty
Early
** Echols
Effingham
** Elbert
Emanuel
Evans
** Fayette
Floyd
* Forsyth
** Franklin
** Fulton
** Glascock
** Gordon
Grady
* Greene
** Gwinnett
** Hancock
** Haralson
** Harris
Hart
** Heard
** Henry
Houston
Irwin
** Jackson
** Jasper
Jeff Davis
Jefferson
Jenkins
Johnson

* Jones
** Lamar
** Lanier
Laurens
Lee
** Long
Lowndes
** McDuffie
Macon
** Madison
Marion
** Meriwether
Miller
Mitchell
** Monroe
Montgomery
** Morgan
** Murray
** Newton
** Oconee
** Oglethorpe
Peach
* Pickens
Pierce
** Pike
** Polk
Pulaski
* Quitman
Randolph
** Richmond
* Rockdale
** Schley

Screven
Seminole
** Spalding
Stewart
Sumter
** Talbot
Tattnall
Taylor
Telfair
Terrell
Thomas
Tift
Toombs
Treutlen
** Troup
Turner
** Twigg
** Upson
** Walker
** Walton
** Ware
** Warren
* Washington
Wayne
Webster
Wheeler
** Whitfield
Wilcox
** Wilkes
** Wilkinson
Worth

Illinois

Adams
Alexander
Bond
Boone
Brown
Bureau
Calhoun
Carroll
Cass
Champaign
Christian
Clark
Clay
Clinton
Coles
** Cook
Crawford
Cumberland
Dekalb
Dewitt
Douglas
Dupage
Edgar
Edwards
Effingham
Fayette
Ford
Franklin
Fulton
Gallatin
Greene
Grundy
Hamilton
Hancock
Hardin
Henderson
Henry
Iroquois
Jackson
Jasper
Jefferson
Jersey
Jo Daviess
Johnson
Kane
Kankakee
Kendall
Knox
Lake
La Salle
Lawrence
Lee
Livingston
Logan
McDonough
McHenry
McLean
Macon
Macoupin
Madison
Marion
Marshall
Mason
Massac
Menard
Mercer
Monroe
Montgomery
Morgan
Moultrie
Ogle
Peoria
Perry
Piatt
Pike
Pope
Pulaski
Putnam
Randolph
Richland
Rock Island
St. Clair
Saline
Sangamon
Schuyler
Scott
Shelby
Stark
Stephenson
Tazewell
Union
Vermilion
Wabash
Warren
Washington
Wayne
White
Whiteside
Will
Williamson
Winnebago
Woodford

Indiana

Adams
Allen
Bartholomew
Benton
Blackford
Boone
*Brown
Carroll
Cass
Clark
Clay
Clinton
**Crawford
Daviess
Dearborn
Decatur
De Kalb
Delaware
Dubois
Elkhart
Fayette
**Floyd
Fountain
Franklin
Fulton
Gibson
Grant
Greene
Hamilton
Hancock
Harrison
Hendricks
Henry
Howard
Huntington
Jackson
Jasper
Jay
Jefferson
Jennings
Johnson
Knox
Kosciusko
Lagrange
Lake
La Porte
Lawrence
Madison
Marion
Marshall
Martin
Miami
**Monroe
Montgomery
Morgan
Newton
Noble
**Ohio
Orange
Owen
Parke
Perry
Pike
Porter
Posey
Pulaski
Putnam
Randolph
Ripley
Rush
St. Joseph
Scott
Shelby
Spencer
Starke
Steuben
Sullivan
Switzerland
Tippecanoe
Tipton
Union
Vanderburgh
Vermillion
Vigo
Wabash
Warren
Warrick
Washington
Wayne
Wells
White
Whitley

Iowa

Adair
Adams
Allamakee
Appanoose
Audubon
Benton
Black Hawk
Boone
Bremer
Buchanan
Buena Vista
Butler
Calhoun
Carroll
Cass
Cedar
Cerro Gordo
Cherokee
Chickasaw
Clarke
Clay
Clayton
Clinton
Crawford
Dallas
Davis
Decatur
Delaware
Des Moines
Dickinson
Dubuque
Emmet
Fayette
Floyd
Franklin
Fremont
Greene
Grundy
Guthrie
Hamilton
Hancock
Hardin
Harrison
Henry
Howard
Humboldt
Ida
Iowa
Jackson
Jasper
Jefferson
Johnson
Jones
Keokuk
Kossuth
Lee
Linn
Louisa
Lucas
Lyon
Madison
Mahaska
Marion
Marshall
Mills
Mitchell
Monona
Monroe
Montgomery
Muscatine

O'Brien
Osceola
Page
Palo Alto
Plymouth
Pocahontas
Polk
East Pottawattamie
West Pottawattamie
Poweshiek
Ringgold
Sac
Scott
Shelby
Sioux

Kansas

Allen
Anderson
Atchison
*Barber
**Barton
Bourbon
Brown
Butler
**Chase
**Chautauqua
Cherokee
**Cheyenne
Clay
**Cloud
Coffey
*Comanche
**Cowley
Crawford
Dickinson
Doniphan
Douglas
Edwards
**Elk
*Ellsworth
*Finney
**Ford
Franklin
**Geary
**Grant
**Gray
Greenwood
Harvey
**Haskell
Jackson
Jefferson
**Jewell
Johnson
*Kearny
**Kingman
Kiowa
Labette
Leavenworth
*Lincoln
Lynn
Lyon
McPherson
Marion
Marshall
**Meade
Miami
**Mitchell
Montgomery
**Morris
Nemaha
Neosho
Osage
Osborne
*Ottawa
**Pawnee
Pottawatomie
**Pratt
**Reno
**Republic
**Rice
**Riley
**Saline
*Scott
**Sedgwick
**Seward
Shawnee
**Sheridan
*Sherman
*Smith
**Stafford
**Stanton
**Stevens
Sumner
*Thomas
Wabaunsee
**Washington
*Wichita
Wilson
Woodson
**Wyandotte

Kentucky

*Adair
Allen
Ballard
**Barren
*Bath
**Boone
**Bourbon
**Boyle
Breckinridge
**Bullitt
Butler
Caldwell
Calloway
Carlisle
**Carroll
**Casey
Christian
*Clark
*Clinton
Crittenden
*Cumberland
**Davies
**Edmonson
*Fayette
**Fleming
*Franklin
Fulton
**Gallatin
Graves
Grayson
**Green
**Greenup
Hancock
Hardin
*Harrison
*Hart
Kenderson
**Henry
Hickman
Hopkins
**Jefferson
*Jessamine
Larue
**Lewis
*Lincoln
Livingston

Logan
**Lyon
McCracken
McLean
*Madison
**Marion
Marshall
**Mason
Meade
**Mercer
*Metcalfe
**Monroe
**Montgomery
Muhlenberg
Nelson
Ohio
**Oldham
*Pendleton

Louisiana

Acadia
Allen
**Ascension
**Assumption
Avoyelles
Beauregard
**Bienville
Bossier
Caddo
Calcasieu
Caldwell
Cameron
Catahoula
Concordia
**DeSoto
**East Baton Rouge
East Carroll
**East Feliciana
Evangeline
Franklin
**Grant
**Iberia
Iberville
Jefferson Davis
Lafayette
**Lafourche
*La Salle
Madison
Morehouse
Natchitoches
Ouachita
Pointe Coupee
Rapides
Red River
Richland
**St. Charles
**St. Helena
**St. James
*St. John the Baptist
St. Landry
St. Martin
**St. Mary
**St. Tammany
**Tangipahoa
Tensas
**Terrebonne
Vermilion
**Vernon
**Washington
*Webster
**West Baton Rouge
West Carroll
**West Feliciana
*Winn

Maryland

**Anne Arundel
**Baltimore
**Calvert
Caroline
Carroll
Cecil
Charles
Dorchester
*Frederick
**Harford
*Howard
Kent
**Montgomery
**Prince Georges
Queen Annes
St. Marys
Somerset
Talbot
Wicomico
Worcester

Michigan

**Allegan
**Arenac
**Barry
**Bay
Berrien
Branch
Calhoun
Cass
Clinton
Eaton
Genesee
**Gladwin
Gratiot
Hillsdale
Huron
**Ingham
Ionia
*Iosco
Isabella
**Jackson
**Kalamazoo
**Kent
**Lapeer
Lenawee
**Livingston
Macomb
Midland
Monroe
Montcalm
*Muskegon
*Oakland
**Ottawa
Saginaw
St. Clair
St. Joseph
Sanilac
Shiawassee
Tuscola
Van Buren
Washtenaw
**Wayne

Minnesota

*Aitkin
Anoka
Becker
Benton
Big Stone
Blue Earth
Brown
Carver
Chippewa
Chisago
Clay
Cottonwood
**Crow Wing
Dakota
Dodge
Douglas
Faribault
Fillmore
Freeborn
Goodhue
Grant
Hennepin
Houston
Isanti
Jackson
**Kanabec
Kandiyohi
*Kittson
Lac Qui Parle
Le Sueur
Lincoln
Lyon
McLeod
*Mahnommen
**Marshall
Martin
Meeker
Mille Lacs

Morrison
Mower
Murray
Nicollet
Nobles
Norman
Olmsted
East Otter Tail
West Otter Tail
**Pine
Pipestone
**East Polk
**West Polk
Pope
*Red Lake
Redwood
Renville
Rice
Rock
Scott
**Sherburne
Sibley
Stearns
Steele
Stevens
Swift
Todd
Traverse
Wabasha
**Wadena
Waseca
Washington
Watsonwan
Wilkin
Winona
Wright
Yellow Medicine

Mississippi

Adams
Alcorn
**Amite
Attala
Benton
Bolivar
Calhoun
Carroll
Chickasaw
**Choctaw
Claiborne
**Clarke
Clay
Coahoma
**Copiah
**Covington
Desoto
**Forrest
**Franklin
George
**Greene
Grenada
**Hancock
**Harrison
Hinds
Holmes
Humphreys
Issaquena
Itawamba
**Jackson
**Jasper
**Jefferson
**Jefferson Davis
**Jones
**Kemper
Lafayette
**Lamar
**Lauderale
**Lawrence
**Leake
Lee

Lefflore
**Lincoln
Lowndes
Madison
**Marion
Marshall
Monroe
Montgomery
**Neshoba
**Newton
Noxubee
**Okibbeha
Panola
Pearl River
**Perry
**Pike
Pontotoc
Prentiss
Quitman
Rankin
**Scott
Sharkey
**Simpson
**Smith
**Stone
Sunflower
Tallahatchie
Tate
Tippah
**Tishomingo
Tunica
Union
**Walthall
Warren
Washington
**Wayne
Webster
**Wilkinson
**Winston
Yalobusha
Yazoo

Missouri

Adair
Andrew
Atchison
Audrain
**Barry
Barton
Bates
Benton
Bollinger
Boone
Buchanan
Butler
Caldwell
Callaway
Cape Girardeau
Carroll
Cass
**Cedar
Chariton
Clark
Clay
Clinton
**Cole
Cooper
**Crawford
Dade
Davies
Dekalb
Dunklin
Franklin
**Gasconade
Gentry
*Greene
Grundy
Harrison
Henry
**Hickory
Holt
Howard
Jackson
Jasper
**Jefferson
Johnson
Knox
**Laclede
Lafayette

**Lawrence
Lewis
Lincoln
Linn
Livingston
*McDonald
Macon
*Madison
*Maries
Marion
Mercer
**Miller
Mississippi
Moniteau
Monroe
Montgomery
**Morgan
New Madrid
**Newton
Nodaway
Osage
Pemiscot
Perry
Pettis
*Phelps
PikePlatte
**Polk
Putnam
Ralls
Randolph
Ray
Ripley
St Charles
St Clair
St Genevieve
**St Francois
**St Louis
Saline
Schuyler
**Scotland
Scott
Shelby
Stoddard
Sullivan
Vernon
Warren
Wayne
Worth

Nebraska

**Adams
Antelope
Boone
Buffalo
Burt
Butler
Cass
Cedar
**Clay
Colfax
Cuming
*Custer
Dakota
Dixon
Dodge
Douglas
**Fillmore
**Franklin
**Furnas
Gage
*Greeley
**Hall
**Hamilton
*Harlan
**Holt
**Howard
**Jefferson
**Johnson
**Kearney

Knox
Lancaster
Madison
**Merrick
**Nance
Nemaha
**Nuckolls
Otoe
**Pawnee
**Phelps
Pierce
Platte
**Polk
*Red Willow
Richardson
**Saline
Sarpy
Saunders
Seward
*Sherman
Stanton
**Thayer
Thurston
**Valley
Washington
Wayne
**Webster
*Wheeler
**York

New Jersey

*Atlantic
Burlington
**Camden
**Cape May

Cumberland
Gloucester
Hunterdon
Mercer
**Middlesex

Monmouth
**Ocean
Salem
**Somerset
**Warren

New York

**Cayuga
**Livingston
**Ontario

**Orleans
**Seneca
**Wayne

North Carolina

Alamance
**Alexander
Anson
Beaufort
Bertie
Bladen
Brunswick
**Burke
Cabarrus
**Caldwell
Camden
**Carteret
**Caswell
**Catawba
**Chatham
**Cherokee
Chowan
Cleveland
Columbus
Craven
Cumberland
Currituck
*Dare
Davidson
**Davie
Duplin
**Durham
Edgecombe
**Forsyth
Franklin
**Gaston
Gates
Granville
Greene
Guilford
Halifax
Harnett
*Henderson
Hertford
Hoke
Hyde
Iredell

Johnston
Jones
**Lee
Lenoir
**Lincoln
Martin
**Mecklenburg
**Montgomery
**Moore
Nash
**New Hanover
Northampton
Onslow
**Orange
Pamlico
Pasquotank
Pender
Perquimans
**Person
Pitt
**Polk
Randolph
**Richmond
Robeson
**Rockingham
Rowan
**Rutherford
Sampson
Scotland
Stanly
**Stokes
**Surry
Tyrrell
Union
**Vance
Wake
Warren
Washington
Wayne
**Wilkes
Wilson
Yadkin

North Dakota

**Barnes
Cass
**Dickey
**Eddy
Grand Forks
*Griggs
*La Moure
**Pembina

**Ransom
Richland
**Sargent
**Steele
*Stutsman
**Trail
**Walsh

Ohio

Adams
Allen
Ashland
**Ashtabula
Auglaize
Brown
Butler
Champaign
Clark
Clermont
Clinton
**Columbiana
**Coshocton
Crawford
*Cuyahoga
Darke
Defiance
Delaware

Erie
Fairfield
Fayette
Franklin
Fulton
*Gallia
*Geauga
Greene
**Hamilton
Hancock
Hardin
Henry
Highland
**Hocking
Huron
**Jackson
Knox
*Lake

Licking
Logan
Lorain
Lucas
Madison
**Mahoning
Marion
Medina
Mercer
Miami
Montgomery
Morrow
**Muskingum
Ottawa
Paulding
**Perry
Pickaway
**Pike
**Portage
Preble

Oklahoma

**Bryan
**Canadian
**Choctaw
**Cleveland
Craig
**Creek
**Delaware
**Garvin
Grady
**Haskell
Hughes
**Kay
**Le Flore
**McClain
McCurtain
**Mcintosh

Pennsylvania

**Adams
Berks
Bucks
**Chester
**Columbia
**Dauphin
**Lancaster
**Lebanon

South Carolina

**Abbeville
Aiken
Allendale
Anderson
Bamberg
Barnwell
**Beaufort
Berkeley
Calhoun
**Charleston
**Cherokee
**Chester
Chesterfield
Clarendon
Colleton
Darlington
Dillon
Dorchester
Edgefield
**Fairfield
Florence
Georgetown
Greenville

South Dakota

**Aurora
**Beadle
Bon Homme
Brookings
**Brown
**Brule
Charles Mix
Clark
**Clay

Putnam
Richland
Ross
Sandusky
**Scioto
Seneca
Shelby
Stark
*Summit
Trumbull
**Tuscarawas
Union
Van Wert
Warren
**Washington
Wayne
Williams
Wood
Wyandot

Hutchinson
Kingsbury
Lake
Lincoln
McCook
**Marshall
*Miner
Minnehaha

Bedford
Benton
**Bledsoe
**Blount
**Bradley
**Cannon
Carroll
Cheatham
Chester
*Claiborne
*Clay
*Cocke
Coffee
Crockett
**Cumberland
**Davidson
Decatur
**DeKalb
**Dickson
Dyer
Fayette
**Fentress
Franklin
Gibson
Giles
*Grainger
**Greene
**Grundy
**Hamblen
**Hamilton
Hardeman
Hardin
*Hawkins
Haywood
Henderson
Henry
**Hickman
**Houston
**Humphreys
**Jackson
**Jefferson

**Bailey
**Bowie
Brazoria
**Brazos
**Briscoe
**Calhoun
**Castro
Chambers
Colorado
**Deaf Smith
Delta
**Fannin
**Fayette
Floyd
Fort Bend
Galveston
**Grimes
Hale
**Hardin
Harris
**Hopkins
**Houston

Accomack
*Albemarle
Amelia
*Appomattox
*Bedford
Brunswick
**Campbell

Moody
Roberts
**Spink
*Sully
Tuner
Union
Yankton

Tennessee

**Knox
Lake
Lauderdale
Lawrence
**Lewis
Lincoln
**Loudon
**McMinn
McNairy
**Macon
Madison
**Marion
**Marshall
Maury
**Meigs
**Monroe
*Morgan
Obion
**Overton
**Perry
*Pickett
**Polk
**Putnam
**Rhea
Robertson
Rutherford
**Sequatchie
**Sevier
Shelby
**Smith
**Stewart
Sumner
Tipton
**Trousdale
*Van Buren
Warren
**Wayne
Weakley
**White
Williamson
**Wilson

Texas

Jackson
Jefferson
Lamar
Lamb
Liberty
Lubbock
Matagorda
**Medina
**Moore
**Newton
**Orange
**Parmer
**Polk
Red River
**San Jacinto
**Sherman
Swisher
**Tyler
**Uvalde
Waller
Wharton
**Zavala

Virginia

Caroline
**Charles City
**Charlotte
**Chesterfield
**Culpeper
**Cumberland
Dinwiddie

Essex
**Fauquier
*Fluvanna
*Franklin
**Goucester
**Goochland
Greensville
Halifax
Hanover
**Henrico
*Henry
Isle of Wight
**James City
King and Queen
**King George
King William
**Lancaster
**Loudoun
**Louisa
**Lonenburg
**Mathews
Mecklenburg
**Middlesex

*Nelson
**New Kent
Northampton
Northumberland
**Nottoway
*Orange
*Patrick
Pittsylvania
**Powhatan
**Prince Edward
Prince George
Richmond
Southampton
**Spotsylvania
**Stafford
Surry
Sussex
Westmoreland
**York
Chesapeake City
Suffolk City
Virginia Beach

West Virginia

**Mason

Wisconsin

**Adams
**Barron
Buffalo
**Burnett
**Calumet
**Chippewa
*Clark
Columbia
**Crawford
Dane
**Dodge
*Door
Dunn
**Eau Claire
**Fond du Lac
**Grant
**Green
**Iowa
Jackson
Jefferson
Juneau
Kenosha
**La Crosse
**Lafayette
*Langlade

*Lincoln
*Manitowoc
**Marquette
**Milwaukee
**Monroe
*Outagamie
**Ozaukee
Pepin
Pierce
Polk
*Portage
Racine
**Richland
Rock
St. Croix
**Sauk
*Sheboygan
Trempealeau
Walworth
*Washington
Waukesha
**Waupaca
**Waushara
Winnebago
*Wood

Done in Washington, D.C., on May 8, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: June 5, 1984.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 84-15731 Filed 6-13-84; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 432

[Doc. No. 1103S; Amdt. No. 2]

Corn Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby proposes to

amend Appendix A to the Corn Crop Insurance Regulations (7 CFR Part 432) to include additional counties recently approved by FCIC's Board of Directors for corn crop insurance, to list counties inadvertently omitted from previous county listing publications, and to republish Appendix A in its entirety to reflect all counties currently designated for corn crop insurance. The intended effect of this rule is to update the list of counties wherein corn crop insurance is otherwise authorized to be offered under the provisions of the Corn Crop Insurance Regulations and to notify all interested parties in the additional affected counties that they are now eligible to participate in the program.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than July 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.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512-1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under that memorandum. The sunset review date established for these regulations is October 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not have an annual effect on the economy of \$100 million or more; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule applies are: Title—Crop Insurance; Number 10.450.

As set forth in the rule related notice to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities are excluded from the provisions of Executive Order No. 12372, requiring intergovernmental consultation with State and local officials.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

Under the provisions of 7 CFR 432.1, before any insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which corn crop insurance shall be offered. The Board of Directors has approved additional counties for corn crop insurance and the Manager proposes to make crop insurance available in those counties effective with the 1984 and succeeding crop years. The proposed additional counties are listed and identified in Appendix A by an asterisk ("*").

In reviewing the county listing for corn crop insurance, FCIC noted that several counties had been inadvertently omitted from previous regulations published in the *Federal Register*. These counties are included in Appendix A and are identified by two asterisks ("**").

To be sure that Appendix A lists every county wherein corn crop insurance is otherwise authorized to be offered, FCIC is republishing Appendix A in its entirety.

The public is invited to submit written comments, data, and opinions on this proposed rule for 30 days after publication in the *Federal Register*. All comments made pursuant to this action will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 432

Crop insurance, Corn.

Proposed Rule

PART 432—[AMENDED]

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Corn Crop Insurance Regulations (7 CFR Part 432), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority Citation for 7 CFR Part 432 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 432 is amended by revising and reissuing Appendix A thereto to read as follows:

Appendix A—Counties Designated for Corn Crop Insurance

The following counties are designated for Corn Crop Insurance under the provisions of 7 CFR 432.1

Alabama

Autauga
Baldwin
Barbour
Bibb
Blount
Bullock

Butler
Calhoun
Chambers
Cherokee
Chilton
Choctaw
Clarke
Clay
Clebume
Coffee
Colbert
Conecuh
Coosa
Covington
Crenshaw
Cullman
Dale
Dallas
DeKalb
Elmore
Escambia
Etowha
Fayette
Franklin
Geneva
Greene
Hale
Henry
Houston
Jackson
Jefferson

Apache
Cochise
Coconino
Graham
Greenlee

Arkansas
Ashley
Benton
Boone
Bradley
Calhoun
Carroll
Chicot
Clark
Clay
Clebume
Cleveland
Columbia
Conway
Craighead
Crawford
Crittenden
Cross
Dallas
Desha
Drew
Faulkner
Franklin
Fulton
Grant
Greene
Hempstead
Hot Spring
Howard
Independence
Izard
Jackson
Johnson
Lafayette

Alameda
Amador
Butte
Colusa
Contra Costa
Fresno
Glenn
Humboldt

Lamar
Lauderdale
Lawrence
Lee
Limestone
Lowndes
Macon
Madison
Marengo
Marion
Marshall
Mobile
Monroe
Montgomery
Morgan
Perry
Pickens
Pike
Randolph
Russell
St. Clair
Shelby
Sumter
Talladega
Tallapoosa
Tuscaloosa
Walker
Washington
Wilcox
Winston

Arizona

Maricopa
Navajo
Pima
Pinal
Yavapai

Arkansas

Lawrence
Lee
Lincoln
Little River
Logan
Lonoke
Madison
Marion
Miller
Mississippi
Monroe
Nevada
Ouachita
Perry
Phillips
Pike
Poinsett
Polk
Pope
Prairie
Pulaski
Randolph
St. Francis
Saline
Scott
Sebastian
Sevier
Sharp
Stone
Van Buren
Washington
White
Woodruff
Yell

California

Kern
Kings
Lassen
Madera
Mendocino
Merced
Modoc
Monterey

**Riverside
Sacramento
**San Benito
**San Bernardino
**San Diego
San Joaquin
**San Luis Obispo
**Santa Barbara
**Santa Cruz
**Shasta

**Siskiyou
Solano
**Sonoma
Stanislaus
Sutter
**Tehama
Tulare
Yolo
Yuba

Colorado

Adams
**Arapahoe
**Archuleta
Baca
Bent
Boulder
Cheyenne
**Conejos
Crowley
**Delta
**Dolores
**Douglas
**Elbert
**El Paso
**Fremont
**Garfield
**Huerfano
**Jefferson
**Kiowa
Kit Carson
**La Plata
Larimer
**Las Animas
**Lincoln
Logan
**Mesa
**Moffat
**Montezuma
**Montrose
Morgan
Otero
**Ouray
Phillips
Prowers
Pueblo
**Saguache
Sedgwick
Washington
Weld
Yuma

Connecticut

**Fairfield
**Hartford
**Litchfield
**Middlesex
**New Haven
**New London
**Tolland
**Windham

Delaware

Sussex

Florida

Alachua
**Baker
**Bay
**Bradford
Calhoun
**Citrus
**Collier
Columbia
**Dade
**De Soto
**Dixie
**Duval
Escambia
**Flagler
Gadsden
Gilchrist
**Glades
**Gulf
Hamilton
**Hendry
**Hernando
**Highlands
Holmes
**Indian River
Jackson
Jefferson
**Lafayette
**Lake
**Leon
Levy
**Liberty
Madison
**Manatee
**Marion
**Nassau
Okaloosa
**Orange
**Osceola
**Palm Beach
**Polk
**Putnam
**St. Johns
Santa Rosa
**Seminole
**Sumter
Suwannee
**Taylor
**Union
**Volusia
**Wakulla
**Walton
Washington

Georgia

Appling
Atkinson
Bacon
Baker
**Baldwin
**Banks
**Barrow
Bartow
Ben Hill
Berrien
**Bibb
Bleckley
**Brantley
Brooks
**Bryan
Bulloch
Burke
**Butts
Calhoun
**Camden
Candler
**Carroll
**Catoosa
**Charlton

**Chatham
**Chattooga
**Cherokee
**Clarke
**Clay
**Clayton
**Clinch
Coffee
Colquitt
**Columbia
Cook
**Coweta
Crawford
Crisp
**Dade
**Dawson
Decatur
**De Kalb
Dodge
Dooley
Dougherty
**Douglas
Early
**Echols
Effingham
**Elbert
Emanuel
Evans
**Fannin
**Fayette
**Floyd
**Forsyth
**Franklin
**Fulton
**Gilmer
**Glascok
**Glynn
**Gordon
Grady
**Greene
**Gwinnett
**Habersham
**Hall
**Hancock
**Haralson
**Harris
Hart
**Heard
**Henry
Houston
Irwin
**Jackson
**Jasper
Jeff Davis
Jefferson
Jenkins
Johnson
**Jones
**Lamar
**Lanier
Laurens
Lee
**Liberty
**Lincoln
**Long
Lowndes
**Lumpkin

**Ada
**Adams
**Bannock
**Bingham
**Blaine
**Bonner
**Bonneville
Canyon
**Caribou
Cassia
**Clark
Elmore
**Franklin
**Fremont
**Gem

**McDuffie
**McIntosh
Macon
**Madison
Marion
**Meriwether
Miller
Mitchell
**Monroe
Montgomery
**Morgan
**Murray
**Muscogee
**Newton
**Oconee
**Oglethorpe
**Paulding
Peach
**Pickens
Pierce
**Pike
**Polk
Pulaski
**Putnam
**Quitman
**Rabun
Randolph
**Richmond
**Rockdale
**Schley
Screven
Seminole
**Spalding
**Stephens
Stewart
Sumter
**Talbot
**Taliaferro
Tattnall
Taylor
Telfair
Terrell
Thomas
Tift
Toombs
**Towns
Treutlen
**Troup
Turner
**Twiggs
**Union
**Upson
**Walker
**Walton
**Ware
**Warren
Washington
Wayne
Webster
Wheeler
**White
**Whitfield
Wilcox
**Wilkes
**Wilkinson
Worth

Idaho

**Gooding
**Jefferson
Jerome
**Kootenai
**Lemhi
Lincoln
**Madison
Minidoka
**Oneida
Owyhee
**Payette
**Power
**Teton
Twin Falls
**Washington

Illinois

Adams
Alexander
Bond
Boone
Brown
Bureau
Calhoun
Carroll
Cass
Champaign
Christian
Clark
Clay
Clinton
Coles
**Cook
Crawford
Cumberland
De Kalb
De Witt
Douglas
Du Page
Edgar
Edwards
Effingham
Fayette
Ford
Franklin
Fulton
Gallatin
Greene
Grundy
Hamilton
Hancock
Hardin
Henderson
Henry
Iroquois
Jackson
Jasper
Jefferson
Jersey
Jo Daviess
Johnson
Kane
Kankakee
Kendall
Knox
Lake
La Salle
Lawrence
Lee
Livingston
Logan
McDonough
McHenry
McLean
Macon
Macoupin
Madison
Marion
Marshall
Mason
Massac
Menard
Mercer
Monroe
Montgomery
Morgan
Moultrie
Ogle
Peoria
Perry
Piatt
Pike
Pope
Pulaski
Putnam
Randolph
Richland
Rock Island
St. Clair
Saline
Sangamon
Schuyler
Scott
Shelby
Stark
Stephenson
Tazewell
Union
Vermillion
Wabash
Warren
Washington
Wayne
White
Whiteside
Will
Williamson
Winnebago
Woodford

Indiana

Adams
Allen
Bartholomew
Benton
Blackford
Boone
Brown
Carroll
Cass
Clark
Clay
Clinton
**Crawford
Daviess
Dearborn
Decatur
De Kalb
Delaware
Dubois
Elkhart
Fayette
**Floyd
Fountain
Franklin
Fulton
Gibson
Grant
Greene
Hamilton
Hancock
Harrison
Hendricks
Henry
Howard
Huntington
Jackson
Jasper
Jay
Jefferson
Jennings
Johnson
Knox
Kosciusko
Lagrange
Lake
La Porte
Lawrence
Madison
Marion
Marshall
Martin
Miami
**Monroe
Montgomery
Morgan
Newton
Noble
**Ohio
Orange
Owen

Parke
Perry
Pike
Porter
Posey
Pulaski
Putnam
Randolph
Ripley
Rush
St. Joseph
Scott
Shelby
Spencer
Starke
Steuben

Sullivan
Switzerland
Tippecanoe
Tipton
Union
Vanderburgh
Vermillion
Vigo
Wabash
Warren
Warrick
Washington
Wayne
Wells
White
Whitley

Iowa

Adair
Adams
Allamakee
Appanoose
Audubon
Benton
Black Hawk
Boone
Bremer
Buchanan
Buena Vista
Butler
Calhoun
Carroll
Cass
Cedar
Cerro Gordo
Cherokee
Chickasaw
Clarke
Clay
Clayton
Clinton
Crawford
Dallas
Davis
Decatur
Delaware
Des Moines
Dickinson
Dubuque
Emmet
Fayette
Floyd
Franklin
Fremont
Greene
Grundy
Guthrie
Hamilton
Hancock
Hardin
Harrison
Henry
Howard
Humboldt
Ida
Iowa
Jackson
Jasper

Jefferson
Johnson
Jones
Keokuk
Kossuth
Lee
Linn
Louisa
Lucas
Lyon
Madison
Mahaska
Marion
Marshall
Mills
Mitchell
Monona
Monroe
Montgomery
Muscataine
O'Brien
Osceola
Page
Palo Alto
Plymouth
Pocahontas
Polk
East Pottawattamie
West Pottawattamie
Poweshiek
Ringgold
Sac
Scott
Shelby
Sioux
Story
Tama
Taylor
Union
Van Buren
Wapello
Warren
Washington
Wayne
Webster
Winnebago
Winneshek
Woodbury
Worth
Wright

Kansas

**Allen
**Anderson
Atchison
**Barber
**Barton
Bourbon
Brown
Butler
**Chase
**Chautauqua
**Cherokee
Cheyenne
**Clark
Clay

**Cloud
**Coffey
**Comanche
**Cowley
Crawford
Decatur
Dickinson
Doniphan
Douglas
Edwards
**Elk
**Ellis
**Ellsworth
Finney

Ford
Franklin
**Geary
Gove
**Graham
Grant
Gray
Greeley
**Greenwood
Hamilton
**Harper
Harvey
Haskell
Hodgeman
Jackson
Jefferson
Jewell
Johnson
Kearny
**Kingman
Kiowa
**Labette
Lane
Leavenworth
Lincoln
Linn
Logan
Lyon
McPherson
Marion
Marshall
Meade
Miami
**Mitchell
**Montgomery
**Morris
Morton
Nemaha
**Neosho

**Adair
Allen
**Anderson
Ballard
Barren
**Bath
**Bell
**Boone
**Bourbon
**Boyd
**Boyle
**Bracken
**Breathitt
Breckinridge
**Bullitt
Butler
Caldwell
Calloway
**Campbell
Carlisle
**Carroll
**Carter
**Casey
Christian
**Clark
**Clay
**Clinton
**Crittenden
**Cumberland
Davies
**Edmonson
**Elliott
**Estill
**Fayette
**Fleming
**Floyd
**Franklin
**Fulton
**Gallatin
**Garrard
**Grant
Graves
Grayson
**Green

Ness
**Norton
Osage
**Osborne
**Ottawa
Pawnee
**Phillips
Pottawatomie
Pratt
Rawlins
**Reno
Republic
**Rice
**Riley
**Rooks
**Rush
**Russell
**Saline
Scott
Sedgwick
Seward
Shawnee
Sheridan
Sherman
**Smith
Stafford
Stanton
Stevens
Sumner
Thomas
Trego
Wabauunsee
Wallace
Washington
Wichita
**Wilson
**Woodson
**Wyandotte

Kentucky

**Greenup
Hancock
Hardin
**Harlan
**Harrison
**Hart
Henderson
**Henry
Hickman
Hopkins
**Jackson
**Jefferson
**Jessamine
**Johnson
**Kenton
**Knott
**Knox
Larue
**Laurel
**Lawrence
**Lee
**Leslie
**Letcher
**Lewis
**Lincoln
Livingston
Logan
**Lyon
McCracken
**McCreary
McLean
**Madison
**Magoffin
**Marion
Marshall
**Martin
**Mason
Meade
**Menifee
**Mercer
**Metcalfe
**Monroe
**Montgomery
**Morgan

Muhlenberg
Nelson
**Nicholas
Ohio
**Oldham
**Owen
**Owsley
**Pendleton
**Perry
**Pike
**Powell
**Pulaski
**Robertson
**Rockcastle
**Rowan
**Russell

**Acadia
**Allen
**Ascension
**Assumption
**Avoyelles
Beauregard
**Bienville
**Bossier
**Caddo
**Calcasieu
**Caldwell
**Cameron
**Catahoula
**Claiborne
**Concordia
**De Soto
**East Baton Rouge
**East Carroll
**East Feliciana
**Evangeline
**Franklin
**Grant
**Iberia
Iberville
**Jackson
**Jefferson Davis
**Lafayette
**Lafourche
**La Salle
**Lincoln

**Androscoggin
**Aroostook
**Cumberland
**Franklin
**Hancock
**Kennebec
**Knox
**Lincoln

**Allegany
**Anne Arundel
Baltimore
**Calvert
Caroline
Carroll
Cecil
Charles
Dorchester
Frederick
**Garrett
Harford

**Barnstable
**Berkshire
**Bristol
**Dukes
**Essex
**Franklin

**Alcona
**Alger

**Scott
Shelby
Simpson
**Spencer
Taylor
Todd
Trigg
Trimble
Union
Warren
**Washington
**Wayne
Webster
**Whitley
**Wolfe
**Woodford

Louisiana

**Livingston
**Madison
**Morehouse
**Natchitoches
**Ouachita
Pointe Coupee
**Rapides
**Red River
Richland
**Sabine
**Saint Helena
**St. James
**St. John the Baptist
**St. Landry
**St. Martin
**St. Mary
**Saint Tammany
**Tangipahoa
**Tensas
**Terrebonne
**Union
**Vermilion
**Vernon
**Washington
**Webster
**West Baton Rouge
**West Carroll
**West Feliciana
**Winn

Maine

**Oxford
**Penobscot
**Piscataquis
**Sagadahoc
**Somerset
**Waldo
**Washington
**York

Maryland

**Howard
Kent
Montgomery
**Prince Georges
Queen Annes
St. Marys
Somerset
Talbot
Washington
Wicomico
Worcester

Massachusetts

**Hampden
**Hampshire
**Middlesex
**Norfolk
**Plymouth
**Worcester

Michigan

Allegan
**Alpena

**Antrim
 Arenac
 **Baraga
 Barry
 Bay
 **Benzie
 Berrien
 Branch
 Calhoun
 Cass
 **Charlevoix
 **Cheboygan
 **Chippewa
 **Clare
 Clinton
 **Crawford
 **Delta
 **Dickinson
 Eaton
 **Emmet
 Genesee
 **Gladwin
 **Gogebic
 **Grand Traverse
 Gratiot
 Hillsdale
 **Houghton
 Huron
 Ingham
 Ionia
 **Iosco
 **Iron
 Isabella
 Jackson
 Kalamazoo
 Kalkaska
 Kent
 **Keweenaw
 **Lake
 Lapeer

Minnesota

**Aitkin
 Anoka
 Becker
 Beltrami
 Benton
 Big Stone
 Blue Earth
 Brown
 **Carlton
 Carver
 **Cass
 Chippewa
 Chisago
 Clay
 Clearwater
 **Cook
 Cottonwood
 Crow Wing
 Dakota
 Dodge
 Douglas
 Faribault
 Fillmore
 Freeborn
 Goodhue
 Grant
 Hennepin
 Houston
 Hubbard
 Isanti
 **Itasca
 Jackson
 Kanabec
 Kandiyohti
 **Kittson
 **Koochiching
 Lac Qui Parle
 **Lake
 **Lake of the Woods
 Le Sueur
 Lincoln
 Lyon
 McLeod
 **Mahnommen
 **Marshall

**Leelanau
 Lenawee
 Livingston
 **Luce
 **Mackinac
 Macomb
 **Manistee
 **Marquette
 **Mason
 Mecosta
 **Menominee
 Midland
 **Missaukee
 Monroe
 Montcalm
 **Montmorency
 **Muskegon
 Newaygo
 **Oakland
 **Oceana
 **Ogemaw
 **Ontonagon
 **Osceola
 **Oscoda
 **Otsego
 Ottawa
 **Presque Isle
 **Roscommon
 Saginaw
 St. Clair
 St. Joseph
 Sanilac
 **Schoolcraft
 Shiawassee
 Tuscola
 Van Buren
 Washtenaw
 **Wayne
 **Wexford

Mississippi

**Adams
 **Alcorn
 **Amite
 **Attala
 **Benton
 **Bolivar
 Calhoun
 **Carroll
 **Chickasaw
 **Choctaw
 Claiborne
 **Clarke
 Clay
 **Coahoma
 **Copiah
 **Covington
 **Desoto
 **Forrest
 **Franklin
 George
 **Greene
 **Grenada
 **Hancock
 **Harrison
 **Hinds
 **Holmes
 **Humphreys
 **Issaquena
 Itawamba
 **Jackson
 **Jasper
 **Jefferson
 **Jefferson Davis
 **Jones
 **Kemper
 Lafayette
 **Lamar
 **Lauderdale
 **Lawrence
 **Leake
 **Lee

Missouri

Adair
 Andrew
 Atchison
 Audrain
 **Barry
 Barton
 Bates
 Benton
 Bollinger
 Boone
 Buchanan
 Butler
 Caldwell
 Callaway
 **Camden
 Cape Girardeau
 Carroll
 **Carter
 Cass
 **Cedar
 Chariton
 **Christian
 Clark
 Clay
 Clinton
 **Cole
 Cooper
 **Crawford
 Dade
 **Dallas
 Daviess
 De Kalb
 **Dent
 **Douglas
 Dunklin
 Franklin
 **Gasconade
 Gentry
 **Greene
 Grundy

**Leflore
 **Lincoln
 Lowndes
 **Madison
 **Marion
 Marshall
 **Monroe
 Montgomery
 **Neshoba
 **Newton
 Noxubee
 **Oktibbeha
 **Panola
 Pearl River
 **Perry
 **Pike
 **Pontotoc
 **Prentiss
 **Quitman
 Rankin
 **Scott
 **Sharkey
 **Simpson
 **Smith
 **Stone
 **Sunflower
 **Tallahatchie
 Tate
 Tippah
 **Tishomingo
 **Tunica
 **Union
 **Walthall
 **Warren
 **Washington
 **Wayne
 Webster
 **Wilkinson
 **Winston
 Yalobusha
 **Yazoo

**Phelps
 Pike
 Platte
 **Polk
 **Polaski
 Putnam
 Ralls
 Randolph
 Ray
 **Reynolds
 **Ripley
 St. Charles
 St. Clair
 St. Genevieve
 **St. Francois
 **St. Louis
 Saline

Montana

Big Horn
 **Blaine
 **Broadwater
 Carbon
 **Carter
 **Cascade
 **Chouteau
 Custer
 Dawson
 **Fallon
 **Fergus
 **Flathead
 **Gallatin
 **Garfield
 **Glacier
 **Golden Valley
 **Hill
 **Judith Basin
 Lake

Nebraska

Adams
 Antelope
 **Arthur
 Banner
 **Blaine
 Boone
 Box Butte
 Boyd
 Brown
 Buffalo
 Burt
 Butler
 Cass
 Cedar
 Chase
 **Cherry
 Cheyenne
 Clay
 Colfax
 Cuming
 Custer
 Dakota
 **Dawes
 Dawson
 Deuel
 Dixon
 Dodge
 Douglas
 Dundy
 Fillmore
 Franklin
 Frontier
 Furnas
 Gage
 Garden
 **Garfield
 Gosper
 **Grant
 Greeley
 Hall
 Hamilton
 Harlan
 Hayes
 Hitchcock
 Holt
 **Hooker
 Howard

Schuyler
 Scotland
 Scott
 **Shannon
 Shelby
 Stoddard
 **Stone
 Sullivan
 **Taney
 **Texas
 Vernon
 Warren
 **Washington
 **Wayne
 **Webster
 Worth
 **Wright

**Liberty
 **McCone
 **Missoula
 **Musselshell
 **Phillips
 **Powder River
 Prairie
 **Ravalli
 Richland
 **Roosevelt
 Rosebud
 **Sanders
 **Sheridan
 Stillwater
 **Toole
 Treasure
 **Valley
 **Wibaux
 Yellowstone

Nevada

**Churchill
**Lincoln
**Lyon

**Nye
**Washoe
**White Pine

New Hampshire

**Belknap
**Carroll
**Cheshire
**Coos
**Grafton

**Hillsborough
**Merrimack
**Rockingham
**Strafford
**Sullivan

New Jersey

**Atlantic
Burlington
**Camden
**Cape May
Cumberland
Gloucester
Hunterdon
Mercer

**Middlesex
Monmouth
**Morris
**Ocean
Salem
**Somerset
**Sussex
Warren

New Mexico

**Bernalillo
**Chaves
**Colfax
Curry
**De Baca
**Dona Ana
**Eddy
**Grant
**Guadalupe
**Hidalgo
Lea
**Lincoln
Luna
**McKinley

**Mora
**Otero
Quay
**Rio Arriba
Roosevelt
**Sandoval
**San Juan
**San Miguel
**Santa Fe
**Sierra
**Socorro
**Torrance
Union
**Valencia

New York

**Albany
**Allegany
**Broome
Cattaraugus
Cayuga
Chautauqua
**Chemung
Chenango
**Clinton
Columbia
**Cortland
**Delaware
**Dutchess
Erie
**Essex
**Franklin
**Fulton
Genesee
**Greene
**Herkimer
Jefferson
**Lewis
Livingston
Madison
Monroe
Montgomery
Niagara

Oneida
Onondaga
Ontario
**Orange
Orleans
**Oswego
Otsego
**Rensselaer
St. Lawrence
**Saratoga
**Schenectady
Schoharie
**Schuyler
Seneca
Steuben
**Suffolk
**Sullivan
**Tioga
Tompkins
**Ulster
**Warren
**Washington
Wayne
Wyoming
Wyoming
Yates

North Carolina

Alamance
**Alexander
Alleghany
Anson
**Ashe
**Avery
Beaufort
Bertie
Bladen
Brunswick
**Buncombe
**Burke
Cabarrus
**Caldwell
Camden

**Carteret
**Caswell
**Catawba
**Chatham
**Cherokee
Chowan
**Clay
Cleveland
Columbus
Craven
Cumberland
Currituck
**Dare
Davidson
**Davie

Duplin
**Durham
Edgecombe
**Forsyth
Franklin
**Gaston
Gates
**Graham
Granville
Greene
Guilford
Halifax
Harnett
**Haywood
**Henderson
Hertford
Hoke
Hyde
Iredell
**Jackson
Johnston
Jones
**Lee
Lenoir
**Lincoln
**McDowell
**Macon
**Madison
Martin
**Mecklenburg
**Mitchell
**Montgomery
**Moore
Nash
**New Hanover

**Adams
**Barnes
**Benson
**Billings
**Bottineau
**Bowman
**Burke
Burleigh
Cass
**Cavalier
Dickey
**Divide
Dunn
**Eddy
Emmons
**Foster
**Golden Valley
Grand Forks
**Grant
**Griggs
**Hettinger
**Kidder
Lamoure
**Logan
**McHenry
**McIntosh
**McKenzie

Adams
Allen
Ashland
Ashtabula
**Athens
Auglaize
**Belmont
Brown
Butler
**Carroll
Champaign
Clark
Clermont
Clinton
Columbiana
Coshocton
Crawford
**Cuyahoga

Northampton
Onslow
**Orange
Pamlico
Pasquotank
Pender
Perquimans
**Person
Pitt
**Polk
Randolph
**Richmond
Robeson
**Rockingham
Rowan
**Rutherford
Sampson
Scotland
Stanly
**Stokes
Surry
**Swain
**Transylvania
Tyrrell
Union
**Vance
Wake
Warren
Washington
**Watauga
Wayne
**Wilkes
Wilson
Yadkin
**Yancey

North Dakota

**McLean
**Mercer
Morton
**Mountrail
**Nelson
**Oliver
**Pembina
**Pierce
**Ramsey
Ransom
**Renville
Richland
**Rolette
Sargent
**Sheridan
**Sioux
**Slope
**Stark
**Steele
**Stutsman
**Towner
Traill
**Walsh
**Ward
**Wells
**Williams

Ohio

Darke
Defiance
Delaware
Erie
Fairfield
Fayette
Franklin
Fulton
**Gallia
**Geauga
Greene
**Guernsey
**Hamilton
Hancock
Hardin
**Harrison
Henry
Highland

**Hocking
Holmes
Huron
**Jackson
**Jefferson
Knox
**Lake
**Lawrence
Licking
Logan
Lorain
Lucas
Madison
Mahoning
Marion
Medina
**Meigs
Mercer
Miami
**Monroe
Montgomery
**Morrow
Muskingum
**Noble
Ottawa
Paulding

**Adair
**Alfalfa
**Atoka
**Beaver
**Beckham
**Blaine
**Bryan
**Caddo
**Canadian
**Carter
**Cherokee
**Choctaw
Cimarron
**Cleveland
**Coal
**Comanche
**Craig
**Creek
**Custer
**Delaware
**Dewey
**Ellis
**Garfield
**Garvin
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**Roger Mills
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South Dakota

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Live Oak
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**Tom Green
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- **New Kent
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- **Nottoway
- **Orange
- **Page
- **Patrick
- Pittsylvania
- **Powhatan
- **Prince Edward
- Prince George
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- **Rappahannock
- Richmond
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- **Rockbridge
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- **Scott
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- **Smyth
- Southampton
- **Spotsylvania
- **Stafford
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- **Tazewell
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- **Washington
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- **Wythe
- **York
- Chesapeake City
- **Hampton
- **Newport News
- Suffolk City
- Virginia Beach

Washington

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West Virginia

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Wisconsin

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- **Florence
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- **Forest
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- **Lincoln
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- **Hot Springs
- **Laramie

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- **Wyoming

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- **Milwaukee
- Monroe
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- **Oneida
- Outagamie
- Ozaukee
- Pepin
- Pierce
- Polk
- Portage
- **Price
- Racine
- Richland
- Rock
- Rusk
- St. Croix
- Sauk
- **Sawyer
- Shawano
- Sheboygan
- Taylor
- Trempealeau
- Vernon
- **Vilas
- Walworth
- **Washburn
- Washington
- Waukesha
- Waupaca
- Waushara
- Winnebago
- Wood

Done in Washington, D.C., on May 9, 1984.
Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: June 5, 1984.

Approved by:

Edward Hews,
Acting Manager.

[FR Doc. 84-15728 Filed 6-13-84; 8:45 am]

BILLING CODE 3410-08-M

Agriculture Stabilization and Conservation Service

7 CFR Part 724

[Amendment 6]

Tobacco Allotment and Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations at 7 CFR Part 724 to eliminate history credit for fire-cured (type 21, 22, 23, and 24), dark air-cured (types 35 and 36), Virginia sun-cured (type 37), cigar-binder (types 51 and 52), and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco when such tobacco is not planted because the producer has participated in conservation programs or has installed conservation practices on the acreage which otherwise would have been planted to such tobacco. Since recent legislation with respect to tobacco has emphasized that tobacco allotments should be utilized by those persons actively engaged in tobacco production, it is proposed that 7 CFR 724.57 be amended to eliminate history credit for farms for which the tobacco allotment has been preserved in accordance with Cropland Adjustment Program (CAP) and other conservation programs or practices.

DATE: Comments must be received on or before July 16, 1984, in order to be assured of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to this notice will be made available for public inspection in Room 5750 South Building, USDA.

FOR FURTHER INFORMATION CONTACT: Jay S. Poole, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013 (202) 447-2715.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "not major". It has been determined that this rule 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 geographic regions or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Information collection requirements contained in this regulation (7 CFR Part 724) have been approved by the Office of Management and Budget in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB clearance number 0560-0058.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases, 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This proposed rule would eliminate history credit for conservation programs and conservation practices with respect to fire-cured (types 21, 22, 23, and 24), dark air-cured (types 35 and 36), Virginia sun cured (type 37), cigar binder (types 51 and 52), and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco. With respect to these kinds of tobacco, the acreage allotment established for a farm is fully preserved for the purpose of maintaining tobacco acreage history if, in the current year or either of the two preceding years, the sum of: (1) The planted acreage of tobacco, (2) the farm acreage allotment leased and transferred from the farm, (3) the acreage regarded as having been planted as a result of the installation of approved conservation measures or practices, and (4) the farm acreage allotment temporarily released to the State Agricultural Stabilization and Conservation Committee is not less than 75 percent of the basic acreage allotment established for the farm. Currently, many farmowners are eligible to receive history credit as a result of

the installation of approved conservation practices or participation in conservation programs even though they have no recent history of actual tobacco production.

Section 602(g) of the Food and Agriculture Act of 1965, as amended (hereinafter referred to as the "1965 Act"), provides that the Secretary may provide for preservation of cropland, crop acreage, and allotment history applicable to acreage diverted from the production of crops in order to establish or maintain vegetative cover or other approved practices for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation or for participation in such program. Specifically, producers could enter into conservation contracts with the Commodity Credit Corporation (CCC) under a program known as the Cropland Adjustment Program (CAP). These contracts, which ranged in length from five years to ten years, required that farmowners devote a farm's cropland to certain conservation practices in order to receive history credit which fully preserved a farm's tobacco acreage allotment. In addition to a cash payment, the farmowner continued to receive history credit for the duration of the conservation contract. Certain farmowners could also continue to receive history credit after the CAP contract expired if the farm's entire cropland was enrolled in CAP and planted in trees. This extended period of time was equal to the length of the CAP contract.

After a review of ASCS records in major tobacco producing States, it has been determined that practically no history credit has been given to producers in accordance with the provisions of Section 602(g) of the 1965 Act in recent years. Also, after a farm's CAP contract has expired, it is to the disadvantage of producers to receive history credit in this manner because such producers derive no direct financial benefit from the farm's tobacco allotment since they neither grow such tobacco nor lease such allotment (where applicable by type). Noting recent prices for those types of tobacco for which the leasing of allotments is permitted, it is apparent that any landowners who continue to receive history credit in accordance with this program and who have never filed a request to lease and transfer (when permitted according to type) the farm's allotment have little or no interest in utilizing the tobacco program for their financial benefit. Further, any farmer still receiving history credit based on a CAP contract, or any other conservation program,

would have, according to the type of tobacco, up to 8 years in which to produce tobacco on the farm or lease the allotment from the farm to an active tobacco grower before such allotment would be forfeited in accordance with 7 CFR 724.57.

In addition, the 1965 Act provides that history credit may also be made available to farmowners who participate in other conservation programs. Currently, 7 CFR 724.57 provides that such credit is available to participants in certain conservation programs for which Federal cost share assistance is made available, such as the Agricultural Conservation Program (ACP), and to farmowners who install comparable conservation practices on their land without Federal cost share assistance.

Since recent legislation with respect to tobacco has emphasized that tobacco allotments should be utilized by those persons actively engaged in tobacco production, it is proposed that 7 CFR 724.57 be amended to eliminate history credit for farms for which the tobacco allotment has been preserved in accordance with CAP and other conservation programs or practices. If there are any outstanding long-term conservation contracts which have been entered into by the Department under which history credit has been guaranteed for the length of the contract, the Department will honor such contractual provisions to the extent they are in accordance with existing law. 7 CFR 719.10(e), preservation of cropland and allotment acreage, would be amended to conform to the proposed change.

Since 1984 planting decisions must be made immediately by producers of fire-cured, dark air-cured, Virginia sun-cured, cigar-binder (types 51-52), and cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco, this rule must be implemented as soon as possible. Therefore, all comments must be received by July 16, 1984 in order to be assured of consideration.

List of Subjects in 7 CFR Part 724

Acreage allotments, Tobacco.

PART 724—[AMENDED]

Accordingly, it is proposed that 7 CFR Part 724 be amended to read as follows:

1. The authority citation reads as follows:

Authority: Secs. 301, 313, 314, 316, 318, 363, 372-375, 377, 378, 52, Stat. 38 as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 81 Stat. 120, as amended, 52 Stat. 63, as amended, 65, as amended, 66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended; 7 U.S.C. 1301, 1313, 1314,

1314b, 1314d, 1363, 1372-1375, 1377, 1378, unless otherwise noted.

2. Section 724.57 is amended by revising paragraph (b)(1), removing and reserving paragraph (b)(2)(ii), and revising paragraph (b)(3) to read as follows:

§ 724.57 Determination of preliminary acreage allotments and tobacco history acreage for old farms.

(b) * * *

(1) *Farm acreage allotment fully preserved.* The farm acreage allotment is fully preserved as tobacco history acreage for any year if: (i) In such year or either of the two immediately preceding years the sum of (a) the final tobacco acreage (including failed acreage and acreage prevented from being planted because of natural disaster) as determined under Part 718 of this chapter, (b) acreage leased and transferred from the farm, and (c) the acreage temporarily released to the State committee under the provisions of § 724.72, is not less than 75 percent of the basic allotment after any reduction in the allotment for a program violation, (ii) or in such year or either of the two immediately preceding years the farm acreage allotment was in the eminent domain pool.

(2) * * *

(i) * * *

(ii) [Reserved]

(3) *Adjustment of tobacco history acreage for abnormal weather or disease.* If the county committee determines (with the approval of a representative of the State committee) that for any year the sum of the final tobacco acreage and any acreage transferred from the farm is less than 75 percent of the allotment (after any deduction in the allotment for a program violation) because of abnormal weather or disease, the tobacco history acreage for such year shall be adjusted to become the smaller of (i) the allotment (prior to any reduction in the allotment for a program violation), or (ii) the sum of the final tobacco acreage for the farm, the additional acreage which the county committee determines (with the approval of a representative of the State committee) would have been included in the final acreage except for abnormal weather or disease, any acreage leased and transferred from the farm, and the amount of any reduction in the allotment for a program violation. Any adjustment in tobacco history acreages because of abnormal weather or disease shall not be considered as acreage devoted to tobacco in determining whether or not 75 percent of the

allotment is planted. No adjustment for abnormal weather or disease shall be made unless the farm operator requests such an adjustment in writing to the county committee no later than September 1 of the crop year involved.

Signed at Washington, D.C. on June 7, 1984.

Everett Rank,
Administrator.

[FR Doc 84-15809 Filed 6-13-84; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

Public Comment Period and Opportunity for Public Hearing on an Amendment to the Montana Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for a public hearing on an amendment submitted by the State of Montana to amend its permanent regulatory program which was conditionally approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed program amendment consists of proposed provisions to implement a blaster training, examination and certification program as required by the Federal regulations at 30 CFR Part 850.

This notice sets forth the times and locations that the proposed amendment is available for public inspection, the comment period during which interested persons may submit written comments on the proposed program amendment and information pertinent to the public hearing.

DATES: Written comments must be received on or before 4:00 p.m. on July 16, 1984. A public hearing on the proposal will be held, if requested, on July 9, 1984, at the address listed below under "ADDRESSES." Any person interested in making an oral or written presentation at the hearing should contact Mr. William Thomas at the OSM Casper Field Office by 4:00 p.m. on June 29, 1984. If no one has contacted Mr. Thomas to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Thomas, a

public meeting, rather than a hearing may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing will be held in the Student Union Building, Eastern Montana College, Billings, Montana 59101.

Written comments should be mailed or hand-delivered to Mr. William Thomas, Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.

See "SUPPLEMENTARY INFORMATION" for address where copies of the Montana program amendment and administrative record on the Montana program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendment by contacting the OSM Casper Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. William Thomas, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644, Telephone: (307) 261-5824.

SUPPLEMENTARY INFORMATION: Copies of the Montana program amendment, the Montana program and the administrative record on the Montana program are available for public review and copying at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1100 "L" Street, NW., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644

Montana Department of State Lands, Capitol Station, Helena, Montana 59620

Background

The Montana program was approved by the Secretary of the Interior on April 1, 1980, conditioned on the correction of 6 minor deficiencies. 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 Montana program can be found in the April 1, 1980 Federal Register 45 FR

21560-21580), and the February 11, 1982 Federal Register (47 FR 6266-6268).

The Federal standards at 30 CFR 850.12 stipulates that the regulatory authority in each State with an approved program shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation within 12 months after approval of a State program or within 12 months after publication date of OSM's rule, whichever is later. On March 6, 1984, Montana advised OSM that it would be unable to meet the March 4, 1984 deadline and requested until May 31, 1984 to develop and adopt a certification program.

On March 22, 1984 (49 FR 10675), OSM proposed an extension until May 31, 1984 for Montana to submit to OSM a proposed blaster training program. Public comment on the extension request was sought for 30 days until April 23, 1984. No comments were received by OSM. OSM published in the May 14, Federal Register (49 FR 20286) its approval of Montana's request for an extension until May 31, 1984.

Proposed Amendment

On May 25, 1984, the State of Montana submitted to OSM an amendment to its approved permanent regulatory program. The proposed amendment is intended to implement the provisions of 30 CFR Part 850 relating to blaster training, examination and certification. The proposed amendment consists of proposed regulations governing the use of explosives and the training, examination and certification of blasters.

At the time of the Secretary's approval of the Montana program, OSM had not yet promulgated Federal rules governing the training and certification of blasters. Therefore, the State was not required to include such requirements in its program. However, in the notice announcing conditional approval of the Montana program, the Secretary specified that Montana would be required to adopt such provisions following promulgation of the Federal standards (45 FR 21560, April 1, 1980).

On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Chapter M (48 FR 9486). OSM is seeking comment on whether the Montana proposed modifications are no less effective than the requirements of the Federal regulations and satisfy the criteria for approval of State program amendment at 30 CFR 732.15 and 732.17.

The full text of the program modification submitted by Montana for

OSM's consideration is available for public review at the addresses listed under "ADDRESSES".

Additional Determinations

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 926

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: (Pub. L. 95-87, sec. 523(c), (30 U.S.C. 1273(c))

Dated: June 8, 1984.

J. Lisle Reed,

Director, Office of Surface Mining.

[FR Doc. 84-15946 Filed 6-13-84; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OAR-FRL 2607-6]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing rulemaking on several revisions to the

Wisconsin State Implementation Plan (SIP) for Volatile Organic Compounds (VOC). The revisions pertain to Chapter 154 of the Wisconsin Administrative Code (WAC), specifically sections 154.01 and 154.13, and are meant to clarify the VOC RACT rules. The revisions also allow the Wisconsin Department of Natural Resources (WDNR) to extend the RACT compliance date for certain can coating operations. USEPA's action is based upon a SIP revision request that was submitted by the State of Wisconsin. The intent of today's rulemaking is to present a discussion of the material submitted by the State to support the revisions, and to provide an opportunity for public comment on the revisions and on USEPA's proposed action.

DATE: Comments on this revision and on the proposed USEPA action must be received by July 16, 1984.

ADDRESSES: Copies of the SIP revision are available for review at the following addresses. (It is recommended that you telephone Colleen W. Comerford, at (312) 886-6034 before visiting the Region V office).

Environmental Protection Agency,
Region V, Air and Radiation Branch,
230 South Dearborn Street, Chicago,
Illinois 60604

Wisconsin Department of Natural
Resources, Bureau of Air
Management, 101 South Webster,
Madison, Wisconsin 53707

Comments on this proposed rule should be addressed to (Please submit an original and five copies if possible): Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), USEPA, Region V, 230 South Dearborn, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Colleen W. Comerford, (312) 886-6034.

SUPPLEMENTARY INFORMATION:

Background

On November 17, 1983, the Wisconsin Department of Natural Resources (WDNR) requested that certain revisions to the Wisconsin Volatile Organic Compound (VOC) State Implementation Plan (SIP) be incorporated into the Federally approved SIP. These proposed revisions are largely in the nature of "housecleaning" except for the changes involving sections NR 154.01 (28m), NR 154.01 (68m), NR 154.13(4)(b)3., and NR 154.13(4)(c)3. The revisions are more extensive and are described in detail below. They were enacted in Wisconsin by means of Natural Resources Board Order Number A-36-82, and became effective on August 1, 1983. In today's

rulemaking action, USEPA is proposed to approve these revisions to the Wisconsin VOC SIP.

Proposed Revision to NR 154.01

There are two revisions to section NR 154.01, Definitions, of the Wisconsin Administrative Code (WAC). The first revision applies to NR 154.01 (28m). The definition for "beaded can" has been revised to mean a can which has been reinforced by the addition of horizontal ripples to the side of the can. This definition is needed to distinguish two-piece can exterior (base coat and over-vernish) coating operations involving reinforced or ribbed cans from those involving smooth-sided cans. The definition is important because the new rule creates interim limits for can coating operations, as discussed below. USEPA proposed approval of this revision.

The second revision applies to NR 154.01 (68m), and adds a definition for "energy intensive control device." "Energy intensive control device" means an air pollution control device which consumes energy at a rate in excess of that required to heat the exhaust gas stream from 70° F to 800° F. This definition is being added to the WAC in order to satisfy a condition that was sent by USEPA, and committed to by the State of Wisconsin on March 25, 1982, in order to correct a deficiency in NR 154.13(13)(d).

Section NR 154.13(13)(d) authorizes the WDNR to allow VOC sources to discontinue operation of "energy intensive control devices" during the winter months when ozone is not a problem. It was not clear whether this rule conformed with USEPA's revised policy on seasonal afterburners (December 1, 1980) because the term "energy intensive control devices" was not defined. USEPA's revised seasonal afterburner policy allows gas-fired afterburners, which are only required for ozone control, to shutdown from November through March. WDNR's definition eliminates the uncertainty in their use of the term "energy intensive control device", and assures that it only applies to afterburners.

USEPA is proposing to approve the revision because it restricts the exemption in NR 154.13(13)(d) to more closely conform to USEPA policy, and it represents a substantial improvement in the rule.

Proposed Revisions to NR 154.13

There are two revisions to WAC section NR 154.13, Control of Organic Compound Emissions. They pertain specifically to subsections NR 154.13(4)(b)3 and NR 154.13(4)(c)3.

Subsection NR 154.13(4)(b)3 addresses capture systems, and has been revised to include the following sentence: "The efficiency of the capture system shall be great enough to ensure that the emission rate from the controlled line is less than or equal to an emission rate determined using the equation in sub. (13)(b)1.C." This equation is used for determining the combined emission rate (in lbs VOC/hr) from all coating or printing lines involved in an internal offset.

This rule is being amended to clarify the WDNR's intent. The revision provides that in evaluating the efficiency of a fume capture system to determine whether it is adequate to meet VOC emission limits, one must employ an equation which ensures equivalency with other types of control methods. This revision provides for obtaining equivalent VOC reductions (to that required by using RACT coating limits) when add-on control is used. Therefore, USEPA is proposing to approve this revision.

The second revision to NR 154.13 pertains to subsection NR 154.13(4)(c)3. This revision allows the WDNR to extend the final compliance date for certain can coating operations to the end of 1985. The following interim limits are in effect from December 31, 1982, to December 31, 1985, for the operations listed below:

Source	Interim limit
(1) Sheet basecoat (exterior and interior and oververnish operations)	4.0 lbs/GAL
(2) 2-piece beaded can exterior (basecoat and oververnish)	4.1 lbs/GAL
(3) End sealing compound operations	4.3 lbs/GAL

This revision is being proposed in order to provide certain can manufacturers with the additional time needed to develop low solvent coatings, which would eliminate the need to install afterburners. The time extension represents a finding that the development of low solvent content coating application technology has not advanced as expected.

This compliance date extension is consistent with USEPA policy as expressed in "Approval of Revised Compliance Schedule for Control of Volatile Organic Compounds from Certain Can Coating Operations". This policy was published in a *Federal Register* notice on March 10, 1982 (47 FR 10293). It restates USEPA policy to approve extensions of VOC SIP compliance schedules through December 31, 1985, where they will facilitate the expeditious conversion to low solvent technology. Therefore, USEPA approves the revision to subsection NR 154.13(4)(C)3 of the WAC.

Conclusion

USEPA has reviewed these revisions, and sees no reason to deny the State's request to approve the changes to sections NR 154.01 and NR 154.13 of the WAC as a part of the Wisconsin VOC SIP. Therefore, USEPA is approving these revisions for the reasons given above. The complete text of these revisions can be found in the WAC.

Interested persons are invited to submit comments on each of these actions. USEPA will consider all comments received by July 16, 1984.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

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

List of Subjects in 40 CFR Part 52

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

(Sec. 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601(a))

Dated: May 7, 1984.

Alan Levin,

Acting Regional Administrator

[FR Doc. 84-15952 Filed 6-13-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL-2536-2]

Approval and Promulgation of Implementation Plans; Michigan 1982 Ozone and Carbon Monoxide Attainment Plan

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

ACTION: Notice of repropose disapproval.

SUMMARY: The purpose of this notice is to repropose rulemaking on the 1982 Ozone/Carbon Monoxide (CO) State Implementation Plan (SIP) revision for the Detroit Area, which was submitted in final form by the State of Michigan on April 8, 1983, and amended by further submittal dated May 19, 1983. On February 3, 1983, (48 FR 35319), U.S. EPA proposed to disapprove Michigan's September 7, 1982, draft Ozone/CO SIP submittal, because it did not satisfy the requirements of Part D of the Clean Air

Act. In today's rulemaking, U.S. EPA is repropounding disapproval of Michigan's 1982 Ozone SIP, as amended on May 19, 1983. This SIP amendment formally requested withdrawal of the Detroit area's 1987 attainment date extension for ozone on the basis that attainment had been demonstrated by the end of 1982. The May 19th amendment effectively retracts all commitments to adopt additional RACT regulations and implement an I/M program that was contained in the 1979 and 1982 Part D SIP submittals.

Because EPA has determined that Michigan's ozone SIP does not demonstrate attainment (due to measured exceedances of the standard), additional VOC RACT control regulations and an I/M program are required. The final 1982 SIP's also contained additional deficiencies which are noted herein. U.S. EPA is also proposing to disapprove Michigan's 1982 CO SIP primarily on the basis that the area is not presently in attainment and lacks an approvable inspection and maintenance (I/M) program. U.S. EPA is requesting public comment on this repropounded disapproval of Michigan's ozone/CO SIP.

DATE: U.S. EPA must receive comments on or before July 16, 1984.

ADDRESSES: Comments should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section (5AR-26), Air and Radiation Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

Please submit an original and three copies if possible. You may inspect copies of the submittal and U.S. EPA's evaluation during normal business hours at:

U.S. Environmental Protection Agency,
Air and Radiation Branch, Region V,
230 South Dearborn Street, Chicago,
Illinois 60604

Michigan Department of Natural
Resources, Air Quality Division, State
Secondary Government Complex,
General Office Building, 7150 Harris
Drive, Lansing, Michigan 48821

FOR FURTHER INFORMATION CONTACT:

Toni Lesser, Regulatory Analysis
Section (5AR-26), Air and Radiation
Branch, Region V, U.S. Environmental
Protection Agency, 230 South Dearborn
Street, Chicago, Illinois 60604, (312) 886-
6037.

SUPPLEMENTARY INFORMATION: The State of Michigan submitted a SIP revision for the Detroit Ozone/CO nonattainment area on April 25, 1979, and July 25, 1979. Michigan was unable to demonstrate that the Ozone and CO national ambient air quality standards

(NAAQS) could be attained by December 31, 1982, despite the implementation of all reasonably available control measures. Therefore, the State requested that U.S. EPA extend the attainment date for the Detroit nonattainment area until December 31, 1987, pursuant to Section 172(a)(2) of the Clean Air Act (the Act). On May 6, 1980 (45 FR 29790), and June 2, 1980 (45 FR 37188), U.S. EPA approved Michigan's revised SIP for Ozone and CO, including the Detroit area's 1987 attainment date extension and a vehicle inspection and maintenance (I/M) implementation schedule.

As required by the Act for all nonattainment areas receiving attainment date extensions to 1987, the Michigan Department of Natural Resources (MDNR) submitted a revised draft ozone/CO SIP for the Detroit area on September 7, 1982. This SIP revision was reviewed against U.S. EPA's guidelines, including its policy setting forth criteria for approval of 1982 Ozone/CO SIPs published at 46 FR 7182, January 22, 1981. On October 5, 1982, EPA provided comments on the draft SIP to the MDNR, by letter. U.S. EPA proposed rulemaking on the draft Ozone/CO SIP in the February 3, 1983, *Federal Register* (48 FR 5089). That rulemaking proposed to disapprove the SIP based on several SIP deficiencies and deviations from U.S. EPA policy guidance and requirements. A related general preamble to all proposed rulemakings on 1982 SIP revisions for Ozone/CO extension areas was also published in the February 3, 1983, *Federal Register* (48 FR 5022). This general preamble outlined SIP approval/disapproval criteria and proposed the actions to be taken in the case of final SIP disapproval.

On April 8, 1983, the MDNR submitted the final version of its 1982 Ozone/CO SIP for Detroit. In that submittal, the State responded to U.S. EPA's October 5, 1982, letter which evaluated Michigan's September 7, 1982, draft Ozone/CO SIP. This final submittal was followed by a May 19, 1983, letter requesting the withdrawal of the Detroit area's 1987 attainment date extension for ozone and the related ozone precursor control requirements. This withdrawal request was based on the State's review of the Reasonable Further Progress (RFP) and attainment demonstration contained in the final SIP which convinced the MDNR that attainment of the ozone NAAQS occurred in the Detroit area by December 31, 1982.

Since the February 3, 1983, proposal, U.S. EPA has taken two other separate rulemaking actions. First, on August 3,

1983 (48 FR 35312), U.S. EPA published a notice of proposed rulemaking finding that Michigan, among other states, had failed to implement an I/M program as required under Section 172 of the Clean Air Act, and the State's 1979 ozone and CO SIP revisions. This notice also proposed to restrict Federal funding and limit major source construction pursuant to sections 176(b) and 173(4) of the Act. Second, U.S. EPA published a final rulemaking notice on November 2, 1983 (48 FR 50686), on its post-1982 attainment policy. That notice also announced a general policy for correcting SIP deficiencies.

The following is a brief discussion of Michigan's April 8, 1983, Ozone/CO SIP. EPA's complete technical review of this SIP submittal is contained in EPA's technical support documents (TSD) of November 17, 1983, and December 23, 1983. U.S. EPA will address all public comments received on the February 3, 1983, proposed rulemaking and this proposed rulemaking in its final rulemaking action on the Michigan Ozone/CO SIP.

Demonstration of Attainment for Carbon Monoxide

On June 2, 1980 (45 FR 37188, 37192), EPA approved Michigan's 1979 CO attainment demonstration and I/M program for the Detroit urban area. Despite implementation of reasonably available control measures, the State could not demonstrate attainment of the CO NAAQS by December 31, 1982. Under section 172(a)(2) of the Act, the State requested and was granted a five year attainment date extension for Wayne, Oakland and Macomb Counties.

EPA's review of Michigan's CO attainment demonstration contained in the April 8, 1983, final submittal is presented below:

1. CO Emission Inventory

Review of the stationary source CO emissions inventory indicates that the emissions for all major stationary sources in the nonattainment area have been included in the SIP. This portion of the inventory meets U.S. EPA's SIP guidelines.

The mobile source inventory was developed for the nonattainment area using the U.S. EPA emission factor model, MOBILE 2. This mobile source inventory basically meets U.S. EPA's guidelines. However, the Southeastern Michigan Council of Governments (SEMCOG) is in the process of revising the inventory to incorporate current traffic and emission factors and to correct calculational errors previously noted by U.S. EPA. This revision may

alter the final 1980 and 1987 mobile source emissions estimates, and ultimately the demonstrations of attainment and reasonable further progress.

Total nonattainment area CO emissions have been determined to be 1,899,000 kg/day for 1980 and 1,170,000 kg/day for 1987. This represents a 38 percent reduction in areawide CO emissions. The projected emission reduction is primarily due to the anticipated impact of the Federal Motor Vehicle Emission Control Program (FMVECP).

2. CO Modeling

Review of the modeling conducted by the MDNR indicates that an acceptable application of a rollback analysis has been made. The MDNR has concluded that a 25.5 percent CO emission reduction from the base year (1980) level is needed in the nonattainment area to attain the CO standard. This analysis assumed a future target CO concentration of 9.2 parts per million (ppm), eight-hour average. Because U.S. EPA considers 9.0 ppm to be the appropriate target level, U.S. EPA determined the correct CO emission reduction requirement to be 27.6 percent. Use of the rollback analysis meets U.S. EPA's minimum modeling requirements.

To demonstrate that major stationary CO sources have minimal impacts on monitored CO levels, MSNR modeled the impacts of each facility or group of facilities using the urban version of the gaussian dispersion model, RAM. This analysis concluded that the worst-case impacts from the stationary source emissions at the monitoring sites are relatively small compared to the CO standard. U.S. EPA considers this analysis to be an acceptable demonstration of minimal impacts from the stationary sources, and therefore agrees with the State's conclusion that no additional stationary source control regulations are required to attain the standard.

The MDNR has removed all references (with the exception of responses to U.S. EPA's draft SIP comments) to line source dispersion modeling. No attempt has been made to refine the modeling discussed in the draft SIP. MDNR and SEMCOG have discussed reasons for not relying on the existing modeling data and for taking later action after appropriate microscale input data are collected and analyzed. The MDNR has concluded that additional microscale data should be analyzed to refine the modeling at a later date.

While Michigan has met U.S. EPA's minimum requirement with respect to

the CO modeling requirements, the Agency has concluded that additional microscale line source modeling is needed in the Detroit area, because the modeling that was done indicated the potential existence of "hot spots" (localized CO standard exceedences) even after the implementation of the adopted control strategy.

MDNR and/or SEMCOG should select appropriate line source models and input data to further assess all potential hotspots discussed in the draft SIP. This modeling should determine whether CO hotspots exist and should support the adoption of non-adoption of additional control measures that may be needed to eliminate the hotspots by December 31, 1987. The models selected must be capable of addressing hotspots in the vicinity of intersections as well as at mid-block locations. All models, and the methods in which they are to be applied, should be approved by U.S. EPA prior to their use.

3. Demonstration of Attainment and Reasonable Further Progress

The MDNR concluded that a 39.4 percent CO emission reduction will occur in the nonattainment area between 1980 and 1987. Therefore, considering only the results of the rollback analysis (requiring a 25.5 percent emission reduction from a 1980 base year), Michigan concluded that a demonstration of attainment has been made. U.S. EPA has concluded that the base year for the analysis should be changed from 1980 to 1981. This alters the base year emission and the allowable emissions. Given this change in base year, as well as the corrected emission reduction requirement of 27.6 percent, U.S. EPA calculates that a demonstration of attainment by 1987 can still be made. Assuming a linear change in emissions between 1980 and 1987, U.S. EPA calculates that a 34.8 percent drop in emissions will occur between 1981 and 1987. In addition, U.S. EPA has determined that the CO emission will decrease at a rate sufficient to meet U.S. EPA's RFP requirements.

Review of the CO SIP indicates that the MDNR has met U.S. EPA's minimum demonstration of attainment requirements, by using a rollback approach to demonstrate that the nonattainment area total CO emission should be sufficiently reduced by 1987 to attain the CO standard at the monitoring sites. However, as noted above, additional line source modeling is needed to determine whether localized nonattainment areas exist which require additional controls. Also, since SEMCOG has not completed the final version of the mobile source emission

inventory, the mobile source emissions estimates, and thus the attainment demonstration, may be changed.

Demonstration of Attainment for Ozone

EPA's review of Michigan's Ozone SIP demonstration of attainment is presented below:

1. VOC/NO_x Emission Inventory

In compliance with U.S. EPA's attainment demonstration guidelines, MDNR and SEMCOG compiled VOC and NO_x emission estimates and supporting documentation for 1980 and 1987. Also, as required by the U.S. EPA, the MDNR developed summary point source VOC emissions estimates for the years between 1980 and 1987. These summary estimates may be used to assess the control program's compliance with U.S. EPA's RFP requirements.

The MDNR based 1987 point and area source emission projections on the 1980 estimates by taking into account assumed source growth and impacts of implementing VOC source controls. The control estimates used reflect the impact of implementing Reasonably Available Control Technology (RACT) for sources covered by existing regulations (RACT I and II) and for sources where future regulations are expected. The MDNR assumed a 50 percent control factor and a 1985 compliance date for all major non-Control Technology Guideline (CTG) sources. MDNR also assumed that all RACT III sources would be in compliance in 1985. EPA questions the reasonableness of the assumed 1985 compliance status for RACT III sources.

Emission estimates for all source categories reflect only reactive VOC emissions. The SIP lists the VOC compounds excluded from the inventory. These VOC compounds agree with those VOC compounds listed for exclusions in U.S. EPA guidelines.

The SIP indicates that in the Detroit demonstration area (Wayne, Oakland, and Macomb Counties), total VOC emissions were 721,209 kilograms per average weekday. The post-control 1987 VOC emission were projected to be 427,264 kilograms per day. Therefore, MDNR projected a 40.8 percent reduction in VOC emissions between 1980 and 1987.

Review of the VOC and NO_x stationary source emission inventories contained in the final SIP, along with other related data and MDNR's responses to U.S. EPA's draft SIP comments, indicates that the stationary source inventory is basically acceptable. EPA found certain inventory deficiencies which are discussed in detail in a TSD developed by U.S. EPA on November 17, 1983, in preparation for

this rulemaking. This TSD is available for public review. Several elements of the inventory require further documentation or correction (See the TSD for more detail):

- **Petroleum Solvent Dry Cleaning**—Although emission reductions are claimed in the SIP, U.S. EPA has a State submittal indicating no controls will be pursued in this source category.

- **Organic Chemical Manufacturing**—Inadequate data have been provided in the SIP to allow U.S. EPA to adequately assess the accuracy of the State VOC emissions estimates for this source category.

- **Area Source Emissions**—The documentation of area source emission estimates is inadequate.

- **Organic Chemical Manufacturing**—A potential underestimation of the reactive emission fraction exists in the emissions calculation.

- **Commercial and Coin-OP Dry Cleaning**—Potential overestimations of the emission factor and the futher control factor have been found in the inventory documentation. These deficiencies must be addressed by MDNR before USEPA can finally approve this portion of Michigan's Ozone SIP.

The mobile source emissions inventory was developed by SEMCOG using U.S. EPA's MOBILE 2 emission factor model. The SIP notes that SEMCOG is currently in the process of substantially revising the motor vehicle component of the mobile source inventory, using more current traffic surveys and updated MOBILE 2 emission factors. SEMCOG estimated on-highway mobile source emissions with and without the estimated impact of an I/M program. The I/M scenario assumed 20 percent stringency, mechanics training and testing of light duty gas vehicles of less than 8500 pounds weight built since 1972.

Review of the mobile source inventory indicates that a number of problems exist for this portion of the inventory. Most significantly, SEMCOG has not completed the final version of the mobile source inventory and its associated documentation. This leaves a number of questions concerning the mobile source emissions estimates contained in the final SIP. Other deficiencies are discussed in the November 17, 1983, TSD prepared for this rulemaking. These deficiencies must be addressed by MDNR before this portion of the SIP can be finally approved.

USEPA's overall assessment of MDNR's emission inventory projections concludes that, given the data provided to date in the SIP along with the data

obtained from U.S. EPA's guidelines, the Agency's best estimates of the VOC emissions for the Detroit area are: 721,549 kilograms per day for 1980; and 452,821 kilograms per day for 1987. Therefore, U.S. EPA estimates that a 37.2 percent decrease in VOC emissions will occur between 1980 and 1987.

2. Ozone Modeling

The MDNR considered 1979 thru 1981 ozone data in its modeling analysis. The maximum ozone concentrations for all monitoring sites in the Detroit area were considered. This analysis indicated that the worst-case (peak) downwind sites were: Port Huron; New Haven; 7 Mile Road; and GM-Lake Orion. The MDNR performed a city-specific Empirical Kinetics Modeling Analysis (EKMA) for the exceedance days at these sites. Input data used in this analysis are discussed in detail in U.S. EPA's TSD. Based on the use of EKMA, the MDNR determined that a 20.3 percent reduction in VOC emissions, relative to the base year (1980) level, is required to attain the ozone standard in the Detroit area.

U.S. EPA reviewed the modeling analysis performed by the MDNR by evaluating both the procedures and data used to develop the model inputs, and by assessing the calculation of VOC emissions reduction requirements. The model inputs for 1980-1981 monitoring years, with an emissions base year of 1980, were evaluated against the model input requirements specified in U.S. EPA's modeling guidelines. In addition, quality assured 1982 ozone data have been incorporated into U.S. EPA's review of the demonstration of attainment to provide a more accurate, current evaluation of the State's claim of a demonstration of attainment by the end of 1982.

The final SIP submitted by the MDNR incorporated a number of changes in the model inputs relative to those used in the draft SIP. These changes were made in response to U.S. EPA's draft SIP comments contained in U.S. EPA's October 5, 1982, letter. Review of the revised model inputs indicates that they generally meet U.S. EPA's input data guidelines. Nevertheless, some errors were noted in the final input data. These are discussed below:

- a. The MDNR has continued to use two different ozone aloft concentrations at the New Haven and Port Huron sites for August 26, 1980. The MDNR argues that this was done based on a consideration of wind directions and on the fact that use of two transported ozone concentrations led to greater accuracy in the prediction of peak ozone concentrations.

U.S. EPA still contends that the regional nature of ozone transport and the relative locations of the upwind monitors (Allen Park and Saline) favor the use of a single, average ozone concentration. Both of the upwind monitors are located southwest of downtown Detroit.

- b. U.S. EPA was unable to duplicate the post-8 a.m. VOC and NO_x emission fractions given in the final SIP. Use of the final emissions inventories, times of peak ozone concentration, morning mixing heights, and county areas in procedures described in U.S. EPA guidelines led to significantly different post-8 a.m. emission fractions. Data show that the U.S. EPA calculated post-8 a.m. emission fractions were generally lower than those used by the MDNR. The greatest difference between the post-8 a.m. emission fractions used by the MDNR and those calculated by the U.S. EPA were noted for NO_x. Analyses of modeling data indicate that the use of the emission factors calculated by the U.S. EPA led to slightly higher (2-4 percent) VOC emission reduction requirements than those derived by the MDNR for a given site and day.

The deficiencies must be addressed by the State before EPA can finally approve the ozone modeling.

The peak ozone days for 1980 thru 1982 were modeled by U.S. EPA for two base years, 1980, 1981, as well as two attainment years, 1982 and 1987. In these modeling runs, all input data for a given exceedance day were maintained as constants (for a given day and site) except the assumed future change in NO_x emissions. The projected change in NO_x emissions was based on linear interpolation of the 1980 and 1987 NO_x emissions inventory given in the final SIP. Since the projected NO_x emissions change is dependent upon the base year and attainment year selected, the calculated VOC emission reduction requirements are dependent upon the selected base year/attainment year pair. Considering only 1979, 1980 and 1981 ozone data, the acceptable base year would be 1980. For this base year, U.S. EPA calculates that the VOC emission reduction required for the Detroit area is 18.8 percent for attainment by December 31, 1982, or 22.2 percent for attainment by December 31, 1987. Considering the ozone data for 1980 thru 1982, the base year should be the middle of this period, or 1981. For this base year, U.S. EPA calculates that VOC emission reduction required is: 24.5 percent for attainment by December 31, 1982; or 25.9 percent for attainment by December 31, 1987. These VOC emissions reduction requirements

differ significantly from those obtained by the MDNR.

3. Demonstrations of Attainment and Reasonable Further Progress

To evaluate the ozone demonstration of attainment given the new modeling data, U.S. EPA determined the VOC end-of-year total emissions for each year in the period of 1981 through 1987. These emissions are based on the emissions inventories given in the SIP along with the corrections determined to be necessary by EPA. When a base year of 1980 is used, and considering only 1979 and 1980-81 ozone data, a narrow demonstration of attainment by the end of 1982 is calculated. This is what Michigan did. However, when a base year of 1981 is used, with 1980-1982 ozone data, the analysis indicates that attainment of the ozone standard would occur after December 31, 1982, but before December 31, 1987. Therefore, U.S. EPA determined that the State's claim of attainment before the end of 1982 is no longer supported, given the most current ozone data. Preliminary, non-quality-assured 1983 monitored ozone data also support U.S. EPA's conclusion.

Based on the analysis using the current ozone data, U.S. EPA is proposing disapproval of both the final demonstration of attainment and the final demonstration of RFP. The demonstration of RFP in the final SIP submittal shows attainment of the ozone standard by the end of 1982. Since the U.S. EPA has determined that attainment of the standard will occur after 1982, the demonstration of RFP is technically unacceptable. The demonstration of RFP can be corrected to an acceptable form by the incorporation of the results from a modeling analysis using the current ozone data, and an emission inventory with the appropriate base year. The revised demonstration of RFP should also consider the final mobile source emissions inventory, as well as the stationary source VOC emissions corrections noted in the TSD. MDNR must revise the attainment demonstration and RFP demonstration before EPA can finally approve these portions of the Ozone SIP.

4. Control Strategy Commitments

Michigan's 1979 SIP committed to the implementation of RACT I and II on stationary sources. The 1982 SIP, as submitted on April 8, 1983, commits the State to: (a) submit RACT III regulations within one year after the January 1st following the final publication of each CTG; and (b) adopt and submit VOC emission control regulations by January

1, 1985, for RACT on major non-CTG sources. SEMCOG commits to achieve an areawide VOC emission reduction of 0.656 percent (2007 kg/day) of the base year highway vehicle emissions per year as a result of the implementation of Transportation Control Measures (TCMs). The TCMs include: signal improvements; ride sharing programs; altered work schedule promotion; and expanded transit service.

Since the May 19, 1983, submittal effectively retracts MDNR's commitments to VOC emissions beyond RACT I and II, and since U.S. EPA has determined that attainment of the ozone standard will occur after December 31, 1982, U.S. EPA is proposing to disapprove the VOC emissions control strategy of the SIP. If, however, the MDNR negates the May 1983 extension withdrawal request, the U.S. EPA can approve the control commitments (with the exception of vehicle I/M) contained in the final SIP. This includes the commitment to submit RACT III and major non-CTG source control regulations and to implement the planned TCM controls.

Inspection and Maintenance

Michigan's April 8, 1983, Ozone/CO SIP submittal did not contain enforceable regulations and other program elements specified in the January 22, 1981, *Federal Register* notice implementing an I/M program. The submittal stated that since U.S. EPA was considering a national policy change for I/M programs, which would make the State's implementation schedule more flexible, the State would submit a revised program when U.S. EPA's policy was finalized. U.S. EPA's current policy provides that areas required to implement an I/M program must submit as part of the 1979 SIP revision a public information effort; a legislative proposal; a description of the program; and a schedule for implementation of the program. The 1982 ozone SIP for extension areas must contain fully adopted regulatory requirements for implementing the I/M Program as specified in EPA's January 22, 1981, policy guidance.

U.S. EPA has determined that the I/M portions of Michigan's 1982 Ozone/CO SIP, as amended on May 19, 1983, did not meet any of the requirements provided in the January 22, 1981, *Federal Register* notice. To date, the State has failed to implement an I/M program as required by section 172 of the Act and its SIP revisions that were approved in 1979.

Because of the failure to attain the NAAQS, the lack of the I/M program elements listed below constitutes a

major SIP deficiency. EPA is reproposing to disapprove the final Ozone/CO SIP based on this deficiency, in addition to those cited earlier in this notice:

- Inspection test procedures;
- Emission standards;
- Inspection station licensing requirements;
- Emission analyzer specifications and maintenance/calibration requirements;
- Record keeping and record submittal requirements;
- Quality control, audit, and surveillance procedures;
- Procedures to assure that noncomplying vehicles are not operating on the public roads;
- Any other official program rules, regulations, and procedures;
- A public awareness program; and,
- A mechanics training program or a program to inform the public of stations with approved emission analyzers.

Proposed Rulemaking

Today's rulemaking repropose overall disapproval of Michigan's April 8, 1983, Ozone/CO SIP as amended by the State's May 19, 1983, SIP submittal, requesting withdrawal of the Detroit area's 1987 attainment date extension for ozone, and making other significant changes in the SIP. In summary, this notice repropose to disapprove Michigan's 1982 O₃/CO SIP because of the failure to demonstrate attainment of the standards by 1982, the lack of an I/M program, and other deficiencies discussed in this notice and TSD.

These other deficiencies include failure to commit to a schedule for submission of regulations for major stationary sources of VOC; deviations from EPA policy and requirements in the area of mobile and stationary source emission inventory estimation and documentation; and deficiencies in the State ozone modeling and attainment demonstration.

If the State, during the comment period, submits additional information and documentation to correct these deficiencies, and rescinds its May 19, 1983, letter requesting the withdrawal of the Detroit area's 1987 attainment date extension for ozone, U.S. EPA will re-evaluate those changes and proceed with final rulemaking approving those portions of the plan which are acceptable.

However, because the area has failed to attain standards, the overall ozone/CO SIP cannot be approved until it includes an approval I/M program.

During the public comment period, U.S. EPA will consider any comments on the State's Ozone/CO 1982 SIP submittal including those received regarding USEPA's February 3, 1983 (48 FR 35319), proposed rulemaking. U.S. EPA is providing a 30-day comment period on this proposed action. Interested parties may participate in the Federal rulemaking procedures by submitting written comments to the address in the front of this notice.

Under 5 U.S.C. 605(b), the Regional Administration has certified that this proposed rule will not, if finalized, have a significant impact on a substantial number of small entities because it imposes no additional regulatory requirements. Although a final disapproval would trigger a construction moratorium, the moratorium would only affect construction and modification of stationary sources. Furthermore, the moratorium would impact a large metropolitan area and not affect small entities.

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 EPA response, are available for public inspection at the U.S. EPA Region V office listed at the front of this notice.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2) (A)-(K) and 110(a)(3) of the Act, and U.S. EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410(a) and 7601(a)).

List of Subjects in 40 CFR Part 52

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

Dated: December 30, 1983.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 84-15822 Filed 6-13-84; 8:45 am]

BILLING CODE 5560-50-M

40 CFR Part 52

[A-5-FRL-2607-1]

Federal Assistance Limitation; State of Michigan

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to limit certain Federal funding assistance for the State of Michigan and for Wayne, Oakland, and Macomb Counties in Michigan. These limitations apply to funds provided under the Clean Air Act and Title 23 of the United States Code. The U.S. Environmental Protection Agency (USEPA) is proposing this action, pursuant to Section 176(a) of the Clean Air Act (Act), because the State of Michigan has failed to make reasonable efforts to submit a State Implementation Plan (SIP) for Wayne, Oakland, and Macomb Counties which considers each of the elements in section 172 of the Act.

Section 172(b)(11)(B) of the Act, as amended, requires the implementation of a vehicle emission control inspection and maintenance (I/M) program in areas that have obtained extensions of the December 31, 1982, deadline for attaining the National Ambient Air Quality Standards (NAAQS) for Ozone and/or carbon monoxide (CO). Because EPA approved the State's extension request for Wayne, Oakland, and Macomb Counties and these areas remain designated nonattainment for O₃ and CO, an I/M program is required in the Detroit metropolitan area. Michigan was required to submit a SIP revision by July 1982 that met all the requirements of Section 172 (b) and (c) including the requirement for implementation of an I/M program.

1982 Plan revision submitted by the State of Michigan did not contain enforceable rules and regulations, for implementing an I/M program. As a result, USEPA is today proposing to find that the State of Michigan has failed to submit, and is not making reasonable efforts to submit, a SIP that considers each of the elements of Section 172 of the Act. If USEPA takes final action affirming these findings, the funding limitations will apply in Wayne, Oakland, and Macomb Counties and to the State of Michigan for Air Quality grants pursuant to Section 105 of the Act.

If USEPA imposes funding restrictions, USEPA proposes that these restrictions be removed when either of the following conditions are met: (a) for implementation of an approved I/M program is achieved in Wayne, Oakland, and Macomb Counties or (b) the counties are formally redesignated by EPA to attainment for O₃ and CO.

This notice also announces public hearings on this proposed action of the imposition of funding restrictions under section 176(a), and on USEPA's August 3, 1983, proposal (48 FR 35315) regarding imposition of construction and funding

restrictions under sections 176(b) and 173(4) of the Clean Air Act.

DATES: Written comments must be submitted to USEPA on or before July 16, 1984.

ADDRESSES: Send any comments to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Program Branch, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of all material related to EPA's proposed action may be inspected during normal business hours at the above address or at the following locations:

U.S. Environmental Protection Agency, Air and Radiation Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Michigan Department of Natural Resources: Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48821.

FOR FURTHER INFORMATION CONTACT:

Toni Lesser, Air Program Branch, Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6037.

SUPPLEMENTARY INFORMATION:

A. Background

Congress amended the Clean Air Act, 42 U.S.C. 7401 *et seq.*, in 1977 to address the major health problems posed by the states' failure to attain the NAAQS. Congress required states to revise their SIPs to provide for attainment of the standards by December 31, 1982, and to submit the revised plans to USEPA by January 1, 1979. If States containing areas with serious ozone or CO problems would demonstrate an inability to attain these standards in such areas by the end of 1982, even with the implementation of all reasonably available measures, Congress authorized EPA to grant an extension of the attainment date for such areas up to December 31, 1987 (section 172(a)(2)).

States which were granted extensions were required to include additional air pollution control measures in their 1979 SIPs. One such measure was a schedule for implementation of an automobile I/M program, along with certification that the state had the legal authority to implement and enforce the program (sections 172(b)(10) and 172(b)(11)(B)). Furthermore, the states receiving these extensions were required to submit additional SIP revisions by July 1, 1982, containing the enforceable elements for those measures described in the 1979 SIP (sections 129(c) and 172(c)).

In order to ensure that this requirement of the Clean Air Act is met, Congress authorized USEPA under Section 176(a), to impose funding limitations on those states which did not submit the appropriate portions in the 1979 or 1982 SIPs. Section 176(a) of the Act requires withholding of certain highway assistance funds for highway construction and air quality planning grants if the USEPA Administrator finds that a state has failed to submit, or is not making reasonable efforts to submit a SIP which considers each of the elements contained in Section 172 of the Act, including the requirement for I/M. On April 10, 1980, after prior notice and public comment, USEPA and the U.S. Department of Transportation (DOT) published their final policies and procedures for imposing funding restrictions under Section 176(a), (45 FR 24692). This notice should be used as reference in reviewing today's notice. Congress also required USEPA to withhold air quality planning grants and restrict new source construction if a State fails to carry out an approved plan (sections 176(b) and 173(4)).

In the 1979 SIP, the State of Michigan requested an extension of the 1982 attainment deadline for the Detroit area to December 31, 1987. The 1979 SIP, including this request, was approved on May 6, 1980 (45 FR 29790), and June 2, 1980 (45 FR 37188). The SIP also included a schedule for the completion of significant steps necessary for implementation by December 31, 1982, as well as proof that legal authority has been enacted by the State.

The enabling legislation mandated that the Michigan Department of Transportation is responsible for program implementation and enforcement and that the determination of the geographic area in which I/M is to be implemented is the responsibility of the Michigan Department of Natural Resources (MDNR).

On September 7, 1982, Michigan submitted a draft of the 1982 SIP revisions. EPA proposed rulemaking on this draft on February 3, 1983 (48 FR 5089), finding that the I/M portion of the plan was deficient and that the State failed to submit all the necessary elements as required by section 172 of the Clean Air Act. This action commenced the process to impose the Section 176(a) highway funding limitations described above. On March 21, 1983, USEPA extended the public comment period an additional 45 days for plans proposed to be disapproved (48 FR 11725).

On March 22, 1983, USEPA notified affected Federal, State, and local agencies that the USEPA/DOT

procedures for imposing the funding limitations under section 176(a) were being initiated. This notification initiated a consultation period in accordance with these procedures. Between March 22, 1983, and the date of this notice, USEPA officials consulted with several Federal, State, and local officials in an effort to resolve this issue. The following discussion is a summary of the significant events that have occurred since USEPA initiated this consultation period.

March 22, 1983—The USEPA Regional Administrator, Valdas V. Adamkus, notified the Federal Highway Administration (FHWA) Regional Administrator, John Hibbs, that the State of Michigan had failed to meet the requirements of the Clean Air Act as proposed in the February 3, 1983, **Federal Register** (48 FR 5089). In this letter, the USEPA initiated the 30-day consultation period outlined in the April 10, 1980 **Federal Register** (45 FR 24692) guidelines for the section 176(a) process.

April 8, 1983—The State submitted the final version of its 1982 Ozone/CO SIP.

April 11, 1983—Robert P. Miller, Chief of the Air Quality Division, MDNR, requested a meeting concerning the imposition of Clean Air Act restrictions.

April 21, 1983—The FHWA Regional Administrator made several recommendations regarding the section 176(a) schedule and procedures in a letter to the USEPA Regional Administrator. These recommendations included: extending the consultation period to June 6, 1983; allowing 1982 attainment areas adequate time to apply for redesignation; co-ordinating action for areas included in two Federal Regions; and scheduling a meeting with affected State and local agencies concerning the 176(a) process.

May 4, 1983—In a letter to the USEPA Regional Administrator, Governor Blanchard responded to the USEPA February 3, 1983, proposed rulemaking (48 FR 5089). In this letter, the Governor stated that Michigan will comply with the attainment air quality standards for Ozone/CO by 1984 and provided explanations as to why the State should not be penalized under the Clean Air Act.

May 12, 1983—The USEPA Regional Administrator responded to the April 21, 1983, letter from the FHWA Regional Administrator and agreed to extend the consultation period and meet with State and local officials, if requested.

May 19, 1983—The State of Michigan sent a letter to USEPA stating that based on the State's most recent air quality modeling analyses an extension of the attainment deadline for Ozone in

the Detroit Metropolitan area beyond the end of 1982 was no longer necessary.

May 24, 1983—The USEPA Regional Administrator informed Robert P. Miller, Chief of the Air Quality Division, MDNR of the process for imposing funding restrictions. This letter was in response to Mr. Miller's letter of April 11, 1983, described above.

July 5, 1983—The USEPA Regional Administrator forwarded several documents to the FHWA Regional Administrator on USEPA's funding restriction policy.

July 21, 1983—A press release was issued, identifying 11 states which failed to establish and operate I/M programs for emission controls on automobiles.

August 3, 1983—The USEPA published a Proposed Rulemaking Notice proposing to find that the State was not implementing the Michigan schedule and commitments contained in its 1979 SIP (48 FR 35319). USEPA also proposed to restrict construction and funding under 173(4) and 176(b).

September 2, 1983—Governor Blanchard and his staff met with the USEPA Administrator. The Governor committed to implementing an I/M program.

September 14, 1983—Governor Blanchard submitted his response to the August 3, 1983, **Federal Register**. The September 14, 1983, response expressed the intent to move progressively toward implementation of an I/M program and outlined two possible I/M program options.

September 26, 1983—In a letter to the MDNR Director, Robert Miller, the USEPA Regional staff discussed the State's April 8, 1983 Ozone/CO SIP submittal and, among other things, the lack of a vehicle I/M program in the Detroit area.

October 4, 1983—The USEPA Regional and Headquarters staff met with the Governor's staff, the MDNR staff, SEMCOG, Wayne County staff, and Michigan's Department of Transportation staff to discuss I/M alternatives.

November 4, 1983—In letter to Governor Blanchard the USEPA Regional Administrator restated the Region's position as expressed at the October 4, 1983 meeting stating that either I/M option would be acceptable if the State incorporates the necessary technical modifications.

November 7, 1983—The USEPA Regional Administrator and staff met with Governor Blanchard and the MDNR staff. USEPA advised the Governor to select an option and proceed with implementation as quickly as possible.

December 2, 1983—In a letter to the USEPA Regional Administrator, Governor Blanchard indicated that he was contacting members of the State legislature to encourage the introduction of legislation which would authorize the implementation of an acceptable I/M program.

January 12, 1984—The USEPA Regional Administrator sent a letter to the FHWA reinitiating the 30-day consultation period with State and local agencies and the public before proposing funding restrictions in the Federal Register.

January 13, 1984—A press announcement was released informing the public of the January 12, 1984 letter.

January 25, 1984—In a letter to Robert Miller of the Michigan Department of Natural Resources, David Kee of USEPA listed several activities that the State had to accomplish in order to show continued progress toward implementing an I/M program. This list of activities included the submission of a schedule of major milestones leading to the implementation of an I/M program. This letter also responded to Michigan's request for withdrawing the Ozone/CO attainment request, submitted in the May 19, 1983, letter described above.

February 2, 1984—The USEPA Regional Staff, FHWA Regional Staff and representatives from the State of Michigan met to discuss the imposition of section 176(a) funding restrictions.

February 10, 1984—In a letter to Governor Blanchard, the USEPA Regional Administrator responded to the Governor's December 2, 1983 letter by clarifying technical issues and again stating the Region's position that the State of Michigan should select the program option to be implemented and proceed immediately with developing appropriate rules and regulations.

B. Proposed Findings and Actions

Based on the failure of the State of Michigan to adopt and submit enforceable I/M program elements, USEPA proposes the following actions:

1. USEPA proposes to find that the State of Michigan has failed to submit, and is not making reasonable efforts to submit, approvable 1982 SIP revisions which consider each of the elements required by section 172 of the Act; and

2. USEPA proposes to impose Federal funding restriction in three Counties under section 176(a) of the Act.

During the public comment period, USEPA will consider any comments on this issue. If Michigan fails to remedy this situation before USEPA takes final action, the resulting funding limitations become effective on the date that the

final rulemaking is published in the Federal Register. Upon final rulemaking, the Secretary of Transportation will not approve any projects or award any grants in Wayne, Oakland, and Macomb Counties under Title 23 of the United States Code, except for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance. Furthermore, the Administrator of USEPA will not approve any projects or award any grants authorized by the Clean Air Act unless they qualify for the exemptions noted in the April 10, 1980, policy notice.

Although USEPA has the discretion to withhold certain grants, pursuant to Section 316 of the Act, for the construction of sewage treatment works available under Section 201(g) of the Clean Water Act (33 U.S.C. 1251 et seq.), USEPA is not proposing to impose these restrictions on Wayne, Oakland, and Macomb Counties at this time. USEPA will, if appropriate, publish a separate notice of proposed rulemaking and will provide an opportunity for comment before imposing these additional funding restrictions on sewage treatment works. For more information on the scope and procedures for these restrictions, see 45 FR 24692 (April 10, 1980) and 45 FR 53382 (August 11, 1980).

C. Opportunity for Public Hearing

In the August 3, 1983 Federal Register (48 FR 35315), USEPA proposed funding restrictions for the State of Michigan under Sections 176(b) and 173(4) of the Clean Air Act for failure to implement a vehicle inspection and maintenance program in the Detroit metropolitan area, in accordance with the schedule in its approved 1979 SIP. Section 176(b) requires USEPA to withhold Clean Air Act funds from any area where a State or local Government has failed to implement an approved or promulgated SIP. Section 173(4) imposes a moratorium on the construction of new major stationary sources and modifications of existing major stationary sources in any area where USEPA finds that a state is not carrying out an approved plan. Section 176(a), as stated elsewhere in this rulemaking, requires withholding of certain Federal assistance funds for highway construction and air quality planning grants, if USEPA finds that a state has failed to submit an approvable 1982 SIP. Because the basis for proposing the sections 176(b) and 173(4) restrictions (i.e., failure to implement an approved I/M program as part of the 1979 SIP) is closely related to the reason for proposing 176(a) restrictions (i.e., failure to submit revisions to the

implementation plan) USEPA intends to consolidate the two rulemaking proceedings.

However, it would make little sense to keep the funding limitations in effect if an area attained the air quality standards, even if it did so after 1982 without an inspection and maintenance program. The major purpose of the funding limitations, i.e., to act as an incentive for either plan revision and/or implementation necessary for attainment of standards would have been served.

Section 105(e), requires USEPA to provide an opportunity for a public hearing before it disapproves or revokes air planning grants. This will include joint public hearings on the restrictions sanctions specified elsewhere in this proposed rulemaking. The joint public hearings on Sections 176(a), 176(b), and 173(4) sanctions proposals will provide the public with an opportunity to comment on these proposed actions. Therefore, USEPA is announcing public hearings on its proposed actions regarding sanctions under sections 176(a), 176(b), and 173(4) of the Clean Air Act.

The public hearings will be held on from July 11, 1984 to July 12, 1984 at the following locations:

City County Building, 13th Floor Auditorium, 2 Woodward Avenue, Detroit, MI July 11 at 2:00 p.m.
Oakland County Board of Commissioners, 1200 North Telegraph Road, Pontiac, MI July 11 at 7:00 p.m.
Macomb Intermediate School District Auditorium, 44001 Garfield Road, Mount Clemens, MI July 12 at 10:00 a.m.

D. Request for Comment

Interested parties are invited to comment on all aspects of these proposed actions regarding the Michigan SIP. USEPA is soliciting comment specifically on its proposed finding that the State is not making reasonable efforts to submit a SIP that satisfies the requirements of section 172 of the Act. USEPA is also soliciting comment on when the funding limitations, if imposed, should be removed. If USEPA imposes funding restrictions, USEPA proposes that these restrictions be removed when either of the following conditions are met: (a) for implementation of an approved I/M program is achieved in Wayne, Oakland, and Macomb Counties or (b) the counties are formally redesignated by EPA to attainment for O₃ and CO.

USEPA will consider all comments received. The comment deadline is July 16, 1984.

E. Regulatory Impact

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the Agency must prepare a regulatory flexibility analysis assessing the impact of any proposal or final rule on the small entities. Under 5 U.S.C. 605(b), this requirement may be waived if the Agency certifies that the rule will not have a significant economic effect on a substantial number of small entities. Small entities include small business, small not-for-profit enterprises, and governmental entities with jurisdiction over populations of less than 50,000.

If USEPA takes final action to find that the State has failed to submit, and is not making reasonable efforts to submit, a SIP that considers each of the elements required by section 172, certain highway construction funds under Title 23 of the United States Code, and air quality planning funds under the Clean Air Act, will be withheld. Thus, some small entities will be affected by final USEPA action.

USEPA cannot reliably predict the impacts of the Clean Air Act restrictions under section 176(a), because of the exemptions authorized for highway safety and air quality planning projects. Careful review and evaluation of each highway project is necessary to determine whether or not a project is exempt. Consequently, USEPA is making no quantified assessment of the potential economic impact on small entities that may result from today's proposal.

Furthermore, although USEPA believes that a final action might have some impact on small entities, this impact cannot affect the Agency's actions. Under the Clean Air Act, the imposition of the funding restrictions in Section 176(a) is automatic and mandatory whenever the Agency determines that a State has not submitted, or is not making reasonable efforts to submit, a SIP which considers each of the elements of Section 172.

Under Executive Order 12291, USEPA must judge whether a regulation is major and, therefore, subject to the requirement of a Regulatory Impact Analysis. Today's action is not "major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to USEPA, and any USEPA response are available for public inspection at the USEPA Region V office listed at the beginning of this notice.

Authority: Section 110, 172, 176(a), 301 and 316 of the Clean Air Act, as amended; (42 U.S.C. 7410, 7502, 7506(a), 7601 and 7616).

List of Subjects in 40 CFR Part 52

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

Dated: March 5, 1984

Valdas V. Adamkus,
Regional Administrator.

[FR Doc. 84-15821 Filed 6-13-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 763

[OPTS-211012C; TSH-FRL-2608-3]

Asbestos in Schools; Response to Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of response.

SUMMARY: EPA was petitioned by the Service Employees International Union (SEIU) to take action with respect to asbestos. On February 23, 1984 the Administrator granted three of the petitioner's four requests and partially granted the fourth. SEIU subsequently requested reconsideration of the decision by EPA. This notice announces the EPA's decision to grant the remaining request.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, Toll free: (800)-424-9065, In Washington, D.C.: (554-1404), Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION: In a Federal Register notice of March 7, 1984, (44 FR 8450) EPA announced its response to a petition by the SEIU requesting the Agency to take regulatory action with respect to asbestos materials in schools and other buildings. EPA granted three of the petitioner's requests and partially granted a fourth. EPA did not grant SEIU's request to establish standards for the protection of persons performing asbestos abatement activities. The Agency in a letter of May 7, 1984, reconsidered its decision in response to a request by SEIU and granted the last part of the petition. The text of the May 7, 1984 letter EPA sent in response to SEIU's request follows:

Mr. John J. Sweeney,
International President, Service Employees
International Union, 2020 K Street, NW.,
Washington, D.C. 20006

Dear Mr. Sweeney: This responds to your letter of March 15, 1984, asking the EPA to reconsider the denial of one part of a petition filed under Section 21 of the Toxic Substances Control Act by SEIU.

I have carefully reviewed your request for reconsideration together with the rationale set forth therein. I have concluded that your request raises important questions about the risks of asbestos exposure to workers engaged in the asbestos abatement activities, and about the degree of protection provided by regulations promulgated by EPA and the Occupational Safety and Health Administration. Accordingly, I have determined to grant this last part of SEIU's petition. In so doing, the Agency will explore all applicable regulatory and non-regulatory options for protecting workers engaged in asbestos abatement activities.

EPA shares SEIU's concern about the importance of properly conducted asbestos abatement projects. We feel that the public hearings, which will be held to gather information needed to respond to other matters raised in the SEIU's petition, will provide a valuable forum for receiving data critical to our examination of asbestos worker protection.

Sincerely yours,

William D. Ruskelschhaus.

The substance of this letter was announced by the EPA Deputy Administrator at a public meeting sponsored by EPA on May 7, 1984.

In response to a subsequent request from the petitioner, as published in the Federal Register notice of May 29, 1984, (49 FR 22407) the Agency is conducting three regional meetings to be held in San Francisco, California on June 14; Chicago, Illinois on June 20; and Boston, Massachusetts on June 28.

Dated: June 8, 1984.

Joseph S. Carra,
Acting Director, Office of Toxic Substances.

[FR Doc. 84-15948 Filed 6-13-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

48 CFR Part 309

Debarment, Suspension, and Ineligibility of Contractors

AGENCY: Department of Health and Human Services (HHS).

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health and Human Services, is proposing to amend the HHS Acquisition Regulation by adding a new subpart concerning debarment, suspension, and ineligibility of contractors. This new subpart will implement the provisions of Subpart 9.4, Debarment, Suspension and Ineligibility, of the Federal Acquisition Regulation.

DATE: Comments must be received by July 16, 1984.

ADDRESS: Any person or organization wishing to submit data, views or comments pertaining to the proposed amendment may do so by filing them at the following address: Frederick J. Brennan, Division of Procurement Policy, OPAP-OPAL-OS, Room 539-H, Hubert H. Humphrey Building, Department of Health and Human Services, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Frederick J. Brennan, (202-245-6154).

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services (HHS) published its final rule on debarment, suspension and ineligibility in the *Federal Register* (49 FR 7805) on March 2, 1984 to implement Federal Procurement Regulations Temporary Regulation 65. This proposed rule will implement, in the HHS Acquisition Regulations, the debarment, suspension, and ineligibility regulation contained in the Federal Acquisition Regulation.

The only significant difference between the final rule of March 2, 1984 and the proposed rule is the addition of § 309.470, Reporting of suspected causes for debarment, suspension, or evasive actions.

This proposed rule applies only to contracts awarded by HHS. Debarment procedures applicable to financial assistance awards can be found at 45 CFR Part 76. However, HHS is considering the development of a single process applicable to contracts and financial assistance. Those procedures will be published for public comment at a later date.

List of Subjects in 48 CFR Part 309

Government procurement.

It is therefore proposed to amend 48 CFR Part 309 in the manner set forth below.

Dated: June 8, 1984.

Henry G. Kirschenmann, Jr.,
Deputy Assistant Secretary for Procurement,
Assistance and Logistics.

The authority citation for Part 309 reads as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Under Part 309, Contractor Qualifications, Subpart 309.4, Debarment, Suspension, and Ineligibility, is proposed to be added as set forth below.

PART 309—CONTRACTOR QUALIFICATIONS

Subpart 309.4—Debarment, Suspension, and Ineligibility

Sec.

309.403 Definitions.

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* * *

Subpart 309.4—Debarment, Suspension, and Ineligibility

309.403 Definitions.

"Debarment official" means the Deputy Assistant Secretary for Procurement, Assistance and Logistics.

"Suspending official" means the Deputy Assistant Secretary for Procurement, Assistance and Logistics.

309.404 Consolidated list of debarred, suspended and ineligible contractors.

(c) (1)-(3) The Office of Procurement, Assistance and Logistics (OPAL) shall perform the actions required by FAR 9.404(c) (1)-(3).

(4) At a minimum, OPAL shall maintain all documentation submitted by the office recommending the debarment or suspension action and all correspondence and other pertinent documentation generated during the OPAL review.

309.405 Effect of listing.

(a) Debarred or suspended contractors are excluded from receiving contracts, and contracting officers shall not solicit offers from, award contracts to, or consent to subcontracts with these contractors unless the Deputy Assistant Secretary for Procurement, Assistance and Logistics (DASPAL) determines that there is a compelling reason for such action (see FAR 9.405-2, 9.406-1(c), and 9.407-1(d)). The contracting officer shall prepare a determination in accordance with 309.405-1(b) below, and submit it through acquisition channels to the DASPAL for approval when he/she considers it necessary to award a contract or consent to a subcontract with a debarred or suspended contractor.

309.405-1 Continuation of current contracts.

(a) Notwithstanding the debarment or suspension of a contractor, contracting

officers may continue contracts or subcontracts in existence at the time the contractor was debarred or suspended unless the DASPAL directs otherwise. A decision as to the type of termination action, if any, to be taken should be made only after review by the awarding activity's contracting and technical personnel. The contracting officer shall prepare a determination in accordance with 309.405-1(b) and submit it through acquisition channels to the DASPAL for approval when he/she considers it necessary to terminate a contract with a debarred or suspended contractor. The DASPAL shall coordinate the determination with the Office of General Counsel to ensure the propriety of the proposed action.

(b) Contracting officers shall not renew current contracts of debarred or suspended contractors or otherwise extend their duration unless the DASPAL concurs with his/her request for renewal or extension. The contracting officer shall prepare a determination with all pertinent documentation and submit it through acquisition channels to the DASPAL for approval when he/she considers it necessary to renew or otherwise extend a contract with a debarred or suspended contractor. The documentation must include the date by which approval is required and a compelling reason for the proposed action. Some examples of circumstances that may constitute a compelling reason under FAR 9.405-1(b) for award, renewal or extension include:

(1) The property or services to be acquired are available only from the listed contractor;

(2) The urgency of the requirement dictates that the Department deal with the contractor; and

(3) Other reasons which require continued business dealings with the listed contractor.

The DASPAL shall inform the contracting officer of the decision within the required time period.

309.406 Debarment.

309.406-3 Procedures.

(a) *Investigation and referral.* Whenever cause for debarment becomes known to a contracting officer, a report incorporating the information required by 309.470 shall be forwarded through acquisition channels to the DASPAL.

(b) *Decisionmaking process.* The DASPAL shall review the report submitted by the contracting officer and make a determination as to whether debarment procedures are to be initiated. A copy of this determination shall be promptly sent to the contracting

activity which provided the submission. If the determination is that debarment procedures are to be initiated, the DASPAL shall notify the contractor in accordance with FAR 9.406-3(c). In actions in which additional proceedings are to disputed material facts, fact-finding shall be conducted by the DASPAL or a designee. The DASPAL shall afford the contractor an opportunity to appear with counsel, submit documentary evidence, present witnesses, and confront any person presented by the Department. The DASPAL shall provide the contractor with a transcript of the fact-finding hearings at cost, upon request, unless the contractor and the Department mutually agree to waive the requirement for a transcript. The DASPAL shall also ensure that written findings of fact are prepared, and shall base the debarment decision on the facts as found, after considering information and argument submitted by the contractor and any other information in the administrative record. The Office of General Counsel shall represent the Department at any fact-finding hearings and may present witnesses for HHS and question any witnesses presented by the contractor.

309.407 Suspension.

309.407-3 Procedures.

(a) *Investigation and referral.* Whenever cause for suspension becomes known to a contracting officer, a report incorporating the information required by 309.470 shall be forwarded through acquisition channels to the DASPAL.

(b) *Decisionmaking process.* The DASPAL or a designee shall review the report submitted by the contracting officer and make a determination as to whether suspension is to be imposed. A copy of this determination shall be promptly sent to the contracting activity which provided the submission. If the determination is that suspension is to be imposed, the DASPAL or a designee shall notify the contractor in accordance with FAR 9.407-3(c). In actions in which additional proceedings are necessary as to disputed material facts, fact-finding shall be conducted by the DASPAL or a designee. The DASPAL shall afford the contractor an opportunity to appear with counsel, submit documentary evidence, present witnesses, and confront any person presented by the Department. The DASPAL shall provide the contractor with a transcript of the fact-finding hearings at cost, upon request, unless the contractor and the Department mutually agree to waive the requirement for a transcript. The DASPAL shall also ensure that written

findings of fact are prepared, and shall base the decision on the facts as found, after considering information and argument submitted by the contractor and any other information in the administrative record. The Office of General Counsel shall represent the Department at any fact-finding hearings and may present witnesses for HHS and question any witnesses presented by the contractor.

309.470 Reporting of suspected causes for debarment, suspension, or evasive actions.

309.470-1 Situations where reports are required.

A report incorporating the information required by 309.470-2 shall be forwarded by the contracting officer through acquisition channels to the DASPAL when—

(a) A contractor has committed, or is suspected of having committed, any of the acts described in FAR 9.406-2 and FAR 9.407-2; or

(b) A contractor is suspected of attempting to evade the prohibitions of debarment or suspension imposed under this regulation by changes of address, multiple addresses, formation of new companies, or by other devices.

309.470-2 Contents of reports.

Each report prepared under 309.470 shall be coordinated with the Office of General Counsel and shall include the following information, where available:

(a) Name and address of contractor.

(b) Names of the principal officers, partners, owners, or managers.

(c) All known affiliates, subsidiaries, or parent firms, and the nature of the affiliation.

(d) Description of the contract or contracts concerned, including the contract number, and office identifying numbers or symbols, the amount of each contract, the amount paid the contractor and the amount still due, and the percentage of work completed and to be completed.

(e) The status of vouchers.

(f) Whether contract funds have been assigned pursuant to the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15, and, if so assigned, the name and address of the assignee and a copy of the assignment.

(g) Whether any other contracts are outstanding with the contractor or any affiliates, and, if so, the amount of such contracts, whether these funds have been assigned pursuant to the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15, and the amounts paid or due on such contracts.

(h) A complete summary of all pertinent evidence.

(i) A recommendation as to the continuation of current contracts.

(j) An estimate of damages, if any, sustained by the Government as a result of the action of the contractor, including an explanation of the method used in making the estimate.

(k) The comments and recommendations of the contracting officer and (1) whether the contractor should be suspended or debarred, (2) whether any limitations should be applied to such action, and (3) the period of any debarment.

(l) As an enclosure, a copy of the contract(s) or pertinent excerpts therefrom, appropriate exhibits, testimony or statements of witnesses, copies of assignments, and other relevant documentation or a written summary of any information for which documentation is not available.

309.470-3 Addresses and copies of reports.

Reports, including enclosures, shall be submitted in duplicate to the DASPAL.

[FR Doc. 84-15849 Filed 6-13-84; 8:45 am]

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1201

[Ex Parte No. 455*]

Revision to the Uniform System of Accounts for Railroads

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission is proposing certain revisions to the Uniform System of Accounts for Railroads (USOA) (49 CFR Part 1201, Subpart A). These revisions incorporate suggestions from carriers and other users and adopt recommendations from Commission staff. This proposal incorporates accounting interpretations, recommendations and refinements to improve the overall usefulness of the USOA. The proposed changes include certain refinements to comply with generally accepted accounting principles (GAAP), to amplify instructions or account texts for clarity or to introduce new accounting approaches to improve reporting, and to change the account presentation for operating expense accounts to simplify retrieving account text details. The information collection

* Initially circulated as No. 39155.

requirements contained in this proposal have been submitted to the Office of Management and Budget (OMB) for review under Section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35). Respondents may direct comments to OMB by addressing them to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Interstate Commerce Commission, Washington, D.C. 20503.

DATES: Comments must be received on or before July 30, 1984. Proposed effective date: January 1, 1985.

ADDRESSES: An original and 10 copies of any comments should be sent to: Office of the Secretary, Case Control Branch, Interstate Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Scott Decker, (202) 275-7544.

SUPPLEMENTARY INFORMATION:

Background

The Commission adopted a revised Uniform System of Accounts for Railroads (USOA) under Docket No. 36367, served June 24, 1977 (42 FR 35016, July 7, 1977). The revised USOA was responsive to requirements of Section 307 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act) (Pub. L. 94-210), which directed the Commission to issue regulations and procedures prescribing a uniform cost and revenue accounting and reporting system for all railroads subject to the Interstate Commerce Act. Further, the USOA assists the Commission in monitoring the financial health of each Class I railroad and the industry as a whole.

The USOA also helps provide the Commission with necessary cost information to perform its regulatory responsibilities. Particularly, the account detail is used in the Bureau of Accounts' Uniform Railroad Costing System.

The 4R Act required the Commission to review its accounting system at least every five years; this requirement was eliminated by the Staggers Rail Act of 1980. However, the Bureau of Accounts has issued numerous Accounting Series Circulars and accounting interpretations through correspondence with railroads to address certain accounting transactions. Through other rulemaking proceedings, the Commission has incorporated accounting changes into the USOA.

This proposal incorporates accounting interpretations, recommendations and refinements to improve the overall usefulness of the USOA. Specifically, all letters from railroads on file addressing

accounting problems have been reviewed. Where necessary, the interpretative responses have been added to the USOA. Issues addressed by Accounting Series Circular No. 168, Corrections and Interpretations Pertaining to the USOA, and suggested improvements from Commission staff have also been introduced. Further, this proposal includes certain recommendations made by the public accounting firm of Coopers & Lybrand.

In its evaluation of the USOA, Coopers & Lybrand found that the USOA substantially complies with generally accepted accounting principles, is clearly presented and that the logic for the level of detail and account classifications is conceptually sound and consistently applied. This opinion resulted from Coopers & Lybrand's detailed evaluation of the USOA definitions, instructions, account descriptions and texts. [USOA Evaluation, Task 3 Report: Accounting System Evaluation, Coopers & Lybrand, September 19, 1980.]

Discussion of Proposed Changes

The proposed changes include certain refinements to comply with generally accepted accounting principles (GAAP), to amplify instructions or account texts for clarity or to introduce new accounting approaches to improve reporting, and to change the account presentation for operating expense accounts to simplify retrieving account text details.

Refinements to Comply with GAAP

Definition 21(d), Dividends

Definition 21(d), Dividends, is a direct quote from APB Opinion No. 18, Interim Financial Reporting, paragraph 3(e). It is intended to identify dividends to be included in income under the cost method or to be credited to the investment account under the equity method. It does not apply to dividends a carrier distributes to stockholders. Since the definition does not make this clear, we propose revising it.

Instruction 1-2(d)(5), Accounting Changes

Instruction 1-2(d)(5), Accounting Changes, does not adequately distinguish between the three types of accounting changes: Change in accounting principle, change in accounting estimate, and change in reporting entity. We propose revising this instruction to assist carriers in applying this and other instruction.

Instruction 1-7, Delayed Items

This instruction should be reworded to show that it was intended to describe

the appropriate accounting for changes in accounting estimates during interim periods. The instruction allows carriers to distribute significant adjustments in equal monthly amounts to the remaining months of the calendar year. This is inconsistent with APB Opinion No. 28, which precludes arbitrary allocations of amounts over interim periods. The effect of a change in accounting estimate should be accounted for in the period the change in estimate is made.

Instruction 1-17, Disclosure Guideline To Conform With GAAP

Informative disclosures are an integral part of GAAP. We believe that detailed disclosure guidelines are not provided for several areas: Extraordinary items, unusual or infrequent items, discontinued operations, related party transactions, nonmonetary transactions, acquisitions, current asset items, marketable equity securities, pension expenses and price level. While a general instruction to provide footnotes commonly disclosed in financial statements under GAAP appears in Schedule 200 of the R-1 Annual Report, we believe an instruction addressing this area should be included in the USOA.

Instruction 2-1, Items To Be Charged

Instruction 2-1 defines cost as money actually paid. However, cost can include promises to pay or other conditions. Further, the definition does not address the question of acquisition data nor does the instruction provide guidelines for recording the asset's purchase. The instruction also does not provide for the capitalization of interest on certain qualifying assets according to FASB Statement No. 34, Capitalization of Interest Cost. It provides no guidelines for valuing installment purchases subject to APB Opinion No. 21, Interest on Receivables and Payables, and capital leases subject to FASB Statement No. 13, Accounting for Leases. Accordingly, we have proposed expanding this instruction to address these issues.

Instruction 2-3(b), Land

We propose removing instruction 2-3(b) which addresses nonmonetary transactions related to land. In its place, we propose instruction 2-1(e). Since APB Opinion No. 29, Accounting for Nonmonetary Transactions, applies to all productive assets including land, we have addressed nonmonetary transactions in Instruction 2-1, Items to be Charged.

Instruction 5-3(b), Discounts, Expenses, and Premiums on Debt

APB Opinion No. 21 requires the use of the interest method for amortization of bond discount, issue costs, and premiums. Other methods of amortization are acceptable if the results obtained are not materially different from the interest method. Since Instruction 5-3(b) does not address the interest method, we are proposing an appropriate revision.

Instruction 5-6, Contingent Assets and Liabilities.

The definitions of contingent assets and current liabilities included in this instruction use the terms "uncertain" or "reasonably foreseeable." These terms are vague and are inconsistent with the terminology of FASB Statement No. 5, *Accounting for Contingencies*. Further, the instruction is silent on the two conditions for the accrual of a loss as provided by FASB Statement No. 5. We propose revising this instruction to address these areas.

Account, 792, Liability for Conversion of Capital Stock

Accounting literature describes a liability as a claim of creditors that is to be satisfied by the disbursement or utilization of a firm's resources. An essential aspect of a liability, therefore, is that assets are conveyed or services are performed to satisfy a claim. Since Account 792 is a stockholders equity account, its current title is incorrect. We proposed revising its title to read, "Capital Stock to be Distributed."

Refinements to Clarify Existing Text

Definition 9, Debt Expense

We propose changing Definition 9, Debt Expense, to read "Debt Issue Cost." The term "debt expense" is misleading because it can be easily confused with the term "interest expense." Further, the term "expense" is misleading. The term "expense" is generally used to represent an expired cost which benefits only the current period; however, the accounting for costs related to the issuance and sale of the items listed in Definition 9 are unexpired until amortized.

Definition 11, Ledger Value

Definition 11 contains "value" as both part of the term being defined and part of the definition text. It is unclear whether this amount is cost or cost less accumulated depreciation. Since the term "value" is redundant, we have changed the definition to read "cost" instead of "value."

Also, the term "property investment account" is unclear because there is no such account in the USOA. Since the meaning is the property asset account vs. the property valuation account (accumulated depreciation), this can be clarified by rewording the definition so that the term "property investment account" is deleted. Further, the definition applies to all accounts—not just property accounts. We have revised the definition text to reflect this.

Instruction 4-4, Leased Property—Depreciation

We propose revising this instruction to provide adequate guidelines for determining the useful life of leased assets.

Railway Operating Revenue Accounts

We propose revising the text of Account 100, Transportation; Rail Line, and Account 501, Railway Operating Revenues, to show their interrelationship. The text of Account 100 is revised to indicate that the accounts in this series are detail accounts that are summarized in Account 501. Conversely, the text of Account 501 has been amended to show that it is a summarization of accounts 100 to 122.

Accounts 512, 518, and 545

We have replaced the obsolete terms of "surplus" and "deficit" with the terms "net income" and "net loss" in accounts 512, Separately Operated Properties; Profit; 518, Contributions from Other Companies; and 545, Separately Operating Properties: Loss.

Titles of Accounts 518 and 550

We propose changing the titles to account 518, Contributions from Other Companies, and Account 550, Income Transferred to Other Companies. These accounts involve amounts of income and expense resulting from agreements or contracts with other companies. The title and text of both accounts, however, fail to indicate that these accounts relate to the same activity. By changing Account 518 to Reimbursements Received under Contracts and Agreements and Account 550 to Income Transferred under Contracts and Agreements, this ambiguity is removed.

Cross Reference to 49 CFR Part 1242 and 49 CFR Part 1262

We have included a cross reference in Instruction 1-3, Records, to 49 CFR Part 1262, Uniform System of Records of Property Changes for Railroad Companies. Also, we have added a footnote to the Operation Expense Account Explanations that refers to 49

CFR 1242, Separation of Common Operating Expenses Between Freight Service and Passenger Service for Railroads.

Revised Accounting Areas

Repair and Maintenance of Shop Machinery

We propose changing the accounting for the repair and maintenance of shop machinery. Railroads currently assign repair and maintenance expenses associated with shop machinery (function 40) to the applicable equipment subactivity: Locomotives (XX-21-40); Freight cars (XX-22-40); and Other equipment (XX-23-40). This conflicts with subactivity definitions that separate by property type expenses associated with "repairing, maintaining, leasing, renting, depreciating, and retiring" locomotives, freight cars, and other equipment.

Since the USOA requires the carrier to assign shop machinery repair and maintenance expenses where used (either locomotive, freight car, or other equipment subactivity) instead of by equipment type (other equipment), it is unclear where expenses associated with leasing, renting, depreciating and retiring shop machinery should be assigned. The USOA instructions can be interpreted two ways:

1. Assign shop machinery expenses involving leasing, renting, depreciating and retiring in the same manner as shop machinery repair and maintenance expenses.
2. Assign leasing, renting, depreciating and retiring expenses involving shop machinery to the other equipment subactivity.

This confusion has created reporting problems for the Annual Report Form R-1. It appears more desirable to assign all expenses associated with repairing, maintaining, leasing, renting, depreciating and retiring shop machinery to the other equipment subactivity. To maintain separate accounts for the repair and maintenance of shop machinery associated with locomotives, freight cars and other equipment, we propose removing function 40 and introducing the following other equipment functions: 49, Shop machinery—locomotives; 50, Shop machinery—freight cars; and 51, Shop machinery—other equipment.

Small Tools and Supplies

We propose eliminating the separate accounting for small tools and supplies in the Way and Structures—Other subactivity. Function 37 segregates these expenses due to the material amount of

charges for this activity. However, it distorts the material expense associated with particular repair and maintenance areas such as roadway machines or shop buildings. Expenses associated with small tools and supplies go directly to function 37 while other material expenses are assigned to the appropriate repair and maintenance performed. As a result, the total material expenses associated with a specific repair and maintenance function are understated. By removing the separate function 37, this distortion is eliminated.

Computer Systems and Word Processing Equipment

We propose changing the accounting for expenses related to computer systems and word processing equipment. Carriers report data processing equipment depreciation as an Equipment activity expense (account 62-23-00) and capitalize computer equipment cost in a Way and Structures property account (account 16). Computer operating expenses are charged to a General and Administrative activity function 87, Management Services and Data Processing (accounts XX-61-87) except when a particular computer and its associated equipment are dedicated to a single function in the Way and Structure, Equipment or Transportation activity. Then the operating expenses are charged directly to the activity/subactivity and function served.

The proposed accounting introduces a separate equipment property account 46, Computer Systems and Word Processing Equipment. This eliminates the disparity of activities between capitalized expenditures (Way and Structures) and depreciation expenses (Other Equipment) related to computer costs. We have changed function 87 to include word processing equipment. When a particular computer system or word processing equipment is dedicated to more than one activity, the operating expenses shall be charged to XX-61-87. All leasing, renting, maintaining and depreciating expenses associated with computer systems and word processing equipment shall be charged to the Other Equipment subactivity.

Accounts 534, 535, and 543

We propose revising Account 534, Expenses of Property Used in Other than Carrier Operations, to include accounts 535, Taxes on Property Used in Other than Carrier Operations, and 543, Miscellaneous Rent Expense. The segregation of 535 and 543 is unnecessary.

Accounts 546, 547, 551 and Property Account 39

We have made minor changes to accounts 546, Interest on Funded Debt; 547, Interest on Unfunded Debt; 551, Miscellaneous Income Charges; and Property Account 39, Public Improvements; Construction.

Currently, Note E to Account 39 Incorrectly states that Interest and penalties for failure to pay assessments on time shall be charged to Account 547. We have revised Note E to show that interest only shall be charged to Account 547; related penalty payments shall be charged to Account 551.

We have removed the item "Interest on tax deficiencies, overcharge claims, and court awards" from Account 551 and added it to Account 547.

Account 546 requires the carrier to show separately in its annual report to the Commission the interest on receivers' and trustees' securities in the account. Since the R-1 Annual Report no longer requires such reporting, we have removed the accounting requirement.

Change to the Account Presentation for Operating Expense Accounts

The account presentation for railroad operating expense accounts has been revised to accommodate easy reference. The USOA lists definitions to activities/subactivities and functions as Definition 29. However, the natural expenses are explained in the operating expense area of the USOA. This requires the user to leaf through several sections of the USOA to obtain a complete account explanation, reducing both clarity and convenience. The proposed change brings all explanations into one section of the USOA.

We have reduced the repetition of account explanations when the repeated text served only redundancy; we have retained some repetition in account texts where it enhanced clarity. Further, we have added explanations to those areas where past questions or interpretations warrant incorporation in the USOA. This includes items from Accounting Series Circular No. 168.

Other Areas To Be Addressed in Final Rule

We solicit comments from all interested parties that would improve the USOA. We specifically solicit comments on renumbering the balance sheet accounts in a more understandable and consecutive three-digit numbering system, alphabetizing the definitions, and property account revisions to consolidate and align with operating expense accounts.

Further, we are considering eliminating Account 80, Other Elements of Investment. We solicit comments on its elimination and on particular accounting approaches that would accomplish its elimination.

If adopted, the proposed changes will affect certain schedules in the Annual Report for Class I Railroad (R-1). The introduction of property account 46, Computer Systems and Word Processing Equipment, would require changes to R-1 schedules 330, 330A, 332, 335, 339, 340, 342, 351 and 352B. Changes to the operating expense accounts would require certain modification to schedules 410, 412, 415 and 419. Revisions to income accounts would necessitate changes to R-1 schedule 210.

The revised operating expense accounts would require amending 49 CFR Part 1201, Subpart B, Branch Line Accounting System; 49 CFR 1242, Separation of Common Operating Expenses Between Freight Service and Passenger Service for Railroads; 49 CFR Part 1155, Standards for Determining Rail Service Continuation Subsidies; 49 CFR Part 1156, Submission of Cost Data to Justify Reimbursement for Directed Service; and 49 CFR Part 1157, Standards for Determining Commuter Rail Service Continuation Subsidies. If the proposed changes are adopted, separate rulemaking proceedings will address these revisions.

The Commission has considered alternative methods of collecting the data but has concluded that the proposed method is the least burdensome necessary to comply with legal requirements and to achieve program objectives. The information being requested is not duplicative of information otherwise accessible to the Commission and will be used on a regular basis by the agency. The proposed information collection requirements meets the guidelines set forth in 5 CFR 1320.6, General Information Collection Guidelines.

Regulatory Flexibility Act

This notice will not have a significant economic impact on a substantial number of small entities. This proposal directly affects Class I railroads having annual operating revenues of \$50 million or more. It revises the Uniform System of Accounts for Class I railroads without requiring substantive accounting system modifications.

List of Subjects in 49 CFR Part 1201

Railroads, Uniform system of accounts.

This action is taken under authority of 5 U.S.C. 553 and 49 U.S.C. 11166.

We propose adopting the changes in Appendix A to 49 CFR Part 1201, Subpart A.

Decided: June 1, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Secretary.

Appendix A

PART 1201—[AMENDED]

49 CFR Part 120 Subpart A, would be amended as follows:

1. Under Regulations Prescribed, (ii)

Definitions:

a. Revise Definition 9, "Debt expense" to read as follows:

* * * * *

9. "Debt issue cost" means all costs in connection with the issuance and sale of evidences of debt, such as fees for drafting mortgages and trust deeds; fees for issuing or recording evidences of debt; cost of engraving and printing bonds and certificates of indebtedness; fees paid trustees, specific costs of obtaining governmental authority; fees for legal services; fees and commissions paid underwriters, brokers and salespeople for marketing such evidences of debt; fees and costs of listing on exchanges; and other like costs.

b. Revise Definition 11, "Ledger value" to read as follows:

* * * * *

11. "Ledger value" of an account means the undepreciated or unamortized cost of acquisition of the item to the carrier, recorded in the general ledger. In case the cost of any item or property is not shown separately in the ledger, the ledger value of that item shall be its proportionate share of the value of the entire group in which the particular property is included.

c. Revise definition 21(d), "Dividends" to read as follows:

* * * * *

21. * * *
(d) "Dividends" when applied to distributions received from investees, unless otherwise specified, means dividends received or receivable in cash, other assets, or another class of stock and does not include stock dividends or stock splits.

* * * * *

d. Remove Definition 29 and reserve it for future use as follows:

29. [Revised]

2. Under General Instructions:

a. Revise Instruction 1-2(d)(5), Accounting Changes, to read as follows:

1-2 *Classification of accounts.*

* * * * *

(d) * * *

(5) *Accounting Changes.* Errors in financial statements result from mathematical mistakes, mistakes in the application of accounting principles, or oversight or misuse of facts that existed at the time the financial statements were prepared. In contrast, a change in an accounting estimate results from new information or subsequent developments and from better insight or judgment. Correction of an error should be accomplished through a prior period adjustment [See Instruction 1-2(d)(4)]. Changes in an accounting estimate should be accounted for in the period of change (and future period if the change affects both). A change in an accounting principle or accounting entity should be referred to this Commission for approval. The cumulative effect of a change in accounting principle should ordinarily be reflected in the account provided for in determining net income.

* * * * *

b. Add paragraph (g) to Instruction 1-3, Records, to read as follows:

1-3 *Records.*

* * * * *

(g) Regulations and instructions governing the recording of changes in physical property for Class I railroads are detailed in Part 1262 of this chapter.

c. Revise the heading and text of Instruction 1-7, Delayed Items, to read as follows:

1-7 *Changes in accounting estimate during interim periods.* Changes in accounting estimate arising during the current year which are applicable to prior years shall be included in the same account which would have been charged or credited if the item had been taken up or the adjustment made in the year to which it pertained [See Instruction 1-2(d)(5)].

d. Revise the heading and text of Instruction 1-8, Distribution of Expenses for Material, Tools, Fuel, Lubricants, Purchased Services and General, to read:

1-8 *Accounting for computer systems and word processing costs.* (a) Capitalized costs for computer systems and word processing equipment shall be charged to property account 46. Related depreciation expenses for capitalized costs shall be charged to account 62-23-00, Depreciation, Other Equipment. (b) Repair and maintenance costs related to computer systems and word processing equipment shall be charged to function 46 of the Other equipment subactivity by appropriate natural expense (labor, material, purchased services, other). Repairs performed by an outside company shall be charged to operating expense account 39-23-46. (c) Operating

costs related to computer systems and word processing equipment shall be charged to function 87, Management services and data and word processing, when the equipment benefits more than one activity. When the equipment benefits one activity only, such operating costs shall be charged to the activity/function benefited.

e. Following the text and note of Instruction 1-16, add Instruction 1-17, *Disclosure Guideline*, to read as follows:

1-17 *Disclosure guideline.* In addition to the accounting policies presented in these regulations, all disclosures necessary to make financial statements conform to generally accepted accounting principles are required.

3. Under Instructions for Property Accounts:

a. Revise Instruction 2-1 to read as follows:

2-1 *Items to be charged.* (a) To the road and equipment property accounts shall be charged the cost of purchasing land, the cost of purchasing and constructing buildings, facilities and equipment, and the cost of additions and betterments to property. "Cost" means the amount of cash disbursed, or the fair value of other assets distributed, or the present value of amounts to be paid.

Where the fair market value of resources given up (assets, services or items of stockholder's equity) is not clearly determinable, the cost may be determined by the fair market value of the resources acquired. The carrier shall be prepared to furnish the Commission with the particulars of its method of determining cash value when the consideration is other than monetary. The amount of liabilities incurred with suppliers in the normal course of business, which are due in customary trade terms not exceeding approximately one year, shall be recorded at the amount. Acquisition date is the date title passes to the carrier.

(b) The cost of road and equipment purchased under a plan involving other deferred payments (debt or capital lease) shall be recorded at the discounted present value of the payment, net of executory costs such as insurance, maintenance, and taxes. The interest rate used to discount the payments should be the prevailing market rate for similar debt instruments of issues with similar credit ratings. In any event, the rate used for valuation purposes will normally be at least equal to the rate at which the carrier can obtain financing of a similar nature from other sources at the date of the transaction (the carrier's incremental

borrowing rate). In the case of a capital lease, when it is practical to ascertain the implicit rate computed by the lessor, and that rate is less than the carrier's incremental borrowing rate, the carrier should use the implicit rate. Acquisition date for a capital lease is the date the lease agreement is signed. If the property covered by the lease has yet to be constructed or has not been acquired by the lessor at the date the lease agreement or commitment is signed, the acquisition date shall be the date the property under construction is completed or the date the property not yet acquired is acquired by the lessor. (See Instruction 2-20.)

(c) Where actually incurred, interest cost is to be added to the cost of road and equipment deemed "qualifying assets" during the period of time required to get them ready for their intended use (acquisition period). "Qualifying assets" are those that are (1) either constructed or otherwise produced for a carrier's own use (including assets constructed or produced for the carrier by others for which deposits or progress payments have been made) or (2) assets intended for sale or lease that are constructed or otherwise produced as discrete projects. The amount of interest to be capitalized for qualifying assets shall be based upon the average amount of accumulated expenditures for the asset during the acquisition period at the rate used on specific new borrowings associated with the qualifying asset. If average accumulated expenditures for the asset exceed the amount of specific new borrowings associated with the asset, the rate to be applied to such excess shall be a weighted average of the rates applicable to other borrowings of the enterprise. The total amount of interest cost capitalized in an accounting period shall not exceed the total amount of interest cost incurred by the enterprise during that period.

(d) Suitable records shall be maintained showing expenditures during the year for original road and equipment and road extensions; for merger and purchase of existing lines and reorganizations; for additions and betterments; and credits for property retirement.

(e) When the carrier exchanges road and equipment for other road and equipment with no other consideration involved, the road and equipment received shall be recorded at the ledger value of the road and equipment relinquished. Where the carrier receives a monetary consideration in the exchange, the carrier shall recognize gain on the exchange to the extent that

the consideration received exceeds a proportionate share of the recorded cost of the road and equipment surrendered. The portion of the cost applicable to the realized amount shall be based on the ratio of the monetary consideration to the total consideration received (monetary consideration plus the estimate fair value of the road and equipment received) or, if more clearly evident, the fair value of the road and equipment transferred. Where the carrier pays a monetary consideration in the exchange, it shall not recognize any gain on the transaction but shall record the road and equipment received at the amount of the monetary consideration paid plus the recorded costs of the road and equipment surrendered. If a loss is indicated by the terms of an exchange transaction, the carrier shall recognize the entire loss on the exchange. Immaterial gains and losses on these exchanges shall be included in accounts 519, Miscellaneous Income, or 551, Miscellaneous Income Charges, as appropriate. Material amounts shall be recorded in accordance with Instruction 1-2(d).

b. Remove Instruction 2-3(b) and reserve it for future use.

c. Add paragraph (k) to Instruction 2-6 to read as follows:

2-6 Components of Construction Cost.

* * * * *

(k) *Interest cost.* [See Instruction 2-1(c)].

4. Under Instructions for Maintenance Expenses:

a. Add paragraph (d) to Instruction 3-1, Items to be Charged, to read as follows:

3-1 Items to be charged.

* * * * *

(d) An employee's job classification shall not govern the accounting for work performed. Charges to a particular expense function shall be based on the nature of the work performed.

b. Add Instruction 3-2, Distribution of Expenses for Material, Tools, Fuel, Lubricants, Purchased Services and General, to read as follows:

3-2 Distribution of expenses for material, tools, fuel, lubricants, purchased services and general. (a)

These expenses shall be assigned directly to activities based on usage whenever possible. (b) When it is necessary to apportion these expenses to two or more activities, they shall be equitably apportioned only to the activities in which they are actually used or to the activities they support.

5. Under Instructions for Depreciation Accounts, revise Instruction 4-4, Leased

Property—Depreciation, to read as follows:

4-4 Leased property—depreciation. Leased assets that meet the criteria for classification as a capital lease shall be subject to depreciation over their useful lives in the same manner as assets owned. If the capital lease meets the criteria of either Instruction 2-20(a)(1) or Instruction 2-20(a)(2), the asset shall be amortized in a manner consistent with the lessee's normal depreciation policy for owned assets. If the lease does not meet either of these criteria, the asset shall be amortized in a manner consistent with the lessee's normal depreciation policy except that the period of amortization shall be the lease term.

6. Under Instructions for Income and Balance Sheet Accounts:

a. Amend Instruction 5-3, Discounts, Expenses, and Premiums on Debt, by adding the following sentence to the end of paragraph (b):

5-3 Discounts, expenses, and premium on debt.

* * * * *

(b) * * * The method of apportioning debt discount, issue costs, and premium to accounts 517 and 548 shall be the "Interest method," where the effective interest rate on the date of issuance is applied to the carrying value (debt, less related discount, and issue cost, plus related premium of each specification issue to the beginning of any given period.) However, other methods of amortization may be used if the results obtained are not materially different from those which would result from the interest method.

* * * * *

b. Revise the heading and text of Instruction 5-6, Contingent Assets and Liabilities, to read as follows:

5-6 Contingencies. (a) The proper accounting treatment for contingencies depends upon whether the contingency is: PROBABLE: the event or events are likely to occur; REASONABLY POSSIBLE: the chance of occurrence of the future event or events is more than remote, but less than likely; or REMOTE: the chance of occurrence of the future event or events is slight.

(b) Loss contingencies must be accrued when they are probable and the amount of loss can be reasonably estimated. Where they are only reasonably possible, only footnote disclosure is required. Where they are remote, footnote disclosure is not required, but is permitted.

(c) Gain contingencies usually are not reflected in the accounts since to do so might be to recognize revenue prior to

its realization. Adequate disclosure shall be made of contingencies that might result in gain, but care shall be exercised to avoid misleading implications as the likelihood of realization.

7. Under Property Accounts:

a. Remove the word "Computers" from the list of Station and Office Structures and Details in Account 16, Station and Office Buildings.

b. Revise Note E of Account 39, Public Improvements; Construction, to read as follows:

39 Public Improvements; construction.

Note E: Interest imposed for failure to pay assessments within the allocated time shall be charged to Account 547, Interest on unfunded debt. Any related penalties shall be charged to Account 551, Miscellaneous income charges.

c. Add Account 46, Computer Systems and Word Processing Equipment, to read as follows:

46 Computer systems and word processing equipment.

This account shall include the cost of computer and data processing equipment. It shall also include the cost of word processing equipment.

8. Under Railway Operating Revenue Accounts, amend Account 100, Transportation; Rail Line, by adding the following as the concluding sentence:

100 Transportation; rail line.

* * * The detail accounts included in this general account series are summarized in account 501, Railway Operating Revenues.

9. Under Income Accounts:

a. Revise the heading and entire text of Account 501, Railway Operating Revenues, to read as follows:

501 Railway operating revenues.

This account is a summarization of Railway Operating Revenue Accounts 100 to 122. It excludes transfers from governmental authorities except when the transfer payment is for specific services for transporting property or persons by rail line other than commuter operations and local rail service subsidies granted under authority of the Railroad Revitalization and Regulatory Reform Act of 1976 [See Instruction 1-15(e)(2)].

b. Revise Notes A, B and C to Account 510, Miscellaneous Rent Income, to read as follows:

510 Miscellaneous rent income.

Note A: Taxes on property the rent of which is creditable to this account shall be charged to account 64-61-00, Property Taxes.

Note B: The rent from property carried in account 737, Property used in other than carrier operations, shall not be included in this account. Such rents shall be included in account 506, Revenues from property used in other than carrier operations.

Note C: Rent and other income from real estate acquired for new lines or for additions and betterments shall be credited to the appropriate road and equipment accounts until the completion or coming into service of the property.

c. Revise paragraph (a) and Note A of Account 512, Separately Operated Properties; Profit, to read as follows:

512 Separately operated properties; profit.

(a) This account shall include amounts earned under the terms of agreements or contracts whereby the net income resulting from the operation by others or properties of other companies having a separate corporate existence is to be paid, in whole or in part, to the accounting company.

Note A: The amount payable by the operating company shall be charged by it to account 550, Income Transferred under Contracts and Agreements.

d. Revise the heading and text of paragraph (a) of Account 518, Contributions from Other Companies, to read as follows:

518 Reimbursements received under contracts and agreements.

(a) This account shall include amounts received or receivable from other companies or individuals, representing the whole or a part of the net loss of the accounting company, when under the terms of agreements or contract, no obligation for subsequent reimbursement is incurred.

e. Revise Account 534, Expenses of Property Used in Other than Carrier Operations, to read as follows:

534 Expenses of property used in other than carrier operations.

This account shall include depreciation, rent, taxes, and other expenses incurred on property used in other than carrier operations.

Note.—If property for which rent expense is includable in this account is sublet, the rent from the sublease shall be included in account 506, Revenues from property used in other than carrier operations.

f. Remove Account 535, Taxes on Property Used in Other than Carrier Operations, and Account 543, Miscellaneous Rent Expense.

g. Revise paragraph (a) and Note A of Account 545, Separately Operated Properties; Loss, to read as follows:

545 Separately operated properties; loss.

(a) This account shall include amounts payable under the terms of agreements or contracts whereby the net loss resulting from the operation by others of properties of other companies having a separate corporate existence is to be paid, in whole or in part, by the accounting company.

Note A: The amounts receivable by the operating company shall be credited by it to account 518, Reimbursements Received Under Contract and Agreements.

h. Revise the text of Account 546, Interest on Funded Debt, to read as follows:

546 Interest on funded debt.

This account shall include the current accruals of interest on all classes of long-term debt, the principal of which is includable in accounts 765, Funded debt unmatured; 766, Equipment obligations; 767, Receivers' and trustees' securities; 768, Debt in default; and 769, Accounts payable; affiliated companies.

i. Revise the first sentence of Account 547, Interest on Unfunded Debt, to read as follows:

547 Interest on unfunded debt.

This account shall include interest accrued on unfunded debt, such as short-term notes payable on demand or having maturity dates of one year or less from dates of issue, and open accounts, including discount and expense on demand and short-term loans, interest on receipts outstanding for installments paid on capital stock, interest on deferred payments for public improvements, interest on tax deficiencies, overcharge claims and court awards, and other analogous items.

j. Revise the heading of Account 550, Income Transferred to Other Companies, to read as follows:

550 Income transferred under contracts and agreements.

k. Revise paragraph (a) of Account 551, Miscellaneous Income Charges, to read as follows:

551 Miscellaneous income charges.

(a) This account shall include items, not otherwise provided for in the other income accounts. This includes:

Income tax on the interest on the accounting company's funded debt when these taxes are assumed by the company.

Payments of old accounts previously written off.

Penalties and fines for violation of the Interstate Commerce Act or other federal and state laws.

Loss on sale of securities carried as temporary cash investments.

Loss on sale of land used for transportation purposes and of noncarrier property.

Loss on sale of securities acquired for investment purposes, and charges to write down the ledger value of such securities because of impairment in their value.

Loss from company bonds reacquired.

Increases in the valuation allowance (contained within account 702) for the marketable equity securities included in current assets.

1. Revise paragraph (a) of Account 557, Provision for Deferred Taxes, to read as follows:

547 Provision for deferred taxes.

(a) This account shall include the net tax effect of all material timing differences [See definition 20(e)] originating and reversing in the current accounting period and the future tax benefits of loss carryforwards

recognized in accordance with Instruction 1-10.

10. Under General Balance Sheet Accounts Explanations:

a. Revise the heading of Account 792, Liability for Conversion of Capital Stock, and add a sentence to the end of the text to read as follows:

792 Capital stock to be distributed.

* * * This account shall also include stock dividends declared that remain undistributed at the end of an accounting period.

11. Remove the tables Coding Structure or [sic] Railway Operating Expense Accounts, Function Code Use—Way and Structures, Function Code Use—Equipment, Function Code Use—Transportation and Function Code Use—General and Administrative, which follow Railway Operating Revenue Accounts.

12. Revise the text of Operating Expense Account Explanations to read as follows:

Operating Expense Accounts

Instructions: (1) The operating expense accounts use a six-digit code. The first two digits denote natural expense, the second two digits denote

activity/subactivity, and the third two digits denote detailed functions. [See Table A for an overview of the coding structure and Tables B-E for detailed functions.]

(2) The operating expense account explanations use a three-tier format. Section 1 contains natural expense explanations with applicable activity/subactivity and function assignment. Section 2 details the activity/subactivity explanations. Section 3 explains the functions appropriate for each activity/subactivity. To obtain a complete explanation for a particular account, refer to Section 1 to locate the natural expense and activity/subactivity (first four digits) and read the appropriate account text. Accounts that are assigned to functions are appropriately listed. For further information, refer to Section 2 and Section 3.

(3) All accounts listed in Table A and Section 1 are for freight only. Refer to TABLE F for applicable passenger or common account codes. Account numbers designated with an asterisk in Section 1 denote freight only accounts.

(4) All expenses assigned to common operating accounts shall be allocated to freight and passenger accounts in accordance with Part 1242 of this chapter.

TABLE A.—CODING STRUCTURE FOR RAILWAY OPERATING EXPENSE ACCOUNTS¹

	Way and structures XX-10				Equipment XX-20			Transportation XX-30, 40, 50, XX-60					
	XX-00 control	Run-ning	Switch-ing	Other	Loco-motive	Freight cars	Other equip-ment	Train	Yard	Train and yard com-mon	Spe-cialized serv-ices	Admin-istrative support	Gen-eral and admin-istrative
Freight ²	XX-00	XX-11	XX-12	XX-13	XX-21	XX-22	XX-23	XX-31	XX-32	XX-33	XX-34	XX-35	XX-61
Personnel	10-00												
Salaries and wages	11-00	* 11-11	* 11-12	* 11-13	* 11-21	* 11-22	11-23	* 11-31	* 11-32	* 11-33	* 11-34	* 11-35	* 11-61
Fringe benefits	12-00	12-11	12-12	12-13	12-21	12-22	12-23	12-31	12-32	12-33	12-34	12-35	12-61
Material	20-00												
Material tools, supplies, fuel, lubricants	21-00	* 21-11	* 21-12	* 21-13	* 21-21	* 21-22	* 21-23	* 21-31	* 21-32	* 21-33	* 21-34	* 21-35	* 21-61
Purchased services	30-00												
Lease rentals—DR	31-00	31-11	31-12	31-13	31-21	31-22	31-23						
Lease rentals—CR	32-00	32-11	32-12	32-13	32-21	32-22	32-23						
JT facility rent—DR	33-00	33-11	33-12	33-13	33-21	33-22	33-23						
JT facility rent—CR	34-00	34-11	34-12	34-13	34-21	34-22	34-23						
Other rents—DR	35-00	35-11	35-12	35-13	35-21	35-22	35-23						
Other rents—CR	36-00	36-11	36-12	36-13	36-21	36-22	36-23						
JT facility—DR	37-00	37-11	37-12	37-13	37-21	37-22	37-23	37-31	37-32		37-34	37-35	37-61
JT facility—CR	38-00	38-11	38-12	38-13	38-21	38-22	38-23	38-31	38-32		38-34	38-35	38-61
Repairs billed by others—DR	39-00	* 39-11	* 39-12	* 39-13	* 39-21	* 39-22	* 39-23						
Repairs billed to others—CR	40-00	* 40-11	* 40-12	* 40-13	* 40-21	* 40-22	* 40-23						
Other purchase services	41-00	* 41-11	41-12	* 41-13	* 41-21	* 41-22	41-23	* 41-31	* 41-32	* 41-33	* 41-34	* 41-35	* 41-61
Claims and insurance	50-00												
Loss damage claims	51-00							51-31	51-32	51-33	51-34		
Other casualties	52-00	52-11	52-12	52-13	52-21	52-22	52-23	52-31	52-32		52-34	52-35	52-61
Insurance	53-00	53-11	53-12	53-13	53-21	53-22	53-23	53-31	53-32		53-34	53-35	53-61
General	60-00												
Other expenses	61-00	* 61-11	* 61-12	* 61-13	* 61-21	* 61-22	* 61-23	* 61-31	* 61-32		* 61-34	* 61-35	* 61-61
Depreciation	62-00	62-11	62-12	62-13	62-21	62-22	62-23						
Uncollectible account	63-00												
Property taxes	64-00												63-61
Other taxes	65-00												64-61
													65-61

¹ Each operating expense account has a six-digit code divided into three two-digit groups. The first two-digit group denotes the natural expense [See control column], the second group denotes the activity/subactivity for freight, passenger or common service [See Table F], and the third group signifies applicable function assignment [See Tables B, C, D, & E].

² The account numbers shown on this matrix are for freight only. The account numbers for passenger and common are derived by applying the natural expense code (first two digits) to the activity codes shown in Table F. Natural expenses are used only in the same activities as shown for freight.

³ Expenses shall be reported by applicable functions [See account text].

TABLE B.—FUNCTION CODE USE—WAY AND STRUCTURES

Code and functions	Running			Switching			Other		
	F	P	C	F	P	C	F	P	C
Administration:									
02 Track							X	X	X
03 Bridges and buildings							X	X	X
04 Signals							X	X	X
05 Communications							X	X	X
06 Other							X	X	X
Repairs and maintenance:									
10 Roadway	X	X	X	X	X	X			
11 Tunnels and subways	X	X	X	X	X	X			
12 Bridges and culverts	X	X	X	X	X	X			
13 Ties	X	X	X	X	X	X			
14 Rails and other track material	X	X	X	X	X	X			
16 Ballast	X	X	X	X	X	X			
19 Signals and interlockers	X	X	X	X	X	X			
20 Communication systems							X	X	X
21 Power systems							X	X	X
22 Highway grade crossings	X	X	X	X	X	X			
23 Station and office buildings							X	X	X
24 Shop buildings—locomotives							X	X	X
25 Shop buildings—freight cars							X	X	X
26 Shop buildings—other equipment							X	X	X
27 Locomotive servicing facilities							X	X	X
28 Miscellaneous buildings and structures							X	X	X
29 Coal terminals							X		
30 Ore terminals							X		
31 TOFC/COFC terminals							X		
32 Other marine terminals							X		
33 Motor vehicle loading and distribution facilities							X		
35 Facilities—other specialized services operations							X		
36 Roadway machines							X	X	X
38 Snow removal							X	X	X
39 Dismantling retired property	X	X	X	X	X	X	X	X	X
48 Road property damaged	X	X	X	X	X	X	X	X	X
99 Other	X	X	X	X	X	X	X	X	X

F—Freight; P—Passenger; C—Common.

TABLE C.—FUNCTION CODE USE—EQUIPMENT

Code and functions	Locomotives			Freight cars			Other equipment		
	F	P	C	F	P	C	F	P	C
Administration:									
01 Administration	X	X	X	X			X	X	X
Repair and maintenance:									
39 Dismantling retired property	X	X	X	X			X	X	X
41 Locomotives	X	X	X						
42 Freight cars				X					
43 Trucks, trailers, containers in revenue service							X		
44 Floating equipment in revenue services							X		
45 Passenger and other revenue equipment							X	X	X
46 Computer systems and word processing equipment							X	X	X
47 Work and other nonrevenue equipment							X	X	X
48 Equipment damaged	X	X	X	X			X	X	X
49 Shop machinery—locomotives							X	X	X
50 Shop machinery—freight cars							X	X	X
51 Shop machinery—other equipment							X	X	X
99 Other	X	X	X	X			X	X	X

F—Freight; P—Passenger; C—Common.

TABLE D.—FUNCTION CODE USE—TRANSPORTATION

Code and functions	Train			Yard			Train and yard common			Specialized services			Administrative support		
	F	P	C	F	P	C	F	P	C	F	P	C	F	P	C
Administration:															
01 Introduction	X	X	X	X	X	X				X			X	X	X
Operations:															
56 Engine crews	X	X	X												
57 Train crews	X	X	X												
58 Dispatching trains	X	X	X												
59 Operating switches, signals, interlockers, retarders, humps	X	X	X	X	X	X									
60 Operating drawbridges	X	X	X												
61 Highway crossing protection	X	X	X												
62 Train inspection and lubrication	X	X	X												
63 Clearing wrecks	X	X	X	X	X	X									
64 Switch crews				X	X	X									
65 Controlling operations				X	X	X									
66 Yard and terminal clerical				X	X	X									
67 Locomotive fuel	X	X	X	X	X	X									
68 Power purchased/produced for motive power	X	X	X	X	X	X									
69 Servicing locomotives	X	X	X	X	X	X									
70 Cleaning car interiors							X	X	X						
71 Adjusting, transferring loads							X	X	X						
72 Car loading deliveries and grain doors							X								

TABLE D.—FUNCTION CODE USE—TRANSPORTATION—Continued

Code and functions	Train			Yard			Train and yard common			Specialized services			Administrative support		
	F	P	C	F	P	C	F	P	C	F	P	C	F	P	C
73 Pick up and delivery, marine haul, rail substitute service										X					
74 Loading, unloading, local marine										X					
75 Protective services										X					
76 Clerks and accounting employees													X	X	X
77 Communications systems operations													X	X	X
78 Loss and damage claims processing													X	X	X
99 Other	X	X	X	X	X	X				X					

TABLE E.—FUNCTIONAL CODE USE—GENERAL AND ADMINISTRATIVE

Code and functions	Freight	Passenger	Common
Administration:			
01 Administration	X	X	X
General:			
86 Accounting, auditing, finance	X	X	X
87 Management services and data and word processing	X	X	X
88 Marketing	X	X	X
89 Sales	X	X	X
90 Industrial development	X	X	X
91 Personnel, labor relations	X	X	X
92 Legal and secretarial	X	X	X
93 Public relations and advertising	X	X	X
94 Research and development	X	X	X
99 Other	X	X	X

TABLE F.—ACTIVITY/SUBACTIVITY CODE USE

	Activity/subactivity code		
	Freight	Passenger	Common
Way and structures:			
Running	11	14	17
Switching	12	15	18
Other	13	16	19
Equipment:			
Locomotives	21	24	26
Freight cars	22	NA	NA
Other	23	25	27
Transportation:			
Train	31	41	51
Yard	32	42	52
Train and yard common	33	43	53
Specialized Services	34	NA	NA
Administrative Support	35	45	55
General and administrative	61	62	63

OPERATING EXPENSE ACCOUNTS

Section 1—Natural Expense Explanations*

Personnel

Control—10-00-00

This account may be used as a control account for all accounts in the

PERSONNEL Series:

Salaries and Wages

Fringe Benefits Not included in Compensation

Salaries and Wages—Control—11-00-00

This account series includes the compensation payable to employees for services performed. It includes amounts payable in connection with profit sharing and stock option plans that are part of employee compensation. This account series also includes amounts of compensation payable to employees for paid time off as a fringe benefit: Vacation pay, holiday pay, sick pay, and other payments considered direct compensation for time not worked. Amounts of labor billed by contractors, other companies, and joint facilities, are not considered salaries and wages of the carrier company and are not to be included in this account group. Its components shall be distributed to the following accounts in accordance with instruction 1-12.

Salaries and Wages—Way and Structures—Running—11-11-XX

This account includes the compensation payable to all repair and maintenance employees and others who are associated with the repair and maintenance of the carriers' roadway and track on the line of road and outside of classification yards. Compensation payable to officers and technical and clerical employees shall only be assigned to Way and Structures—Other. This account shall be subdivided by the following functions:

Repair and Maintenance—

Roadway—11-11-10
Tunnels and Subways—11-11-11
Bridges and Culverts—11-11-12
Ties—11-11-13
Rails and Other Track Material—11-11-14
Ballast—11-11-16
Signals and Interlockers—11-11-19

Administration—

Track—11-13-02
Bridges and Buildings—11-13-03
Signals—11-13-04
Communications—11-13-05
Highway Grade Crossings—11-11-22
Dismantling Retired Property—11-11-39
Road Property and Equipment Damaged—11-11-48

Other—Other—11-11-99

Salaries and Wages—Way and Structures—Switching—11-12-XX

* Accounts designated with an asterisk are freight only.

This account includes the compensation payable to all repair and maintenance employees and others who are associated with the repair and maintenance of the carriers' roadway and track within classification yards and stations. Compensation payable to officers and technical and clerical employees shall only be assigned to Way and Structures—Other. This account shall be subdivided by the following functions:

Repair and Maintenance—

Roadway—11-12-10
Tunnels and Subways—11-12-11
Bridges and Culverts—11-12-12
Ties—11-12-13
Rails and Other Track Material—11-12-14
Ballast—11-12-16
Signals and Interlockers—11-12-19
Highway Grade Crossings—11-12-22
Dismantling Retired Property—11-12-39
Road Property and Equipment Damaged—11-12-48

Other—Other—11-12-99

Salaries and Wages—Way and Structures—Other—11-13-XX

This account includes the compensation payable to all repair and maintenance employees and others who are associated with the repair and maintenance of the carriers' structures other than roadway and track. Each administration account (functions 02-06) includes the compensation payable to all officers and technical and clerical employees associated with the Way and Structures Activity. This account shall be subdivided by the following functions:

Other—11-13-06

Repair and Maintenance—

Communication Systems—11-13-20
Power Systems—11-13-21
Station and Office Buildings—11-13-23
Shop Buildings—Locomotives—11-13-24
Shop Buildings—Freight Cars—11-13-25*
Shop Buildings—Other—11-13-26
Locomotive Servicing Facilities—11-13-27
Miscellaneous Buildings and Structures—11-13-28*
Coal Terminals—11-13-29*
Ore Terminals—11-13-30*
TOFC/COFC Terminals—11-13-31*
Other Marine Terminals—11-13-32*
Motor Vehicle Loading and Distribution Facilities—11-13-33*

Facilities for Other Specialized Services Operations—11-13-35*
 Roadway Machines—11-13-36
 Snow Removal—11-13-38
 Dismantling Retired Property—11-13-39
 Road Property and Equipment Damaged—11-13-48
 Other—Other—11-13-99
 Salaries and Wages—Equipment—Locomotives—11-21-XX

This account includes the compensation payable to all officers and technical and clerical employees, repair and maintenance employees, and others who are associated with the repair and maintenance of locomotives, whether owned by the carrier or by others. This account shall be subdivided by the following functions:

Administration—General—11-21-01
 Repair and Maintenance—
 Dismantling Retired Property—11-21-39
 Locomotives—11-21-41
 Road Property and Equipment Damaged—11-21-48
 Other—Other—11-21-99
 Salaries and Wages—Equipment—Freight Cars—11-22-XX*

This account includes the compensation payable to all officers, technical and clerical employees, repair and maintenance employees, and others, who are associated with the repair and maintenance of freight cars, whether owned by the carrier or by others. This account shall be subdivided by the following functions:

Administration—General—11-22-01
 Repair and Maintenance—
 Dismantling Retired Property—11-22-39
 Freight Cars—11-22-42
 Road Property and Equipment Damaged—11-22-48
 Other—Other—11-22-99
 Salaries and Wages—Equipment—Other Equipment—11-23-XX

This account includes the compensation payable to all officers, technical and clerical employees, repair and maintenance employees, and others, who are associated with the repair and maintenance of equipment other than locomotives and freight cars, whether owned by the carrier or by others. This account shall be subdivided by the following functions:

Administration—General—11-23-01
 Repair and Maintenance—
 Dismantling Retired Property—11-23-39
 Trucks, Trailers, Containers in Revenue Service—11-23-43*
 Floating Equipment—Revenue Service—11-23-44*
 Passenger and Other Revenue Service—11-23-45
 Computer Systems and Word Processing Equipment—11-23-46
 Work and Other Non-Revenue Equipment—11-23-47
 Road Property and Equipment Damaged—11-23-48

Shop Machinery—Locomotives—11-23-49
 Shop Machinery—Freight Cars—11-23-50*
 Shop Machinery—Other Equipment—11-23-51
 Other—Other—11-23-99
 Salaries and Wages—Transportation—Train—11-31-XX

This account includes the compensation payable to all officers, technical and clerical employees, engine and train crews, and other operational employees, who are associated with the dispatching and operation of freight trains over the roadway and outside of classification yards. This account shall be subdivided by the following functions:

Administration—General—11-31-01
 Operations—
 Engine Crews—11-31-56
 Train Crews—11-31-57
 Dispatching Trains—11-31-58
 Operating Switches, Signals, Interlockers, Retarders, Humps—11-31-59
 Operating Drawbridges—11-31-60
 Highway Crossing Protection—11-31-61
 Train Inspection and Lubrication—11-31-62
 Clearing Wrecks—11-31-63
 Locomotive Fuel—11-31-67
 Electric Power Purchased/Produced for Motive Power—11-31-68
 Servicing Locomotives—11-31-69
 Other—Other—11-31-99
 Salaries and Wages—Transportation—Yard—11-32-XX

This account includes the compensation payable to all officers, technical and clerical employees, engine and train crews, and other operational employees, who are associated with the movement of freight cars within classification yards and in terminal switching and transfer service. This account shall be subdivided by the following functions:

Administration—General—11-32-01
 Operations—
 Operating Switches, Signals, Interlockers, Retarders, Humps—11-32-59
 Clearing Wrecks—11-32-63
 Switch Crews—11-32-64
 Controlling Operations—11-32-65
 Yard and Terminal Clerical—11-32-66
 Locomotive Fuel—11-32-67
 Electric Power Purchased/Produced for Motive Power—11-32-68
 Servicing Locomotives—11-32-69
 Other—Other—11-32-99
 Salaries and Wages—Transportation—Train and Yard Common—11-33-XX

This account includes the compensation payable to all officers, technical and clerical employees, and other operational employees performing functions incurred on behalf of both train and yard operations. This account shall be subdivided by the following functions:

Operations—
 Cleaning Car Interiors—11-33-70

Adjusting and Transferring Loads—11-33-71*
 Car Loading Devices and Grain Doors—11-33-72*
 Salaries and Wages—Transportation—Specialized Services—11-34-XX*

This account includes the compensation payable to all officers, technical and clerical employees, and other operational employees, who are associated with the operating services which are specialized in nature and in cost characteristics. The specialized services designated by the Commission appear within the explanation of activities/subactivities. This account shall be subdivided by the following functions:

Administration—General—11-34-01
 Operations—
 Pick Up and Delivery, Marine Line Haul, and Rail Substitute Service—11-34-73
 Loading, Unloading, and Local Marine—11-34-74
 Protective Services—11-34-75
 Other—Other—11-34-99
 Salaries and Wages—Transportation—Administrative Support—11-35-XX

This account includes the compensation payable to all officers, technical and clerical employees, and other operational employees, who are associated with providing direct administrative support for the Transportation Activity. For further clarification refer to the explanation of the Administrative Support Operations Subactivity. Each account shall be subdivided by the following functions:

Administration—General—11-35-01
 Operations—
 Clerical and Accounting Employees—11-35-76
 Communication Systems Operations—11-35-77
 Loss and Damage Claims Processing—11-35-78
 Other—Other—11-35-99
 Salaries and Wages—General and Administrative—11-61-XX

This account includes the compensation payable to all employees who are associated with overall administration or other general support for carrier operations. Overall administration includes executive, legal, financial, treasury, accounting, budgeting, taxation, corporate planning, costing, marketing, advertising, traffic, corporate secretary, public relations, real estate, insurance administration, personnel administration, pension plan administration, general purchasing, labor relations, internal auditing, industrial engineering, and regulatory reporting. For further clarification refer to the explanation of the General and Administrative Activity. This account

shall be subdivided by the following functions:

Administration—General—11-61-01
General—

Accounting, Auditing, Finance—11-61-86
Management Services and Data and Word
Processing—11-61-87
Marketing—11-61-88
Sales—11-61-89
Industrial Development—11-61-90*
Personnel and Labor Relations—11-61-91
Legal and Secretarial—11-61-92
Public Relations and Advertising—11-61-93
Research and Development—11-61-94
Other—Other—11-61-99

Fringe Benefits Not Included in Compensation—Control—12-00-00

This account series includes amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation. These benefits include the carrier portions of Railroad Retirement contributions, pension expense, unemployment taxes, dental plans, health plans, hospitalization insurance, life insurance, subsidies for employee lunchrooms, company entertainment facilities for personal use, and other benefits to employees that are not includible in direct compensation. They exclude travel expense on company business, casualties, workmen's compensation, as well as dues, memberships, and similar items when the direct beneficiary is clearly the company rather than the employee.

Fringe Benefits Not Included in Compensation—Way and Structures—Running—12-11-00

Fringe Benefits Not Included in Compensation—Way and Structures—Switching—12-12-00

Fringe Benefits Not Included in Compensation—Way and Structures—Other—12-13-00

Fringe Benefits Not Included in Compensation—Equipment—Locomotives—12-21-00

Fringe Benefits Not Included in Compensation—Equipment—Freight Cars—12-22-00*

Fringe Benefits Not Included in Compensation—Equipment—Other Equipment—12-23-00

Fringe Benefits Not Included in Compensation—Transportation—Train—12-31-00

Fringe Benefits Not Included in Compensation—Transportation—Yard—12-32-00

Fringe Benefits Not Included in Compensation—Transportation—Train and Yard Common—12-33-00

Fringe Benefits Not Included in Compensation—Transportation—Specialized Services—12-34-00

Fringe Benefits Not Included in Compensation—Transportation—Administrative Support—12-35-00

Fringe Benefits Not Included in Compensation—General and Administrative—12-61-00

Material

Control—20-00-00

This account may be used as a control account for the MATERIAL series: Materials, Tools, Supplies, Fuels, Lubricants

Materials, Tools, Supplies, Fuels, Lubricants—Control—21-00-00

This account group includes the cost of items installed or commodities consumed which are charged to expense in connection with carrier operations. This account group includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials and supplies, and similar items. This account group excludes purchased services such as utilities, communications, postage and other items of similar nature. Its components shall be distributed to the following accounts:

Materials, Tools, Supplies, Fuels, Lubricants—Ways and Structures—Running—21-11-XX

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in the performance or support of the repair and maintenance of the carrier's roadway and track on the line of the road and outside of classification yards. Each account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-on materials, and supplies, and similar items. Its components shall be distributed to the following functions in accordance with Instruction 3-2:

Repair and Maintenance—

Roadway—21-11-10
Tunnels and Subways—21-11-11
Bridges and Culverts—21-11-12
Ties—21-11-13
Rails and Other Track Material—21-11-14
Ballast—21-11-16
Signals and Interlockers—21-11-19
Highway Grade Crossings—21-11-22
Dismantling Retired Property—21-11-39
Road Property and Equipment Damaged—21-11-48
Other—Other—21-11-99

Materials, Tools, Supplies, Fuels, Lubricants—Way and Structures—Switching—21-12-XX

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in the performance or support

of the repair and maintenance of the carrier's roadway and track within classification yards and stations. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials and supplies, and similar items. Its components shall be distributed to the following functions in accordance with Instruction 3-2:

Repair and Maintenance—

Roadway—21-12-11
Tunnels and Subways—21-12-11
Bridges and Culverts—21-12-12
Ties—21-12-13
Rails and Other Track Material—21-12-14
Ballast—21-12-16
Signals and Interlockers—21-12-19
Highway Grade Crossings—21-12-22
Dismantling Retired Property—21-12-29
Road Property and Equipment Damaged—21-12-48
Other—Other—21-12-99
Materials, Tools, Supplies, Fuels, Lubricants—Way and Structures—Other—21-13-XX

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in the performance or support of the repair and maintenance of the carrier's structures not provided for in running or switching. Each account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in or materials and supplies, and similar items. Its components shall be distributed to the following functions in accordance with instruction 3-2:

Administration—

Track—21-13-02
Bridges and Buildings—21-13-03
Signals—21-13-04
Communications—21-13-05
Other—21-13-06

Repair and Maintenance—

Communication Systems—21-13-20
Power Systems—21-13-21
Station and Office Buildings—21-13-23
Shop Buildings—Locomotive—21-13-24
Shop Buildings—Freight Cars—21-13-25*
Shop Buildings—Other Equipment—21-13-26
Locomotive Servicing Facilities—21-13-27
Miscellaneous Buildings and Structures—21-13-28
Coal Terminals—21-13-29*
Ore Terminals—21-13-30*
TOFC/COFC Terminals—21-13-31*
Other Marine Terminals—21-13-32*
Motor Vehicle Loading and Distribution Facilities—21-13-33*
Facilities for Other Specialized Services Operations—21-13-35*
Roadway Machines—21-13-36
Snow Removal—21-13-38
Dismantling Retired Property—21-13-39

Road Property and Equipment Damaged—
21-13-48
Other—Other—21-13-99
Materials, Tools, Supplies, Fuels,
Lubricants—Equipment—Locomotives—
21-21-XX

This account includes the cost of items installed or commodities consumed which are charged to expenses, where such items are consumed in the performance or support of the repair and maintenance of locomotives, whether owned by the carrier or by others. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials and supplies, and similar items. Its components shall be distributed to the following functions in accordance with Instruction 3-2:

Administration—General—21-21-01
Repair and Maintenance—
Dismantling Retired Property—21-21-39
Locomotives—21-21-41
Road Property and Equipment—
Damaged—21-21-48
Other—Other—21-21-99
Materials, Tools, Supplies, Fuels,
Lubricants—Equipment—Freight Cars—
21-22-XX*

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in the performance or support of the repair and maintenance of freight-cars, whether owned by the carrier or by others. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials and supplies, and similar items. Its components shall be distributed to the following functions in accordance with Instruction 3-2:

Administration—General—21-22-01
Repair and Maintenance—
Dismantling Retired Property—21-22-39
Freight Cars—21-22-42
Road Property and Equipment Damaged—
21-22-48
Other—Other—21-22-99
Materials, Tools, Supplies, Fuels,
Lubricants—Equipment—Other
Equipment—21-23-XX

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in the performance or support of the repair and maintenance of equipment other than locomotives and freight-cars, whether owned by the carrier or by others. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard

stationery and forms, freight-in on materials and supplies, and similar items. Its components shall be distributed to the following functions in accordance with Instruction 3-2:

Administration—General—21-23-01
Repair and Maintenance—
Dismantling Retired Property—21-23-39
Trucks, Trailers, Containers in Revenue
Service—21-23-43*
Floating Equipment—Revenue Service—21-
23-44*
Passenger and Other Revenue Equipment—
21-23-45
Computer Systems and Word Processing
Equipment—21-23-46
Work and Other Non-Revenue
Equipment—21-23-47
Road Property and Equipment Damaged—
21-23-48
Shop Machinery—Locomotives—21-23-49
Shop Machinery—Freight Cars—21-23-50*
Shop Machinery—Other Equipment—21-
23-51
Other—Other—21-23-99
Materials, Tools, Supplies, Fuels,
Lubricants—Transportation—Train—21-
31-XX

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in association with the dispatching and operation of freight trains over the roadway and outside of classification yards. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials and supplies, and similar items. Its components shall be distributed to the following functions in accordance with Instruction 3-2:

Administration—General—21-31-01
Operations—
Engine Crews—21-31-56
Train Crews—21-31-57
Dispatching Trains—21-31-58
Operating Switches, Signals, Interlockers,
Retarders, Humps—21-31-59
Operating Drawbridges—21-31-60
Highway Crossing Protection—21-31-61
Train Inspection and Lubrication—21-31-
62
Clearing Wrecks—21-31-63
Locomotive Fuels—21-31-67
Electric Power Purchased/Produced for
Motive Power—21-31-68
Servicing Locomotives—21-31-69
Other—Other—21-31-99
Materials, Tools, Supplies, Fuels,
Lubricants—Transportation—Yard—21-
32-XX

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in association with the movement of freight cars within classification yards and in terminal

switching and transfer service. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials and supplies, and similar items. Its components shall be distributed to the following functions in accordance with instruction 3-2:

Administration—General—21-32-01
Operations—
Operating Switches, Signals, Interlockers,
Retarders, Humps—21-32-59
Clearing Wrecks—21-32-63
Switch Crews—21-32-64
Controlling Operations—21-32-65
Yard and Terminal Clerical—21-32-66
Locomotive Fuel—21-32-67
Electric Power Purchased/Produced for
Motive Power—21-32-68
Servicing Locomotives—21-32-69
Other—Other—21-32-99
Materials, Tools, Supplies, Fuels,
Lubricants—Transportation—Train and
Yard Common—21-33-XX

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed on behalf of both train and yard operations. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials and supplies, and similar items. Its components shall be distributed to the following functions in accordance with instruction 3-2:

Operations—
Cleaning Car Interiors—21-33-70
Adjusting, Transferring Loads—21-33-71*
Car Loading Devices and Grain Doors—21-
33-72*
Materials, Tools, Supplies, Fuels,
Lubricants—Transportation—Specialized
Services—21-34-XX*

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in operating services which are specialized in nature and in cost characteristics. The specialized services designated by the Commission appear within the explanation of specialized services. This account shall be subdivided by the following functions:

Administration—General—21-34-01
Operations—
Pick Up and Delivery, Marine Line Haul,
and Rail Substitute Service—21-34-73
Loading, Unloading, and Local Marine—21-
34-74
Protective Services—21-34-75
Other—Other—21-34-99
Materials, Tools, Supplies, Fuels,
Lubricants—Transportation—
Administration Support—21-35-XX

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in association with providing direct administrative support for the Transportation Activity. For further clarification refer to the explanation of the Administrative Support Operations Subactivity. This account shall be subdivided by the following functions:

Administration—General—21-35-01
Operations—
Clerks, Accounting Employees—21-35-76
Communication Systems Operations—21-35-77
Loss and Damage Claims Processing—21-35-78
Other—Other—21-35-99
Materials, Tools, Supplies, Fuels, Lubricants—General and Administrative—21-61-XX

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in providing overall administration or other general support for carrier operations. For further clarification refer to the explanation of the General and Administrative Activity. This account shall be subdivided by the following functions:

Administration—General—21-61-01
General—
Accounting, Auditing, Finance—21-61-86
Management Services and Data and Word Processing—21-61-87
Marketing—21-61-88
Sales—21-61-89
Industrial Development—21-61-90*
Personnel and Labor Relations—21-61-91
Legal and Secretarial—21-61-92
Public Relations and Advertising—21-61-93
Research and Development—21-61-94
Other—Other—21-61-99

Purchased Services

Control—30-00-00

This account may be used as a control account for all accounts in the PURCHASED SERVICES series:

Lease Rentals—Dr.
Lease Rentals—Cr.
Joint Facility Rent—Dr.
Joint Facility Rent—Cr.
Other Rents—Dr.
Other Rents—Cr.
Joint Facility—Dr.
Joint Facility—Cr.
Repairs Billed by Others—Dr.
Repairs Billed to Others—Cr.
Other Purchased Services

Lease Rentals—Debit—Control—31-00-00

This account series includes the rentals of road property and equipment with terms of 30 days or more. This account excludes joint facility and joint

trackage rents, insurance and maintenance elements of lease payments, and all elements of capital leases as defined in FASB Statement No. 13. Capitalized leases shall be included in the applicable property account for the particular asset leased [See Instruction 2-11b1. The components of this natural expense will be distributed to the following accounts in accordance with instruction 3-2:

Lease Rentals—Dr.—Way and Structures—Running—31-11-00
Lease Rentals—Dr.—Way and Structures—Switching—31-12-00
Lease Rentals—Dr.—Way and Structures—Other—31-13-00
Lease Rentals—Dr.—Equipment—Locomotives—31-21-00
Lease Rentals—Dr.—Equipment—Freight Cars—31-22-00*
Lease Rentals—Dr.—Equipment—Other Equipment—31-23-00

Lease Rentals—Credit—Control—32-00-00

This account group includes the rentals of owned property and equipment or subleases of leased road property and equipment with terms of from 30 days to one year. Longer term leases are indicative of a non-carrier operation and all revenues and expenses related to such property and equipment should be classified accordingly and excluded from railroad operations. This account excludes joint facilities and joint trackage, capital leases, and portions of lease receipts covering maintenance and insurance. The components of this natural expense account will be distributed to the following accounts in accordance with Instruction 3-2:

Lease Rentals—Dr.—Way and Structures—Running—32-11-00
Lease Rentals—Dr.—Way and Structures—Switching—32-12-00
Lease Rentals—Dr.—Way and Structures—Other—32-13-00
Lease Rentals—Dr.—Equipment—Locomotives—32-21-00
Lease Rentals—Dr.—Equipment—Freight Cars—32-22-00*
Lease Rentals—Dr.—Equipment—Other Equipment—32-23-00

Joint Facility Rents—Debit—Control—33-00-00

This account group includes amounts payable accrued as rent for equipment, tracks, yards, terminals, and other facilities owned or controlled by other carriers, companies, or individuals, and in the joint use of which the accounting company participates. Amounts paid or payable by the accounting company in reimbursement for taxes on property jointly used shall be charged to this account.

The cost of maintenance, operation, or administration of joint facilities,

chargeable to the accounting company, shall be charged to the various joint facility accounts (37-XX-00). When the compensation for the use of joint facilities is a fixed amount or is based upon a charge per passenger, ton, car, or other unit, it shall be fairly apportioned between this account and joint Facility—Dr. (37-XX-00). This apportionment shall be made by the operating company and shall be followed by the accounting company.

The components of this natural expense consist of the following accounts:

Joint Facility Rents—Dr.—Way and Structures—Running—33-11-00
Joint Facility Rents—Dr.—Way and Structures—Switching—33-12-00
Joint Facility Rents—Dr.—Way and Structures—Other—33-13-00
Joint Facility Rents—Dr.—Equipment—Locomotives—33-21-00*
Joint Facility Rents—Dr.—Equipment—Freight Cars—33-22-00*
Joint Facility Rents—Dr.—Equipment—Other—Equipment 33-23-00

Joint Facility Rents—Credit—Control—34-00-00

This account series includes amounts receivable accrued for rent of equipment, tracks, yards, terminals and other facilities owned or controlled by the accounting company and used jointly with other companies or individuals. Amounts receivable from other companies in reimbursement for taxes on property jointly used shall be credited to this account.

The portion of the cost of maintenance, operation, or administration of joint facilities recoverable from others shall be credited to the various joint facility accounts (38-XX-00). When the compensation for the use of joint facilities is a fixed amount or is based upon a charge per passenger, ton, car, or other unit, it shall be fairly apportioned by the creditor between this account and joint Facility—Cr. (38-XX-00).

The components of this account series shall be distributed to the following accounts:

Joint Facility Rents—Cr.—Way and Structures—Running—34-11-00
Joint Facility Rents—Cr.—Way and Structures—Switching—34-12-00
Joint Facility Rents—Cr.—Way and Structures—Other—34-13-00
Joint Facility Rents—Cr.—Equipment—Locomotives—34-21-00*
Joint Facility Rents—Cr.—Equipment—Freight Cars—34-22-00*
Joint Facility Rents—Cr.—Equipment—Other Equipment—34-23-00

Other Rents—Debit—Control—35-00-00

This account group includes the rents with terms of less than 30 days which are not renewed. This account includes all time and mileage payments for interchange locomotive, freight car, and other revenue equipment hire. The components of this account will be distributed to the following accounts in accordance with instruction 3-2:

Other Rents—Dr.—Way and Structures—Running—35-11-00
 Other Rents—Dr.—Way and Structures—Switching—35-12-00
 Other Rents—Dr.—Way and Structures—Other—35-13-00
 Other Rents—Dr.—Equipment—Locomotives—35-21-00
 Other Rents—Dr.—Equipment—Freight Cars—35-22-00*
 Other Rents—Dr.—Equipment—Other Equipment—35-23-00

Other Rents—Credit—Control—36-00-00

This account includes rents with terms of less than 30 days which are not renewed. This account includes all time and mileage receipts for interchanged locomotive, freight car, and other revenue equipment hire. The components of this account will be distributed to the following accounts in accordance with instruction 3-2:

Other Rents—Cr.—Way and Structures—Running—36-11-00
 Other Rents—Cr.—Way and Structures—Switching—36-12-00
 Other Rents—Cr.—Way and Structures—Other—36-13-00
 Other Rents—Cr.—Equipment—Locomotives—36-21-00
 Other Rents—Cr.—Equipment—Freight Cars—36-22-00*
 Other Rents—Cr.—Equipment—Other Equipment—36-23-00

Joint Facility—Debit—Control—37-00-00

This account includes joint trackage and joint facility costs, exclusive of rents, payable by the railroad to others. The components of this account will be distributed to the following accounts in accordance with instructions 3-2:

Joint Facility—Dr.—Way and Structures—Running—37-11-00
 Joint Facility—Dr.—Way and Structures—Switching—37-12-00
 Joint Facility—Dr.—Way and Structures—Other—37-13-00
 Joint Facility—Dr.—Equipment—Locomotives—37-21-00
 Joint Facility—Dr.—Equipment—Freight Cars—37-22-00*
 Joint Facility—Dr.—Equipment—Other Equipment—37-23-00
 Joint Facility—Dr.—Transportation—Train—37-31-00
 Joint Facility—Dr.—Transportation—Yard—37-32-00
 Joint Facility—Dr.—Transportation—Specialized Services—37-34-00*

Joint Facility—Dr.—Transportation—Administrative Support—37-35-00
 Joint Facility—Dr.—General and Administrative—37-61-00

Joint Facility—Credit—Control—38-00-00

This account group includes joint trackage and joint facility costs, exclusive of rents, payable by others to the railroad. The components of this account will be distributed to the following accounts in accordance with instruction 3-2:

Joint Facility—Cr.—Way and Structures—Running—38-11-00
 Joint Facility—Cr.—Way and Structures—Switching—38-12-00
 Joint Facility—Cr.—Way and Structures—Other—38-13-00
 Joint Facility—Cr.—Equipment—Locomotives—38-21-00
 Joint Facility—Cr.—Equipment—Freight Cars—38-22-00*
 Joint Facility—Cr.—Equipment—Other Equipment—38-23-00
 Joint Facility—Cr.—Transportation—Train—38-31-00
 Joint Facility—Cr.—Transportation—Yard—38-32-00
 Joint Facility—Cr.—Transportation—Specialized Services—38-34-00*
 Joint Facility—Cr.—Transportation—Administrative Support—38-35-00
 Joint Facility—Cr.—General and Administrative—38-61-00

Repairs Billed by Others—Debit—Control—39-00-00

This account group includes amounts payable by the railroad to others for repair and maintenance of the reporting railroad's property and equipment. The components of this account shall be distributed to the following accounts in accordance with instruction 3-2:

Repairs Billed by Others—Dr.—Way and Structures—Running—39-11-XX

This account includes amounts payable by the railroad to others for repair and maintenance of the reporting railroad's property associated with the carrier's roadway and track on the line of road and outside of classification yards. This account shall be subdivided by the following functions:

Repair and Maintenance—Roadway—39-11-10
 Tunnels and Subways—39-11-11
 Bridges and Culverts—39-11-12
 Ties—39-11-13
 Rails and Other Track Material—39-11-14
 Ballast—39-11-15
 Signals and Interlockers—39-11-19
 Highway Grade Crossing—39-11-22
 Road Property and Equipment Damaged—39-11-48
 Repairs Billed by Others—Dr.—Way and Structures—Switching—39-12-XX

This account includes amounts payable by the railroad to others for repair and maintenance of the reporting

railroad's property associated with the carrier's roadway and track within classification yards and stations. This account shall be subdivided by the following functions:

Repair and Maintenance—Roadway—39-12-10
 Tunnels and Subways—39-12-11
 Bridges and Culverts—39-12-12
 Ties—39-12-13
 Rails and Other Track Material—39-12-14
 Ballast—39-12-16
 Signals and Interlockers—39-12-19
 Highway Grade Crossing—39-12-22
 Road Property and Equipment Damaged—39-12-48
 Repairs Billed by Others—Dr.—Way and Structures—Other—39-13-XX

This account includes amounts payable by the railroad to others for repair and maintenance of the carrier's structures other than roadway and track. This account shall be subdivided by the following functions:

Repair and Maintenance—Communication Systems—39-13-20
 Power Systems—39-13-21
 Station and Office Buildings—39-13-23
 Shop Buildings—Locomotives—39-13-24
 Shop Buildings—Freight Cars—39-13-25*
 Shop Buildings—Other Equipment—39-13-26*
 Locomotive Servicing Facilities—39-13-27
 Miscellaneous Buildings and Structures—39-13-28
 Coal Terminals—39-13-29*
 Ore Terminals—39-13-30*
 TOFC/COFC Terminals—39-13-31*
 Other Marine Terminals—39-13-32*
 Motor Vehicle Loading and Distribution Facilities—39-13-33*
 Facilities for Other Specialized Services Operations—39-13-35*
 Roadway Machines—39-13-36
 Snow Removal—39-13-38
 Road Property and Equipment Damaged—39-13-48
 Repairs Billed by Others—Dr.—Equipment—Locomotives—39-21-XX

This account includes amounts payable by the railroad to others for repair and maintenance under the Locomotive subactivity. This account shall be subdivided by the following functions:

Repair and Maintenance—Locomotives—39-21-41
 Road Property and Equipment Damaged—39-21-48
 Repairs Billed by Others—Dr.—Equipment—Freight Cars—39-22-XX*

This account includes amounts payable by the railroad to others for repair and maintenance under the Freight Car subactivity. This account shall be subdivided by the following functions:

Repair and Maintenance—Freight Cars—39-22-42

Road Property and Equipment Damaged—
39-22-48
Repairs Billed by Others—Dr.—Equipment—
Other Equipment—39-23-XX

This account includes amounts payable by the railroad to others for the repair and maintenance of equipment not pertaining to the Locomotive or Freight Car subactivity. This account shall be subdivided by the following functions:

Repair and Maintenance—
Trucks, Trailers, and Containers in
Revenue Service—39-23-43*
Floating Equipment—Revenue Service—39-
23-44*
Passenger and Other Revenue Equipment—
39-23-45
Computer Systems and Word Processing
Equipment—39-23-46
Work and Other Non-Revenue
Equipment—39-23-47
Road Property and Equipment Damaged—
39-23-48
Shop Machinery—Locomotives—39-23-49*
Shop Machinery—Freight Cars—39-23-50*
Shop Machinery—Other Equipment—39-
23-51

Repairs Billed to Others—Cr.—Control—40-
00-00

This account series includes amounts payable by others to the railroad for repair and maintenance of others' road property and equipment. The components of this account shall be distributed to the following accounts in accordance with Instruction 3-2:

Repairs Billed to Others—Cr.—Way and
Structures—Running—40-11-XX

This account includes amounts payable by others to the railroad for repair and maintenance of other railroads' roadway and track on the line of road and outside of classification yards. This account shall be subdivided by the following functions:

Repair and Maintenance—
Roadway—40-11-10
Tunnels and Subways—40-11-11
Bridges and Culverts—40-11-12
Ties—40-11-13
Rails and Other Track Material—40-11-14
Ballast—40-11-16
Signals and Interlockers—40-11-19
Highway Grade Crossings—40-11-22
Road Property and Equipment Damaged—
40-11-48

Repairs Billed to Others—Cr.—Way and
Structures—Switching—40-12-XX

This account includes amounts payable by others to the railroad for repair and maintenance of other railroads' roadway and track classification yards and stations. This account shall be subdivided by the following functions:

Repair and Maintenance—
Roadway—40-12-10
Tunnels and Subways—40-12-11

Bridges and Culverts—40-12-12
Ties—40-12-13
Rails and Other Track Material—40-12-14
Ballast—40-12-16
Signals and Interlockers—40-12-19
Highway Grade Crossings—40-12-22
Road Property and Equipment Damaged—
40-12-48
Repairs Billed to Others—Cr.—Way and
Structures—Other—40-13-XX

This account includes amounts payable by others to the railroad for repair and maintenance of other railroads' structures other than roadway and track. This account shall be subdivided by the following functions:

Repair and Maintenance—
Communications Systems—40-13-20
Power Systems—40-13-21
Station and Office Buildings—40-13-23
Shop Buildings—Locomotives—40-13-24
Shop Buildings—Freight Cars—40-13-25*
Shop Buildings—Other Equipment—40-13-
26
Locomotive Servicing Facilities—40-13-27
Miscellaneous Buildings and Structures—
40-13-28
Coal Terminals—40-13-29*
Ore Terminals—40-13-30*
TOFC/COFC Terminals—40-13-31*
Other Marine Terminals—40-13-32*
Motor Vehicle Loading and Distribution
Facilities—40-13-33*
Facilities for Other Specialized Services
Operations—40-13-35*
Roadway Machines—40-13-36
Snow Removal—40-13-38
Road Property and Equipment Damaged—
40-13-48
Repairs Billed to Others—Cr.—Equipment
Locomotives—40-21-XX

This account includes amounts payable by others to the railroad for repair and maintenance of other railroads' locomotives. This account shall be subdivided by the following functions:

Repair and Maintenance—
Locomotives—40-21-41
Road Property and Equipment Damaged—
40-21-48
Repairs Billed to Others—Cr.—Equipment—
Freight Cars—40-22-XX*

This account includes amounts payable by others to the railroad for repair and maintenance of other railroads' other equipment. Each account shall be subdivided by the following functions:

Repair and Maintenance—
Freight Cars—40-22-42
Road Property and Equipment Damaged—
40-22-48
Repairs Billed to Others—Cr.—Equipment—
Other Equipment—40-23-XX

This account includes amounts payable by others to the railroad for repair and maintenance of other railroads' freight cars. This account shall be subdivided by the following functions:

Repair and Maintenance—
Trucks, Trailers, and Containers in
Revenue Service—40-23-43*
Floating Equipment—Revenue Service—40-
23-44*
Passenger and Other Revenue Equipment—
40-23-45
Computer System and Word Processing
Equipment—40-23-46
Road Property and Equipment Damaged—
40-23-48
Shop Machinery—Locomotives—40-23-49
Shop Machinery—Freight Cars—40-23-50*
Shop Machinery—Other Equipment—40-
23-51

Other Purchased Services—Control—41-
00-00

This account group includes amounts charged or credited to operating expenses for purchased advertising; purchased printing; outside professional services such as legal, accounting, audit, engineering, and consulting; payments for detour of trains; utilities, telephone, postage, subscriptions, communications, purchased electric power for train and locomotive propulsion; and other services purchased. The components of this account group shall be distributed to the following accounts in accordance with Instruction 3-2:

Other Purchased Services—Way and
Structures—Running—41-11-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Repair and Maintenance—
Roadway—41-11-10
Tunnels and Subways—41-11-11
Bridges and Culverts—41-11-12
Ties—41-11-13
Rails and Other Track Material—41-11-14
Ballast—41-11-16
Signals and Interlockers—41-11-19
Highway Grade Crossings—41-11-22
Dismantling Retired Property—41-11-39
Road Property and Equipment Damaged—
41-11-48
Other—Other—41-11-99
Other Purchased Services—Way and
Structures—Switching—41-12-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Repair and Maintenance—
Roadway—41-12-10
Tunnels and Subways—41-12-11
Bridges and Culverts—41-12-12
Ties—41-12-13
Rails and Other Track Material—41-12-14
Ballast—41-12-16
Signals and Interlockers—41-12-19
Highway Grade Crossings—41-12-22

Dismantling Retired Property—41-12-39
 Road Property and Equipment Damaged—41-12-48
 Other—Other—41-12-99
 Other Purchased Services—Way and Structures—Other—41-13-xx

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administration—
 Track—41-13-02
 Bridges and Buildings—41-13-03
 Signals—41-13-04
 Communications—41-13-05
 Other—41-13-06
 Repair and Maintenance—
 Communication Systems—41-13-20
 Power Systems—41-13-21
 Station and Office Buildings—41-13-23
 Shop Buildings—Locomotives—41-13-24
 Shop Buildings—Freight Cars—41-14-25*
 Shop Buildings—Other Equipment—41-13-26
 Locomotive Servicing Facilities—41-13-27
 Miscellaneous Buildings and Structures—41-13-28
 Coal Terminals—41-13-29*
 Ore Terminal—41-13-30*
 TOFC/COFC Terminals—41-13-31*
 Other Marine Terminals—41-13-32*
 Motor Vehicle Loading and Distribution Facilities—41-13-33*
 Facilities for Other Specialized Services Operations—41-13-35*
 Roadway Machines—41-13-36
 Snow Removal—41-13-38
 Dismantling Retired Property—41-13-39
 Road Property and Equipment Damaged—41-13-48
 Other—Other—41-13-99
 Other Purchased Services—Equipment—Locomotives—41-21-xx

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administrative—General—41-21-01
 Repair and Maintenance—
 Dismantling Retired Property—41-21-39
 Locomotives—41-21-41
 Road Property and Equipment Damaged—41-21-48
 Other—Other—41-21-99
 Other Purchased Services—Equipment—Freight Cars—41-22-xx*

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administrative—General—41-22-01
 Repair and Maintenance—
 Dismantling Retired Property—41-22-39
 Freight Cars—41-22-42
 Road Property and Equipment Damaged—41-22-48

Other—Other—41-22-99
 Other Purchased Services—Equipment—
 Other Equipment—41-23-xx

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administrative—General—41-23-01
 Repair and Maintenance—
 Dismantling Retired Property—41-23-39
 Trucks, Trailers, Containers in Revenue Service—41-23-43
 Floating Equipment—Revenue Service—41-23-44*
 Passenger and Other Revenue Equipment—41-23-45
 Computer Systems and Word Processing Equipment—41-23-46
 Work and Other Non-Revenue Equipment—41-23-47
 Road Property and Equipment Damaged—41-23-48
 Shop Machinery—Locomotives—41-23-49
 Shop Machinery—Freight Cars—41-23-50*
 Shop Machinery—Other Equipment—41-23-51
 Other—Other—41-23-99
 Other Purchased Services—Transportation—Train—41-31-xx

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administration—General—41-31-01
 Operations—
 Engine Crews—41-31-56
 Train Crews—41-31-57
 Dispatching Trains—41-31-58
 Operating Switches, Signals, Interlockers, Retarders, Humps—41-31-59
 Operating Drawbridges—41-31-60
 Highway Crossing Protection—41-31-61
 Train Inspection and Lubrication—41-31-62
 Clearing Wrecks—41-31-63
 Locomotive Fuel—41-31-67
 Electric Power Purchased/Produced for Motive Power—41-31-68
 Servicing Locomotives—41-31-69
 Other—Other—41-31-99
 Other Purchased Services—Transportation—Yard—41-32-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administration—General—41-32-01
 Operations—
 Operating Switches, Signals, Interlockers, Retarders, Humps—41-32-59
 Clearing Wrecks—41-32-63
 Switch Crews—41-32-64
 Controlling Operations—41-32-65
 Yard and Terminal Clerical—41-32-66
 Locomotive Fuel—41-32-67

Electric Power Purchased/Produced for Motive Power—41-32-68
 Servicing Locomotives—41-32-69
 Other—Other—41-32-99
 Other Purchased Services—Transportation—Train and Yard Common—41-33-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Operations—
 Cleaning Car Interiors—41-33-70
 Adjusting, Transferring Loads—41-33-71
 Car Loading Devices and Grain Doors—41-33-72
 Other Purchased Services—Transportation—Specialized Services—41-34-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administration—General—41-34-73
 Operations—
 Pick Up and Delivery, Marine Line Haul, and Rail Substitute Service—41-34-73
 Loading, Unloading, and Local Marine—41-34-74
 Protective Services—41-34-75
 Other—Other—41-34-99
 Other Purchased Services—Transportation—Administrative Support—41-35-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administration—General—41-35-01
 Operations—
 Clerks, Accounting Employees—41-35-76
 Communication Systems Operations—41-35-77
 Loss and Damage Claims Processing—41-35-78
 Other—Other—41-35-99
 Other Purchased Services—General and Administrative—41-61-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administration—General—41-61-01
 General—
 Accounting, Auditing, Finance—41-61-86
 Management Services and Data and Word Processing—41-61-87
 Marketing—41-61-88
 Sales—41-61-89
 Industrial Development—41-61-90*
 Personnel and Labor Relations—41-61-91
 Legal and Secretarial—41-61-92
 Public Relations and Advertising—41-61-93

Research and Development—41-61-94
Other—Other—41-61-99

Claims and Insurance Control—50-00-00

This account may be used as a control account for all accounts in the CLAIMS AND INSURANCE series:

Loss and Damage Claims
Other Casualties
Insurance

Loss and Damage Claims—Control—51-00-00

This account series includes amounts payable to compensate for the loss or damage of freight or other goods carried in revenue service. Loss and damage claims should not be allocated. When specific identification of loss and damage claims is possible, the related expenses shall be directly assigned to the Train, Yard, or Specialized Service Subactivity. If a solely related determination cannot be made the loss and damage claim shall be charged to the Train and Yard Subactivity. This account series excludes amounts payable to employees or other parties for injuries sustained or loss of life; for damage to real property of others or personal property not carried in revenue services; all payments for other damages of any kind; and related insurance premiums. These costs are appropriately charged to the following accounts:

Loss and Damage Claims—Transportation—Train—51-31-00
Loss and Damage Claims—Transportation—Yard—51-32-00
Loss and Damage Claims—Transportation—Train and Yard Common—51-33-00
Loss and Damage Claims—Transportation—Specialized Services—51-34-00*

Other Casualties—Control—52-00-00

This account includes amounts payable to employees or other parties for injuries sustained or loss of life in connection with the construction, maintenance, operations, and administration of railroad property and equipment; for damage to real property, property of others or personal property not carried in revenue service; all payments for other damages of any kind. This account excludes freight and other goods carried in a revenue service, and insurance premiums related to the casualties chargeable to this account.

Note.—The costs of clearing wrecks and repairing casualty-caused damage to the railroad's property and equipment are properly classified under other natural expense accounts as appropriate and further classified by relevant activities and functions. These costs are appropriately charged to the following accounts:

Other Casualties—Way and Structures—Running—52-11-00

Other Casualties—Way and Structures—Switching—52-12-00
Other Casualties—Way and Structures—Other—52-13-00
Other Casualties—Equipment—Locomotives—52-21-00
Other Casualties—Equipment—Freight Cars—52-22-00*
Other Casualties—Equipment—Other Equipment—52-34-00
Other Casualties—Transportation—Train—52-31-00
Other Casualties—Transportation—Yard—52-32-00
Other Casualties—Transportation—Specialized Services—52-34-00*
Other Casualties—Transportation—Administrative Support—52-35-00
Other Casualties—General and Administrative—52-61-00

Insurance—Control—53-00-00

This account series include premiums for insurance to cover property and equipment loss and damage, liability, business interruption, and the like. These costs are appropriately charged to the following accounts:

Insurance—Way and Structures—Running—53-11-00
Insurance—Way and Structures—Switching—53-12-00
Insurance—Way and Structures—Other—53-13-00
Insurance—Equipment—Locomotives—53-21-00
Insurance—Equipment—Freight Cars—53-22-00*
Insurance—Equipment—Other Equipment—53-23-00
Insurance—Transportation—Train—53-31-00
Insurance—Transportation—Yard—53-32-00
Insurance—Transportation—Specialized Service—53-34-00*
Insurance—Transportation—Administrative Support—53-35-00
Insurance—General and Administrative—53-61-00

General

Control—60-00-00

This account may be used as a control account for all accounts in the GENERAL series:

Other Expenses
Depreciation
Uncollectible Accounts
Property Taxes
Other Taxes

Other Expenses—Control—61-00-00

This account series includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, road property and equipment retirement losses, and other items of a general nature.

Other Expenses—Way and Structures—Running—61-11-XX

This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, road property retirement losses, and other items of a general nature associated with the carrier's roadway and track on the line of road and outside of classification yards. This account shall be subdivided by the following functions:

Repair Maintenance—
Roadway—61-11-10
Tunnels and Subways—61-11-11
Bridges and Culverts—61-11-12
Ties—61-11-13
Rails and Other Track Material—61-11-14
Ballast—61-11-16
Signals and Interlockers—61-11-19
Highway Grade Crossings—61-11-22
Dismantling Retired Property—61-11-39
Road Property and Equipment Damaged—61-11-48
Other—Other—61-11-99
Other Expenses—Way and Structures—Switching—61-12-XX

This account includes amount charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, road property retirement losses, and other items of a general nature associated with the carrier's roadway and track within the classification yards and stations. This account shall be subdivided by the following functions:

Repair and Maintenance—
Roadway—61-12-10
Tunnels and Subways—61-12-11
Bridges and Culverts—61-12-12
Ties—61-12-13
Rails and Other Track Materials—61-12-14
Ballast—61-12-16
Signals and Interlockers—61-12-19
Highway Grade Crossings—61-12-22
Dismantling Retired Property—61-12-39
Road Property and Equipment Damaged—61-12-48
Other—Other—61-12-99
Other Expenses—Way and Structures—Other—61-13-XX

This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, road property retirement losses, and other items of a general nature associated with the carrier's structures other than roadway and track. This account shall be subdivided by the following functions:

Administration—
Track—61-13-02
Bridges and Buildings—61-13-03
Signals—61-13-04
Communications—61-13-05

Other—61-13-06
 Repair and Maintenance—
 Communication Systems—61-13-20
 Power Systems—61-13-21
 Station and Office Buildings—61-13-23
 Shop Buildings—Locomotives—61-13-24
 Shop Buildings—Freight Cars—61-13-25*
 Shop Building—Other Equipment—61-13-26
 Locomotive Servicing Facilities—61-13-27
 Miscellaneous Buildings and Structures—61-13-28
 Coal Terminals—61-13-29*
 Ore Terminals—61-13-30*
 TOFC/COFC Terminals—61-13-31*
 Other Marine Terminals—61-13-32*
 Motor Vehicle Loading and Distribution Facilities—61-13-33*
 Facilities for Other Specialized Services Operations—61-13-35*
 Roadway Machines—61-13-36
 Snow Removal—61-13-38
 Dismantling Retired Property—61-13-39
 Road Property and Equipment Damaged—61-13-48
 Other—Other—61-13-99
 Other Expenses—Equipment—Locomotives—61-21-XX

This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees and equipment retirement losses, associated with the repair and maintenance of locomotives, whether owned by the carrier or by others. This account shall be subdivided by the following functions:

Administration—General—61-21-01
 Repair and Maintenance—
 Dismantling Retired Property—61-21-39
 Locomotives—61-21-41
 Road Property and Equipment Damaged—61-21-48
 Other—Other—61-21-99
 Other Expenses—Equipment—Freight Cars—61-22-XX*

This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, equipment retirement losses, associated with the repair and maintenance of freight cars, whether owned by the carrier or by others. This account shall be subdivided by the following functions:

Administration—General—61-22-01
 Repair and Maintenance—
 Dismantling Retired Property—61-22-39
 Freight Cars—61-22-42
 Road Property and Equipment Damaged—61-22-48
 Other—Other—61-22-99
 Other Expenses—Equipment—Other Equipment—61-23-XX

This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including

travel and other expenses of employees, equipment retirement losses, associated with the repair and maintenance of equipment other than locomotives and freight cars, whether owned by the carrier or by others. This account shall be subdivided by the following functions:

Administration—General—61-23-01
 Repair and Maintenance—
 Dismantling Retired Property—61-23-39
 Trucks, Trailers, Containers in Revenue Service—61-23-43*
 Floating Equipment—Revenue Service—61-23-44*
 Passenger and Other Revenue Equipment—61-23-45
 Computer Systems and Word Processing Equipment—61-23-46
 Work and Other Non-Revenue Equipment—61-23-47
 Road Property and Equipment Damaged—61-23-48
 Shop Machinery—Locomotives—61-23-49
 Shop Machinery—Freight Cars—61-23-50*
 Shop Machinery—Other Equipment—61-23-51
 Other—Other—61-23-99
 Other Expenses—Transportation—Train—61-23-XX

This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, associated with the dispatching and operations of freight-trains over the roadway and outside of classification yards. This account shall be subdivided by the following functions:

Administration—General—61-31-01
 Operations—
 Engine Crews—61-31-56
 Train Crews—61-31-57
 Dispatching Trains—61-31-58
 Operating Switches, Signals, Interlockers, Retarders, Humps—61-31-59
 Operating Drawbridges—61-31-60
 Highway Crossing Protection—61-31-61
 Train Inspection and Lubrication—61-31-62
 Clearing Wrecks—61-31-63
 Locomotive Fuel—61-31-67
 Electric Power Purchased/Produced for Motive Power—61-31-68
 Servicing Locomotives—61-31-69
 Other—Other—61-31-99
 Other Expenses—Transportation—Yard—61-32-XX

This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, and other items of a general nature associated with the movement of freight cars within classification yards and in terminal switching and transfer service. This account shall be subdivided by the following functions:

Administration—General—61-32-01

Operations—
 Operating Switches, Signals, Interlockers, Retarders, Humps—61-32-59
 Clearing Wrecks—61-32-63
 Switch Crews—61-32-64
 Controlling Operations—61-32-65
 Yard and Terminal Clerical—61-32-66
 Locomotive Fuel—61-32-67
 Electric Power Purchased/Produced for Motive Power—61-32-68
 Servicing Locomotives—61-32-69
 Other—Other—61-32-99
 Other Expenses—Transportation—
 Specialized Services—61-34-XX*

This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, and other items of a general nature incurred in operating services which are specialized in nature and in cost characteristics. The specialized services designated by the Commission appear within the explanation of activities/subactivities. This account shall be subdivided by the following functions:

Administration—General—61-34-01
 Operations—
 Pick Up and Delivery, Marine Line Haul, and Rail Substitute Service—61-34-73
 Loading, Unloading, and Local Marine—61-34-74
 Protective Services—61-34-75
 Other—Other—61-34-99
 Other Expenses—Transportation—
 Administrative Support—61-35-XX

This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, and other items of a general nature incurred in association with providing direct administrative support for the Transportation Activity. This account shall be subdivided by the following functions:

Administration—General—61-35-01
 Operations—
 Clerks, Accounting Employees—61-35-76
 Communication System Operations—61-35-77
 Loss and Damage Claims Processing—61-35-78
 Other—Other—61-35-99
 Other Expenses—General and Administrative—61-61-XX

This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, and other items of a general nature incurred in providing overall administration or other support for carrier operations. This account shall be subdivided by the following functions:

Administration—General—61-61-01

General—

Accounting, Auditing, Finance—61-61-86
 Management Services and Data
 Processing—61-61-87
 Marketing—61-61-88
 Sales—61-61-89
 Industrial Development—61-61-90*
 Personnel Labor Relations—61-61-91
 Legal and Secretarial—61-61-92
 Public Relations and Advertising—61-61-93
 Research and Development—61-61-94
 Other—Other—61-61-99

Depreciation—Control—62-00-00

This account group includes the amounts charged to operating expenses for depreciation of owned road property and equipment, and the depreciation element of road property held under capital lease in accordance with FASB Statement No. 13. These costs are appropriately charged to the following accounts:

Depreciation—Way and Structures—
 Running—62-11-00
 Depreciation—Way and Structures—
 Switching—62-12-00
 Depreciation—Way and Structures—Other—
 62-13-00
 Depreciation—Equipment—Locomotives—
 62-21-00
 Depreciation—Equipment—Freight Cars—62-
 22-00
 Depreciation—Equipment—Other
 Equipment—62-23-00

Uncollectible Accounts—Control—63-00-00

This account includes charges to operating expenses for the writedown of accounts and notes due to the railroad, whether classified as current or long-term. This account includes any credits to allowance accounts for collectibility and total writeoff of receivables. This account does not include writedowns of property, equipment, or investments (except accounts, notes, or other receivables held as investments). Proper adjustments of incorrect receivables are not to be charged to this account. Collections of amounts previously written off or down are to be credited to this account. The total of this account shall be charged to the following account:

Uncollectible Accounts—General and
 Administrative—63-61-00

Property Taxes—Control—64-00-00

This account includes only taxes based on the value of real estate and personal property used in railroad operations. The total of this account shall be charged to the following account:

Property Taxes—General and
 Administrative—64-61-00

Other Taxes—Control—65-00-00

This account includes taxes on gross receipts, franchise fees, excise taxes, and similar items. This account excludes property taxes and taxes chargeable as employee benefits. The total of this account shall be charged to the following account:

Other Taxes—General and Administrative—
 65-61-00

OPERATING EXPENSE ACCOUNTS**Section 2—Activity/Subactivity
 Explanations****Way and Structures Activity—(XX-10-XX)**

(a) "Way and Structures" activity refers to repairing, maintaining, leasing, renting, depreciating, and retiring right-of-way and trackage, structures, buildings, and facilities. It includes all natural expense object subclassifications such as salaries and wages, fringe benefits, material and supplies, lease rentals, purchased services, casualties, depreciation and retirements, where such objects are in the performance or support of the above functions. Specifically included are all natural expense objects in the performance of the above described functions on property of the type included in property accounts 2 through 45, excluding 44, whether such property is owned or leased. It includes the costs of operating work trains in support of this activity.

This activity excludes all expenses related to transportation and other equipment described in property accounts 44, 46 and 52 through 58, all of which should be charged to the Equipment activity. It also excluded expenses in performance or support of Transportation, General and Administrative activities, property used for noncarrier operations, non-operating property, and interest or other fixed charges.

Running Subactivity—(XX-11-XX)

(1) "Running" subactivity of the Way and Structures activity refers to the functions of repairing, maintaining, leasing, renting, depreciating, and retiring right-of-way, trackage, signals and interlockers, and highway grade crossings for running tracks, passing tracks, crossovers, etc., including turn-outs from those tracks to clearance points. It includes all natural expense object subclassifications under the Way and Structures activity that are applicable to right-of-way and trackage as defined above. This subactivity specifically excludes expenses incurred in operating signals and interlockers and highway grade crossings, which are

properly charged to the Transportation activity.

Switching Subactivity—(XX-12-XX)

(2) "Switching" subactivity of the Way and Structures activity refers to the function of repairing, maintaining, leasing, renting, depreciating, and retiring right-of-way, trackage, signals and interlockers, and highway grade crossings for yards where separate switching services are maintained, including classification, house, team, industry, and other tracks switched by yard locomotives, and for station, team, industry, and other switching tracks for which no separate switching service is maintained. It includes all natural expense object subclassifications under the Way and Structures activity that are applicable to right-of-way and trackage as defined above. This subactivity specifically excludes expenses incurred in operating signals and interlockers, and highway grade crossings which are properly charged to the Transportation activity.

Other Subactivity—(XX-13-XX)

(3) "Other" subactivity of the Way and Structures activity refers to the function of repairing, maintaining, leasing, renting, depreciating, and retiring other roadway property structures, buildings and facilities not provided for in the Running and Switching subactivities. It includes all natural expense object subclassifications under the Way and Structures activity that are applicable to the structures, buildings and facilities as defined above. The subactivity specifically excludes expenses incurred in operating such structures, buildings, and facilities, which are properly charged to the Equipment, Transportation, and General and Administrative activities.

Equipment Activity—(XX-20-XX)

(b) "Equipment" activity refers to repairing, maintaining, leasing, renting, depreciating, and retiring transportation and other operating equipment. It includes all natural expense object subclassifications such as salaries and wages, fringe benefits, material and supplies, lease rentals, purchased services, casualties, depreciation, and retirements. Specifically included are all natural expense objects in the performance of the above functions or property of the type included in property accounts 44, 46 and 52 through 58, whether such property is owned or leased. The costs of operating work trains in support of the Equipment activity are to be included herein.

This activity excludes all expenses related to road property as described in property accounts 2 through 45, excluding account 44, all of which should be charged to the Way and Structures activity. It also excludes expenses in performance of, or support for Transportation, General and Administrative activities, property used for noncarrier operations, nonoperating property, and interest or other fixed charges.

Locomotives Subactivity—(XX-21-XX)

(1) "Locomotives" subactivity of the Equipment activity refers to repairing, maintaining, leasing, renting, depreciating, and retiring locomotives. It includes all natural expense object subclassifications under the Equipment activity that are applicable to locomotives. This subactivity specifically excludes expenses incurred in operating locomotives, such as locomotive fuel and lubricants, train crew wages, operating supplies, servicing (as opposed to maintaining or repairing), and cleaning which are includable in the Transportation activity, except when locomotive use is clearly in support of other activities or subactivities. When locomotives are operated in support of repairing or maintaining locomotives, the operating costs shall be charged to this subactivity.

Freight Train Cars Subactivity—(XX-22-XX)

(2) "Freight Train Cars" subactivity of the Equipment activity refers to repairing, maintaining, leasing, renting, depreciating, and retiring freight train cars. It includes all natural expense object subclassifications under the Equipment activity that are applicable to freight train cars. This subactivity pertains to all freight train cars described in property account 53, whether owned or leased, including freight cars used for hauling freight in company service and cabooses. It does not pertain to work equipment. This subactivity specifically excludes expenses incurred in running trains or operating freight cars, such as for locomotive fuel and lubricants, train crew wages, inspecting trains, operating supplies, servicing (as opposed to maintaining or repairing), and cleaning, which are includable in the Transportation activity, except where such costs are clearly in support of repairing or maintaining freight cars, other activities or subactivities. When locomotives or trains are operated in support of repairing or maintaining freight cars, the operating costs shall be charged to this subactivity.

Other Equipment Subactivity—(XX-23-XX)

(3) "Other Equipment" subactivity of the Equipment activity refers to repairing, maintaining, leasing, renting, depreciating, and retiring other equipment. It includes all natural expense object subclassifications under the Equipment activity which are applicable to other equipment. The subactivity pertains to all equipment described in property accounts 44, 46 and 54 through 58, whether such property is owned or leased. This subactivity specifically excludes expenses incurred in operating other equipment, such as for fuel and lubricants, crew wages, inspecting equipment, operating supplies, servicing (as opposed to maintaining or repairing), and cleaning, which are includable in the Transportation activity, except where such costs are clearly in support of other activities or subactivities. When locomotives, trains, or other equipment are operating in support of repairing or maintaining other equipment, the operating costs shall be charged to this subactivity.

Transportation Activity—(XX-30-XX)

(c) "Transportation" activity refers to operating, servicing, inspecting, weighing, assembling, and switching trains; operating highway revenue services; operating facilities in connection with carrier transportation operations including coal and ore terminals, intermodal terminals, terminal grain elevators, and others; operating carfloat and carferry services and related facilities; operating communications systems which primarily support train operations; and joint facility transportation operations. It includes various administrative functions directly supporting transportation operations including those described in the Administrative Support Operations subactivity. Work train costs in support of the Way and Structures or the Equipment activities should be charged to those activities. However, shipments of company materials, handled in predominantly revenue freight trains, are appropriately included in this activity. This activity includes all natural expense object subclassifications such as salaries and wages, fringe benefits material and supplies, purchased services, lost or damaged freight, and casualties.

Train Operations Subactivity—(XX-31-XX)

This activity excludes all expenses assignable to the Way and Structures, Equipment, and General and Administrative activities, as well as those expenses for noncarrier operations and nonoperating functions.

(1) "Train Operations" subactivity of the Transportation activity refers to operations of all trains except those performing yard functions in terminals. It includes running trains in road or way service; switching trains except where such switching is performed within yards or terminals; and making customer pick-ups and deliveries except in yards and terminals.

It also provides for dispatching, controlling, reporting, and monitoring road train movements; inspecting and lubricating trains; servicing, fueling, and cleaning (not repairing or maintaining) locomotives; purchasing or producing electric power for motive power; and operating supporting activities such as communications, signaling, crossing protection, and interlockings.

This subactivity also includes crew calling and transporting; crew lodging, meals, and other expenses; lost or damaged freight; casualties and insurance; clearing wrecks; and operating joint tracks and facilities except for yards or specialized services. It also includes salaries and wages, fringe benefits, material and supplies, fuel and lubricants, purchased services, casualty and damages, and other natural expense elements incurred in operating trains.

The Train Operations subactivity excludes the operation of specialized services, all of which should be charged to the Specialized Services Operations subactivity. However, road or way switching between trains and specialized service facilities outside of terminal areas belongs to the Train Operations subactivity.

Work and other nonrevenue train operating costs are to be charged to the appropriate supported activity. Shipments of company materials normally should be charged to this subactivity, except where the train movement is exclusively or predominantly for such nonrevenue purpose where the supported activity should bear the train operating costs.

Yard Operations Subactivity—(XX-32-XX)

(2) "Yard Operations" subactivity of the Transportation activity refers to classifying cars to make-up or break-down trains; sorting and handling waybills in connection with freight car classification and switching in yards or terminals; inspecting, servicing, fueling, and cleaning (not repairing or maintaining) locomotives and cabooses used to provide yard or terminal services; purchasing or producing electric power for motive power; diverting or holding cars; and reporting operating and car movement data

related to yards and terminals. It also includes operating supporting activities in yards or terminals, such as communications, signaling, and interlockings; yard crew calling and transporting; yard crew lodging, meals, and other expenses; lost or damaged freight specifically traceable to occurrences resulting from the performance of yard operations; casualties and insurance related to yard operations; clearing wrecks which occurred in the performance of yard operations; and operating joint yards and terminals.

Within terminals, this subactivity includes pick-up or delivery of freight cars from or to customer spur tracks, team tracks, freight houses, interchange tracks, rip tracks, and specialized service facilities. It also includes salaries and wages, fringe benefits, material and supplies, fuel and lubricants, purchased services, casualty and damages, and other natural expense elements incurred in operating yards and terminals.

The Yard Operations subactivity includes the cost of switching operations within facilities for Specialized Services and switching or transfer operations between yards and the specialized service facilities. The latter is not limited or affected by definitions or restrictions contained in carrier operating rules or labor agreements. It is related solely to the defined operations when they are performed in a yard or terminal area.

Trains and Yard Common Subactivity—(XX-33-XX)

(3) "Train and Yard Common" subactivity of the Transportation activity refers to the function of adjusting and transferring loads; and placing and removing car loading devices and grain doors. It also includes lost or damaged freight specifically traceable to numerous activities resulting from performance of train, yard, or specialized services operations. It also includes salaries and wages, fringe benefits, material and supplies, purchased services, and other natural expensed elements incurred in performing the functions defined above. It excludes the natural expenses element of casualties and insurance, which shall be charged to the Train Operation and Yard Operations subactivities.

Specialized Services Operations Subactivity—(XX-34-XX)

(4) "Specialized Services Operations" subactivity of the Transportation activity refers to operating services which are specialized in nature and in cost characteristics, including all of those so designated by the Commission.

The purpose of segregating the cost of such services is primarily to preclude distortion of general costs applicable to the Train Operations and Yard Operations subactivities. Secondly, further breakout of the costs of operating individual specialized services can be provided in less detail than the full range of natural expense accounts, in reports used for recurring cost analysis purposes pertaining to each type of specialized service.

The designated specialized services operations are as follows:

(a) "TOFC/COFC Operations" refers to the function of operating rail-to-ground or water and ground or water-to-rail transfer facilities for handling trailers or containers, including related storage; and the highway movement of trailers or containers within a terminal area for purposes of pick-up, delivery, or interchange.

The service includes loading, tie-down, and/or unloading flat cars or dollies and piggyback trailers to or from highway tractors; moving trailers, dollies, or containers within the facility; servicing, cleaning, and fueling (but not repairing or maintaining) facility equipment; operating storage areas; and casualties, claims, and insurance relating to the facility.

TOFC/COFC Operations do not include Plan V or other arrangements, where there is a division of revenues between the rail and motor carrier. They do not include switching services performed within the facility by yard or road crews. They also do not include the functions of the Way and Structures, Equipment, and General and Administrative activities, or the Train, Yard, Train and Yard Common, or Administrative Support Operations subactivities.

(b) "Floating Operations" refers to operations of water vessels and equipment in revenue service. They include the operation of carferries, tugs, barges, lighterage, and all other forms of water craft.

Floating operations exclude operations includable in the Administrative Support Operations subactivity, and the switching transfer of cars between general yards or trains and the facility or a dedicated yard serving the facility, or switching within the dedicated supporting terminal facility when performed by yard crews. They also do not include costs appropriate to the Way and Structures, Equipment, or General and Administrative activities.

Floating operations should be classified by line and terminal operations. The distribution should be made based on the nature of the

operation and not the facility or equipment. When the service occurs between distinct terminals, the operation should be considered a line operation. When the service is conductive within a general terminal or harbor area, the operation should be considered a terminal operation.

(c) "Coal Terminal Operations and Ore terminal Operations" refers to operations of rail-to-water or water-to-rail transloading facilities for coal or for ores, including related storage, blending, and other processing or handling at the facility. These operations include loading and/or unloading rail cars or water vessels at the facility; moving commodities within the facility by whatever means; operating the facility's pollution control equipment; operating and directing the operations of moorings and tugboats; servicing, cleaning, and fueling (but not repairing or maintaining) facility equipment; operating storage areas; and casualties, claims, and insurance relating to the facility.

These terminal operations do not include costs appropriate to the Way and Structures, Equipment, or General and Administrative activities. They also do not include costs appropriate to the Train Operations, Yard Operations, Train and Yard Operations Common, or Administrative Support Services Operations subactivities. Switching transfer of cars between general yards or trains and the facility or a dedicated yard serving the facility and switching within the dedicated supporting terminal facility when performed by yard crews should be charged to the Yard Operations subactivity.

(d) "Other Marine Terminal Operations" refers to the operations of marine terminals other than those for which a separate designated specialized service operation category is provided.

(e) "Motor Vehicle Loading and Distribution Facility Operations" refers to the operations of facilities for loading, unloading, or storing motor vehicles.

(f) "Protective Service Operations" refers to the function of servicing, cleaning, and fueling (but not repairing or maintaining) mechanical protective service equipment.

(g) "Other Specialized Services Operations" refers to the function of performing rail substitute service, other highway revenue service, LCL terminal operations, warehouse operations, freight car transloading, grain elevator terminal operations, livestock feeding operations, and other specialized services designated by the Commission. It includes the transportation operating expenses of only those services listed above.

Administrative Support Operations Subactivity—(XX-35-XX)

(5) "Administrative Support Operations" subactivity refers to operations providing direct administrative support to the overall Transportation activity. It includes administrative support for the Train Operations, the Yard Operations, the Train and Yard Operations Common, and the Specialized Services Operations subactivities. The administrative support operations includes receiving and processing customers orders, requesting cars, preparing waybills, rating shipments, billing customers, collecting customer receivables in the ordinary course of business (not to include treasury, legal, general accounting, revenue accounting, or credit operations, all of which are chargeable to the General and Administrative activity), billing and recording demurrage, reporting interchanges, reporting advances, and the initial reporting and summarization of input documents for purposes of cash collection and accounting. Any operations beyond the initial summarization and reporting of input data are assignable to the General and Administrative activity except for those otherwise included in the definition of this subactivity.

Carrier staff, administrative, or clerical operations related to operating or transportation department general administration should not be charged to this subactivity. The Administrative Support Operations subactivity may be performed at local stations, regional offices, or even at the general offices; however, the location of the operation performance does not affect its nature. The operations included in this subactivity should reasonably correlate to the quantity of shipments or to the quantity of carloadings.

General and Administrative Activity—(XX-60-XX)

(D) "General and Administrative" activity refers to the providing of overall administration or other general support for carrier operations. It comprehends only that portion of general and administrative activities that relates to carrier operations (as distinguished from noncarrier operations or nonoperating activities) including executive, legal, financial, treasury, accounting, budgeting, taxation, corporate planning, costing, marketing, advertising, traffic, corporate secretary, public relations, real estate, insurance administration, personnel administration, pension plan administration, general purchasing, labor relations, internal auditing,

industrial engineering, and regulatory reporting.

This activity excludes expenses incurred for noncarrier operations of the carrier company as well as for general administration of the corporate entity and nonoperating income or expenses. It also excludes expenses in performance of or direct support for Way and Structures, Equipment, and Transportation activities, with particular attention to the Administrative Support Operations subactivity.

Operating Expense Accounts

Section 3—Function Explanations

Note.—Functions do not necessarily correlate to organizational structure. A particular department may not have a specific USOA expense function code. However, its costs may be includable under various function codes. Costs not properly chargeable to specific functions should be assigned to Function Code 99, Other.

(a) Functions Related to the Way and Structures Activity

(1) Administration Functions

(02) Administration, Track—General administration and supervision of central, regional, and divisional engineering functions related to repair and maintenance of track. Used only in Way and Structures—Other. Included are:

- General engineering and design.
- Valuation engineering for maintenance and improvements.
- Planning and supervision of repair and maintenance work.
- Budget preparation, clerical support, and similar functions.

(03) Administration, Bridges and Buildings—General administration and supervision of central, regional, and divisional engineering functions related to repair and maintenance of bridges and buildings. Used only in Way and Structures—Other. Included are:

- General engineering and design.
- Valuation engineering for maintenance and improvements.
- Planning and supervision of repair and maintenance work.
- Budget preparation, clerical support, and similar functions.

(04) Administration, Signals—General administration and supervision of central, regional, and divisional engineering functions related to repair and maintenance of signals. Used only in Way and Structures—Other. Included are:

- General engineering and design.
- Valuation engineering for maintenance and improvements.
- Planning and supervision of repair and maintenance work.

• Budget preparation, clerical support, and similar functions.

(05) Administration, General Communications—General administration and supervision of central, regional, and divisional engineering functions related to repair and maintenance of communication facilities. Used only in Way and Structures—Other. Included are:

- General engineering and design.
- Valuation engineering for maintenance and improvements.
- Planning and supervision of repair and maintenance work.
- Budget preparation, clerical support, and similar functions.

(06) Administration, Other—General administration and supervision of central, regional, and divisional engineering functions related to repair and maintenance of other roadway property. Used only in Way and Structures—Other. Included are:

- General engineering and design.
- Valuation engineering for maintenance and improvements.
- Planning and supervision of repair and maintenance work.
- Budget preparation, clerical support, and similar functions.

(2) Repair and Maintenance Functions—These functions include:

• Repair and maintenance work on road property and equipment, including gang foreman, shop foreman, and other supervisors with direct authority over workers; all higher levels of supervision are included in the Administration function.

• Work train service. Crew wages are to be charged directly; other work train expenses except fuel may be apportioned if not solely identifiable to work train service.

• Store expense and shop expense.

(10) Repair and Maintenance, Roadway—Roadway, cuts, fills, banks, embankments, subgrade, roadbed, ditches, drains, landscaping; cutting and removing grass, brush, debris; dressing ballast; preventing and extinguishing fires; patrolling and inspection; roadway relocation.

(11) Repair and Maintenance, Tunnels and Subways—Repaving, ventilating, lighting, other maintenance.

(12) Repair and Maintenance, Bridges and Culverts—Bridges, trestles, culverts and elevated structures which carry tracks; repairing, filling, dredging, cleaning, watching these structures.

(13) Repair and Maintenance, Ties—Cross, switch, bridge, and other track ties. This function includes expenses associated with unloading, distributing and placing ties in tracks.

(14) Repair and Maintenance, Rails and Other Track Material—All track material used in repair of tracks except ballast and ties. This function includes expenses associated with unloading and installing rail and other track material.

(15) [Reserved]

(16) Repair and Maintenance, Ballast—Gravel, stone, slag, cinders, sand, and like material.

(17) [Reserved]

(19) Repair and Maintenance, Signals and Interlockers—Signals and interlockers and related apparatus governing train movement.

(20) Repair and Maintenance, Communications Systems—Telephone, telegraph, radio, radar, inductive train communication, and other communication systems, including terminal equipment.

(21) Repair and Maintenance, Power Systems—Power plants, substations, transmission and distribution systems.

(22) Repair and Maintenance, Highway Grade Crossings—Highway grade crossing signals, gates, and related apparatus.

(23) Repair and Maintenance, Station and Office Buildings—Station and office buildings, fixtures, appurtenances, and grounds.

(24) Repair and Maintenance, Shop Buildings—Locomotives—Shops and buildings, fixtures, appurtenances, and grounds, used for the repair, maintenance and servicing of locomotives.

(25) Repair and Maintenance, Shop Buildings—Freight Cars—Shops and buildings, fixtures, appurtenances, and grounds, used for the repair, maintenance, and servicing of freight cars.

(26) Repair and Maintenance, Shop Buildings—Other—Shops and buildings, fixtures, appurtenances, and grounds, used for the repair, maintenance, and servicing of revenue service equipment other than locomotives and freight cars; roadway machines; work equipment and the like.

(27) Repair and Maintenance, Locomotive Servicing Facilities—Fuel and water stations, fixtures, appurtenances, and grounds.

(28) Repair and Maintenance, Miscellaneous Buildings and Structures—All permanent buildings and structures, and their fixtures, appurtenances, and grounds, not otherwise provided for. (Includes storehouses.)

(29) Repair and Maintenance, Coal Terminals—Wharves, docks, and other loading or unloading facilities for handling coal, including conveyors, machinery and fixtures.

(30) Repair and Maintenance, Ore Terminal—Wharves, docks, and other loading or unloading facilities for handling ores and other bulk mineral commodities, including conveyors, machinery and fixtures.

(31) Repair and Maintenance, TOFC/COFC—Terminals—TOFC/COFC terminal structures, fixtures, machinery and appurtenances, used for transfer of trailers and containers.

(32) Repair and Maintenance, Other Marine Terminals—Marine terminal structures, fixtures, machinery and appurtenances not otherwise provided for.

(33) Repair and Maintenance, Motor Vehicle Loading and Distribution Facilities—Buildings, structures, fixtures, machinery and appurtenances used for receipt, loading, unloading, and distribution of motor vehicles.

(35) Repair and Maintenance, Facilities for Other Specialized Services Operations—Buildings, structures, machinery, fixtures and grounds, used as part or whole of a revenue-producing specialized service.

(36) Repair and Maintenance, Roadway Machines—Machines and equipment used for repairs of roadway and structures.

(37) [Reserved]

(38) Snow Removal—Removal of snow and ice; plow and flange service; setting up, taking down and storing fences. If the amount of labor expense is not substantial, the wages of those employees who perform snow removal duties may be included in the appropriate expense accounts for the duties they are normally assigned.

(39) Dismantling Retired Property—Dismantling retired road property when the property is not to be replaced through normal maintenance, addition or betterment.

(48) Road Property Damaged—Repair of roadway property and structures, used in revenue service, and all equipment not used in revenue service, when damage is caused by derailments, collision, fire, explosions, sabotage, other casualties, and excluding damage resulting through normal operations or use; such as part failures, overloads, overheating, short circuits and similar events. Part failures through normal operations are those where the resulting damage is restricted to the unit of road property which experienced the failure. When the damage extends to other units of road property, related expenses shall be charged to this function.

(3) Other Function

(99) Other—All expenses not properly includable in the above functions.

(b) Functions Related to the Equipment Activity

(1) Administrative Functions

(01) Administration, General—General administration and supervision of central, regional, and divisional repair and maintenance functions. Included are:

- General engineering and design.
- Valuation engineering for maintenance and improvements.
- Planning and supervision of repair and maintenance of equipment.
- Budget preparation, clerical support, and similar functions.

(2) Repair and Maintenance Functions—These functions include:

- Repair and maintenance work on equipment including gang foreman, shop foreman, and other supervisors with direct authority over workers; all higher levels of supervision are included in the Administrative function.

- Store expense and shop expense.

(39) Dismantling Retired Property—Dismantling retired equipment when the property is not to be replaced through normal maintenance, addition or betterment.

(40) [Reserved]

(41) Repair and Maintenance, Locomotives—Repair of locomotives in revenue service.

(42) Repair and Maintenance, Freight Cars—Repair of freight cars and attached motor equipment in revenue service.

(43) Repair and Maintenance, Trucks, Trailers, Containers in Revenue Service—Repair, inspection, and lubrication of trucks, trailers and containers in revenue service.

(44) Repair and Maintenance, Floating Equipment in Revenue Service—Floating equipment including appurtenances.

(45) Repair and Maintenance, Passenger and Other Revenue Equipment—Repair, inspection and lubrication of passenger train cars and attached motor equipment, and other equipment used in revenue service.

(46) Repair and Maintenance, Computer Systems and Word Processing Systems—Computers and attached peripheral equipment; data recording and punch-card processing equipment; word processing equipment.

(47) Repair and Maintenance, Work and Other Non-Revenue Equipment—Rail and floating work equipment and appurtenances, and all other equipment not used in revenue service and not provided for elsewhere.

(48) Equipment Damaged—Repair of locomotives, freight cars, other equipment used in revenue service, and

all equipment not used in revenue service, when damage is caused by derailment, collision, fire, explosions, sabotage, washouts, or other casualties, and excluding damage resulting through normal operations or use, such as part failures, overloads, overheating, short circuits and the like. Part failures through normal operations are those where the resulting damage is restricted to the equipment that experienced the failure. When the damage extends to other units of equipment, related repairs shall be charged to this function.

(49) Repair and Maintenance, Shop Machinery—Locomotives—Repair of shop machinery and other apparatus, including special foundations used for the repair, maintenance and servicing of locomotives.

(50) Repair and Maintenance, Shop Machinery—Freight Cars—Repair of shop machinery and other apparatus, including special foundations for the repair, maintenance and servicing of freight cars.

(51) Repair and Maintenance, Shop Machinery—Other Equipment—Repair of shop machinery and other apparatus, including special foundations for the repair, maintenance and servicing of other equipment.

(3) Other Function

(99) Other—All equipment expenses not properly includable in the above functions.

(c) Functions Related to the Transportation Activity

(1) Administrative Function

(01) Administration, General—General administration and supervision of central, regional, and divisional operational functions.

Included are:

- Planning and supervision of train, yard, common, specialized services and support operations.
- Budget preparation, clerical support, and similar functions.

[Not applicable to the Train and Yard Common Subactivity.]

(2) Operations Functions

(56) Engine Crews—Operation of trains in line-haul revenue service by enginemen, including crew meals, lodging, deadheading and other expenses.

(57) Train Crews—Operation of trains in line-haul revenue service by trainmen, including crew meals, lodging, deadheading, and other expenses.

(58) Dispatching Trains—Costs include dispatchers, supporting staff, train order stations and operators, office and supplies expense.

(59) Operating Switches, Signals, Interlockers, Retarders, Humps—Operators, switch tenders, supplies, etc.

(60) Operating Drawbridges—Engineers, tenders, watchmen, supplies, etc.

(61) Highway Crossing Protection—Gatekeepers, flagmen, lighting, supplies, etc.

(62) Train Inspection and Lubrication—Inspection and lubrication of trains (cars and locomotives), including minor repairs made by inspectors. This includes the inspection of train locomotives when indistinguishable from the inspection and lubrication of train cars.

(63) Clearing Wrecks—Removal of equipment, freight or other goods, and property of other damaged in wrecks; note that repair of wreck damage caused to roadway property and equipment is classified as function Code 48—Road Property and Equipment Damaged.

(64) Switch Crews—Operation of trains and locomotives in yard and terminal revenue switching service by enginemen and trainmen, including associated expenses.

(65) Controlling Operations—Directing the operations of yard and terminal interchange and classification service, including office and supplies expense.

(66) Yard and Terminal Clerical—Clerical work in support of the operation of yard and terminal switching and classification service, including office and supplies.

(67) Locomotive Fuel—Cost of locomotive fuel used in all service, including the receipt, storage, and dispensing of the fuel.

(68) Electric Power Purchased/Produced for Motive Power—Purchase cost and cost of producing electric power for use by electrically-powered motive equipment in all service.

(69) Servicing Locomotives—Preparing locomotives for switching service in yards and for train service, including moving locomotives around engine yards. This includes the inspection and lubrication of yard locomotives and may include the inspection and lubrication of train locomotives where distinguishable from the inspection and lubrication of train cars.

(70) Cleaning Car Interiors—Cleaning and preparing car interiors for revenue service, including minor repairs made by car cleaners. This includes payment for cleaning cars due to spoilage of perishable shipments.

(71) Adjusting and Transferring Loads—Transferring, picking up, straightening, and reloading freight in the ordinary course of transportation.

(72) Car Load Devices and Grain Doors—Servicing car loading devices and placing and removing grain doors.

(73) Pickup & Delivery, Marine Line Haul & Rail Substitute Service—Operation of trucks, floating equipment, and all other specialized equipment providing line haul movement for revenue including TOFC/COFC pick-up and delivery.

(74) Loading & Unloading and Local Marine—All other specialized services in the transportation activity such as TOFC/COFC loading, unloading, and tie down; coal and ore loading and unloading; and other similar functions.

(75) Protective Services—Inspecting, servicing, cleaning, and fueling protective equipment and devices.

(76) Clerical and Accounting Employees—Direct administrative support to the Transportation Activity, including receiving and processing customer orders, requesting cars, preparing waybills, rating shipments, billing customers, collecting customer receivables in the ordinary course of business, billing and recording demurrage, reporting interchanges, reporting advances, and the initial summarization and reporting of input data.

(77) Communications Systems Operation—Cost of operating communications systems; when such operations are an integral part of other functions, only specifically identifiable costs of operating communications systems are to be allocated to this function.

(78) Loss and Damage Claims Processing—Receipt, investigation, other handling, and adjustment and settlement of claims for loss or damage of freight or other goods carried in revenue service. Does not include handling claims for personal injury or for loss or damage of other property.

(3) Other Function

(99) Other—All transportation expenses not properly includable in the above functions.

(d) Functions Related to the General and Administration Activity

(1) Administrative Function

(01) Administration, General—General administration and supervision of central, regional, and divisional general functions.

Included are:

- Planning and supervision of general and administrative functions.
- Budget preparation, clerical support, and similar functions.

It includes the overall responsibility for two or more of the General and Administrative functions listed below or the responsibility that expands to more than one activity.

(2) General Functions

(86) Accounting, Auditing, Finance—General and corporate accounting, auditing by internal auditors and outside accountants, treasury, tax accounting and returns financial reporting, corporate planning related to investment decisions and budgeting.

(87) Management Services and Data and Word Processing—Systems planning and design, programming, computer operations, data control, key entry of data, and related activities; This includes operating expenses associated with a particular computer system or word processing equipment that is dedicated to more than one activity. This does not include expenses associated with computer systems or word processing equipment dedicated exclusively to the Way and Structure, Equipment or Transportation Activity;

these expenses shall be charged to the appropriate subactivity/function.

(88) Marketing—Market planning and analysis, traffic analysis, costing, pricing, and related activities.

(89) Sales—Traffic solicitation and related sales efforts.

(90) Industrial Development—Efforts to locate industries on real estate accessible to the railroad's lines for the purpose of creating future revenues.

(91) Personnel and Labor Relations—Efforts to attract and retain employees, handle fringe benefit plans, monitor and negotiate labor contracts, maintain employee data and records coordinate training programs, handle grievances, handle employee transfers, operate job safety and equal opportunity programs, and related activities.

(92) Legal and Secretarial—Legal functions handled by attorneys and supporting staff; including lawsuits, injury and damage claims, commerce matters, and similar functions; corporate secretarial functions involving shareholder records, corporate minutes, stock certificates, and similar items.

(93) Public Relations and Advertising—Public relations activities with governmental bodies, shippers, and the general public; advertising in the media, booklets, publications; open houses and tours; and similar activities.

(94) Research and Development—Research into the use of methods, procedures, practices, equipment, machinery tools, and plant, and in determining and measuring the impact of factors or costs not previously known, with the intention of finding ways to improve maintenance, operations, administration, rates, productivity, environmental impact, and similar items. Do not include specific studies or development efforts for which an implementation decision has already been made.

(3) Other Function

(99) Other—All general and administration expenses not properly includable in the above functions.

[IR Doc. 84-15640 Filed 6-13-84; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register

Vol. 49, No. 116

Thursday, June 14, 1984

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

Office of the Secretary

Advisory Committee on Foreign Animal and Poultry Diseases; Intent To Reestablish

Notice is hereby given that the Secretary of Agriculture proposes to reestablish the Advisory Committee on Foreign Animal and Poultry Diseases for a 2-year period. The Secretary has determined that the Committee is in the public interest in connection with duties imposed on the Department by law.

The purpose of the Committee will be to advise the Secretary regarding program operations and measures to prevent, suppress, control, or eradicate an outbreak of foot-and-mouth disease or other destructive foreign animal or poultry diseases in the event such diseases should enter the United States. The Committee will have a balanced membership of women, minorities, scientists, farmers, trade association representatives, university and government personnel.

The Chairman of the Committee will be the Assistant Secretary, Marketing and Inspection Services, United States Department of Agriculture, Washington, D.C. 20250. Plans are for the Committee to meet at least annually.

This notice is given in compliance with the Federal Advisory Committee Act (Pub. L. 92-463). Views and comments of interested persons may be submitted to the Administrator, Animal and Plant Health Inspection Service, Room 312-E, United States Department of Agriculture, Washington, D.C. 20250 until June 29, 1984. Such comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

Done at Washington, D.C., this 8th day of June.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 84-15934 Filed 6-13-84; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Stabilization and Conservation Service

Production Adjustment Commodities; Intent To Prepare Environmental Impact Statement

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement and request for comment.

SUMMARY: In accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, the regulations issued by the Council on Environmental Quality implementing Section 102(2) (40 CFR Part 1500), and the regulations issued by the Agricultural Stabilization and Conservation Service which relate to Environmental Protection (7 CFR Part 799), the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement will be prepared for commodities for which production adjustment programs may be established. Those commodities include: corn, sorghum, oats, barley, wheat, rice, upland cotton, and extra-long staple (ELS) cotton. In accordance with the procedures for preparing an environmental impact statement, comments are being sought with respect to environmental factors to be considered in connection with implementation of production adjustment programs for these commodities.

DATE: Comments, studies, or publications on the scope and substance of the environmental impact statement must be received on or before August 13, 1984, to be assured consideration.

ADDRESS: Written comments should be addressed to the Director, Regulatory Impact and Conservation Program Evaluation Staff, Agricultural Stabilization and Conservation Service, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Patrick H. Cody, Agricultural

Stabilization and Conservation Service, Washington, D.C. (202) 447-7859.

SUPPLEMENTARY INFORMATION: A draft environmental impact statement covering commodities for which production adjustment programs may be established by the Department of Agriculture will be prepared and will be circulated for review by agencies and the general public. The Agricultural Stabilization and Conservation Service invites the participation of agencies and individuals who have expertise or interest in the preparation of such a draft environmental impact statement. The draft environmental impact statement will be prepared by Mr. Patrick H. Cody, Agricultural Economist, Agricultural Stabilization and Conservation Service, Washington, D.C. The environmental impact statement is to serve as a means of assessing the environmental impact of production adjustment programs which may be implemented for these commodities.

Generally, proposed scope of the environmental concerns includes:

A. Soil

1. Erosion—loss of topsoil
2. Contamination
 - a. Pesticide
 - b. Fertilizer
 - c. Salinization

B. Water

1. Sedimentation
2. Salinization
3. Organic waste pollution
4. Nutrient pollution
 - a. Nitrogen
 - b. Phosphorus
 - c. Other
5. Toxic pollution
 - a. Herbicides
 - b. Insecticides
 - c. Fungicides
6. Ground water depletion

C. Air

D. Fish/Wildlife Habitat

E. Energy Conservation/Production

For each commodity for which a production adjustment program may be established, a production range will be chosen which is broad enough to cover all likely Agricultural Stabilization and Conservation Service program determinations for the commodities. The environmental concerns listed above will be applied to each of the

commodities. Individuals or agencies with specific information, studies, or publications which might help in the preparation of this statement are encouraged to submit such information. At this time, there is no plan to hold a meeting in connection with this matter.

Signed at Washington, D.C., on June 8, 1984.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84-15937 Filed 6-13-84; 8:45 am]

BILLING CODE 3410-05-M

Commodity Credit Corporation

1984 Peanut Program; Notice of Determination

Correction

In FR Doc. 84-15188 beginning on page 23424 in the issue of Wednesday, June 6, 1984, make the following correction:

On page 23426, second column, in the second table under the entry for "Valencia", third line, "most" should have read "not".

BILLING CODE 1505-01-M

Soil Conservation Service

Whiteson Landfill; Critical Area Treatment RC&D Measure, Oregon

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 Environmental 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 Whiteson Landfill Critical Area Treatment RC&D Measure, Yamhill County, Oregon.

FOR FURTHER INFORMATION CONTACT: Jack P. Kanalz, State Conservationist, Soil Conservation Service, 1220 SW Third Ave., 16th Floor, Portland, Oregon 97204, telephone 503-221-2751.

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, Jack P. Kanalz, State Conservationist, has determined that the preparation and review of an

environmental impact statement are not needed for this project.

The project concerns a plan to prevent impairment of the South Yamhill River aquatic environment by maintaining the integrity of an inactive landfill containing 650,000 cubic yards of refuse. The planned works of improvement include the installation of 400 feet of rock rip-rap and vegetation to stabilize a severely eroding streambank on the South Yamhill River adjacent to the landfill.

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 Jack P. Kanalz.

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)

Jack P. Kanalz,

State Conservationist.

[FR Doc. 84-15982 Filed 6-13-84; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of export trade certificate of review.

SUMMARY: The Department of Commerce has issued an export trade certificate of review to Northwest Fruit Exporters. This notice summarizes the conduct for which certification has been granted.

ADDRESS: The Department requests public comments on this certificate. Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to the certificate as "Export Trade Certificate of Review, application number 84-00012".

FOR FURTHER INFORMATION CONTACT:

Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202-377-0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing the Act are found at 48 FR 10595-604 (March 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and government criminal and civil suits under federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant;
2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant;
3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant; and
4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meets these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937-40 (April 13, 1983).

The Office of Export Trading Company Affairs received an application for an export trade certificate of review from Northwest Fruit Exporters on March 6, 1984. The application was deemed submitted on March 12, 1984. A summary of the application was published in the *Federal Register* on March 27, 1984 (49 FR 11697) (correction published April 5, 1984, 45 FR 13565).

Description of Certified Conduct

Based on analysis of the application and other information in their possession, the Department of Commerce has determined, and the Department of Justice concurs, that the following export trade, export trade activities, and methods of operation specified by Northwest Fruit Exporters meet the four standards of the Act:

Northwest Fruit Exporters—
Application No. 84-00012.

Export Trade

Fresh sweet cherries.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

1. NFE may on behalf and with the advice of its members advise and cooperate with the United States Government in establishing procedures regulating the export of fresh sweet cherries.
2. NFE may on behalf and with the advice of its members participate in negotiations and enter into agreements with foreign governments and private persons regarding:
 - a. fumigating, packing and other quality control procedures to be followed in the export of the products;
 - b. the quantities, time periods, prices and terms and conditions upon which NFE's members will export the products.
3. NFE may on behalf and with the advice of its members establish and operate fumigation facilities for use in the export of the products.
4. NFE may on behalf and with the advice of its members establish export prices and quotas and allocate export quotas among growing regions and its members. In allocating export quotas among growing regions and its members, NFE, through employees or agents of

NFE who are not also employees of a member, may receive, and each member may supply to such employees or agents of NFE, information as to such member's actual total shipments of the products in any previous growing season or seasons, provided that such information is not disclosed by NFE to any other member.

Members

The following entities are members of NFE:

Andrus & Roberts Produce Company, Sunnyside, WA; S.M. Holtzinger Company, Yakima, WA; Cascadian Fruit Shippers, Wenatchee, WA; Columbia Fruit Packers, Inc., Wenatchee, WA; Diamond Fruit Growers, Hood River, OR; George F. Joseph Orchard, Yakima, WA; Hansen Fruit & Cold Storage, Yakima, WA; Highland Fruit Growers, Yakima, WA; Inland Fruit & Produce Company, Wapato, WA; Mejonner & Sons, Inc., Walla Walla, WA; Northern Fruit Company, Wenatchee, WA; Obert Cold Storage, Zillah, WA; Pacific Fruit Company, Yakima, WA; Phillippi/Pro Pak, Wenatchee, WA; Roche Fruit Company, Yakima, WA; Skookum, Inc., Wenatchee, WA; Snokist Growers, Yakima, WA; Stadelman Fruit, Inc., The Dalles, OR; Stadelman Fruit, Inc., Yakima, WA; Stemilt Growers, Wenatchee, WA; The Dalles Cherry Growers, The Dalles, OR; Washington Fruit & Produce, Yakima, WA; Wenatchee Wenoka Growers, Wenatchee, WA; and Yakima Fruit & Cold Storage, Yakima, WA.

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.5(c), which requires the Department of Commerce to publish a summary of a certificate in the *Federal Register*. Under section 305(a) of the Act and 15 CFR 325.10(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001-B, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The certificates may be inspected and copied in accordance with regulations published in 15 CFR pt. 4. Information about the inspection and copying of records at this facility may be obtained from Patricia L. Mann, the International Trade Administrative Freedom of Information Officer, at the above address or by calling 202-377-3031.

Dated: June 11, 1984.

Michael A. Levitt,
Acting General Counsel.

[FR Doc. 84-18022 Filed 6-13-84; 8:45 am]

BILLING CODE 3510-DR-M

Geophysical Institute; Decision on Application For Duty-Free Entry of Scientific Instrument

The decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 84-115. Applicant: Geophysical Institute, Fairbanks, AK 99701. Instrument: Ultrasensitive Color TV Camera, Model HL 51-S with Accessories. Manufacturer: Pavic, Japan. Intended use: See notice at 49 FR 13734.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument has a RETMA standard sensitivity of 2.0 lux at F2.8 and a center resolution of at least 550 lines. The National Bureau of Standards advises in its memorandum dated May 24, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicants' intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,
Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-18005 Filed 6-13-84; 8:45 am]

BILLING CODE 3510-DS-M

Washington State University; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub.

L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20330. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 83-214R. Applicant: Washington State University, Pullman, WA 99164-1020. Instrument: Gas Chromatograph-Mass Spectrometer, 7070eHF-11/250 and Accessories. Original notice of this resubmitted application was published in the *Federal Register* of June 20, 1983.

Docket No. 83-338. Applicant: Rocky Mountain Eye Foundation, 2405 Broadway, Boulder, CO 80302. Instrument: Argon Laser Coagulator, Model LPK80. Manufacturer: MEDITEC, West Germany. Intended use: Treatment of patients with ophthalmic diseases including but not limited to corneal vascularization, glaucoma, chorioretinal disease, and general systemic disease. Application Received by Commissioner of Customs: October 28, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-16004 Filed 6-13-84; 8:45 am]

BILLING CODE 3510-DS-M

The University of Wyoming; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 84-133. Applicant: The University of Wyoming, Laramie, WY 82071. Instrument: Ionization sources for Mass Spectrometer. Manufacturer: VG Instruments Inc., United Kingdom. Intended use: See notice at 49 FR 19088.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: This is a compatible accessory for an instrument previously imported for the use of the applicant. The instrument and accessory were made by the same manufacturer. National Institutes of Health advises in its memorandum dated May 21, 1984 that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the instrument.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-16006 Filed 6-13-84; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Coastal Management Programs; Intent To Evaluate

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management, Department of Commerce.

ACTION: Notice of Intent to Evaluate.

SUMMARY: The National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management (OCRM), announces its intent to evaluate the performance of the Virgin Islands Coastal Management Program (CMP); California CMP; Pennsylvania CMP; and Puerto Rico CMP and National Estuarine Sanctuary (Jobos Bay) through October 1984. These reviews will be conducted pursuant to section 312 of the Coastal Zone Management Act (CZMA) which requires a continuing review of the performance of the states with respect to coastal management, and their adherence to the terms of financial assistance awards funded under the CZMA. Coastal zone management is funded under section 306, and the National Estuarine Sanctuary Program is authorized by section 315, CZMA. The reviews involve consideration of written submissions, a site visit to the state, and consultations with interested Federal, state and local agencies and members of the public. Public meetings will be held as part of the site visits. The state will

issue notice of these meetings. A subsequent notice will be placed in the *Federal Register* announcing the availability of the Final Findings based on each evaluation once these are completed.

FOR FURTHER INFORMATION CONTACT:

John H. McLeod, Acting Evaluation Officer, Policy Coordination Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 3300 Whitehaven Street NW., Washington, D.C. 20235 (telephone: 202/634-4245).

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration)

Dated: June 7, 1984.

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 84-16009 Filed 6-13-84; 8:45 am]

BILLING CODE 3510-08-M

Evaluation of State/Territorial Coastal Management Programs, Coastal Energy Impact Programs and National Estuarine Sanctuaries

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management, Department of Commerce.

ACTION: Notice of Availability of Evaluation Findings.

SUMMARY: Notice is hereby given of the availability of the evaluation findings for Alabama, Florida, South Carolina, North Carolina and Maine Coastal Management Programs, for the California Coastal Energy Impact Program and for Florida's National Estuarine Sanctuary Programs. Section 312 of the Coastal Zone Management Act of 1972, as amended, requires a continuing review of the performance of each coastal state with respect to the implementation of its federally approved Coastal Management Program, Coastal Energy Impact Program, and National Estuarine Sanctuary financial assistance awards. The states evaluated were found to be adhering both to the programmatic terms of their financial assistance awards and/or to their approved coastal management programs; and to be making progress on award tasks, special award conditions, and significant improvement tasks aimed at program implementation and enforcement, as appropriate. Accomplishments in implementing coastal zone management programs were occurring with respect to the national coastal management objectives identified in section 303(2)

(A)-(I) of the Coastal Zone Management Act.

A copy of the assessment and detailed findings for these programs may be obtained on request from: John H. McLeod, Acting Evaluation Officer, Policy Coordination Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 3300 Whitehaven Street NW., Washington, DC 20235 (telephone: 202/634-4245).

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration)

Dated: June 7, 1984.

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 84-16010 Filed 6-13-84; 8:45 am]

BILLING CODE 3510-08-M

The Gulf of Mexico and South Atlantic Fishery Management Councils; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

Gulf of Mexico and South Atlantic Fishery Management Councils will convene public meetings as follows:

Intercouncil Spiny Lobster Scientific and Statistical Committee (SSC)—

develop a stock assessment and review proposals for amendment to the Spiny Lobster Fishery Management Plan and other related data; June 25, 1984, 10 a.m. to 5 p.m.

Intercouncil Mackerel SSC—review the proposed amendment to the mackerel plan; June 26, 1984, 8 a.m. to 4:30 p.m.

Gulf of Mexico Fishery Management Council's Mackerel Advisory Panel—review the proposed amendment to the mackerel plan; June 27, 1984, 8 a.m. to 4 p.m.

The public meetings will take place at the Westshore Inn, 5303 West Kennedy Boulevard, Tampa, FL. For further information contact the Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, FL; telephone: (813) 228-2815.

Dated: June 11, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-16001 Filed 6-13-84; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council will hold a public meeting with a partially closed session. The Council's Scientific and Statistical Committee (SSC) will also hold a public meeting. The meetings will take place at the InterContinental Hotel, Wailea, Maui, HI.

Council—(Open Session)—June 14-15, 1984; 10 a.m. to 2 p.m., both days; discuss final draft of crustaceans assessment; bottomfish measures for the main and Northwest Hawaiian Islands; the May 11, 1984 proposal from Japan Fisheries Association on voluntary billfish management; enforcement problems in the spiny lobster fishery; the FY85 administrative budget; discuss nominees to the Bottomfish and Pelagics Advisory Subpanels, and other Council business.

Council—(Closed Session)—June 14, 1984, 9 a.m. to 10 a.m.; receive a briefing by the U.S. Department of State on international fisheries negotiations. This agenda item is exempt from public attendance and participation pursuant to Section 302(i)(3) of the Magnuson Act. All other portions of the meeting are open to the public.

SSC—June 11-12, 1984, 9 a.m. to 2 p.m., both days; discuss final draft of crustaceans assessment; development of a data and research needs document and other Committee business.

For further information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813; telephone: (808)-523-1368.

Dated: June 8, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-16002 Filed 6-13-84; 8:45 am]

BILLING CODE 3510-22-M

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of experimental fishing permit application for Pacific groundfish and request for comment.

SUMMARY: This notice acknowledges receipt of an experimental fishing permit (EFP) application and announces a public comment period. The applicant proposes to conduct an experimental fishery to harvest 1,000 metric tons (mt) of shortbelly rockfish (*Sebastes jordani*) by a domestic vessel using a trawl in the fishery conservation zone (FCZ, 3-200 nautical miles) off the California coast. If granted, the EFP would allow fishing otherwise prohibited by Federal

regulations governing the mesh size of trawls.

DATE: Comments on this EFP application must be received by July 6, 1984.

ADDRESS: Send comments to E.C. Fullerton, Regional Director, NMFS, Southwest Region, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: Rodney R. McInnis, Chief, Fisheries Management Division, NMFS, Southwest Region, 213-548-2518.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) provides the basis for regulating foreign and domestic groundfish fisheries in the FCZ off the coasts of Washington, Oregon, and California. Regulations implementing the FMP became effective on September 30, 1982 (47 FR 43964, October 5, 1982). These regulations specify that EFPs may be issued to authorize fishing by U.S. vessels which otherwise would be prohibited. Procedures for application and issuance of EFPs are given in the regulations at 50 CFR 663.10 (b) and (c).

An EFP application to harvest shortbelly rockfish with conventional roller and mid-water (pelagic) trawl gear was received by the Southwest Regional Office, NMFS, on April 25, 1984. The application was considered incomplete and returned to the applicant for additional information on April 30, 1984. The completed application was resubmitted on May 9, 1984.

The EFP application requests use of a detachable liner for the trawl net of one and one-half inches mesh size to catch shortbelly rockfish and other species. Current groundfish regulations prohibit use of a mesh size smaller than three inches in pelagic trawls or four and one-half inches in roller trawls in the area off central California where the applicant proposes to conduct experimental fishing (50 CFR 663.26 (a) and (b)). If granted, the EFP would suspend the mesh size restriction for the time, area, and vessel specified.

The EFP is summarized as follows:

1. **Purpose and goal.** The purpose of the experiment is to attempt to develop a domestic market for shortbelly rockfish. This experiment would also evaluate the gear and mesh-size requirements for efficiently harvesting shortbelly rockfish, encourage development of new fishing and processing technology, and provide otherwise unavailable or incomplete biological and fishing data.

2. **Significance.** The shortbelly fishery resource is currently under-harvested as compared to its sustainable commercial production potential. If the resource can

provide wholesome yet inexpensive seafood, then other fishing boats are likely to participate in the fishery. Such development could reduce fishing pressure on traditionally harvested groundfish species, encourage development of the U.S. groundfish fishing industry, increase development of foreign markets for U.S. seafood products, and enable biological and fishing data to be obtained. Hence, the impacts of the experiment could extend beyond the individual interests of the EFP applicant.

3. *Vessel*. One domestic vessel would be involved in the experiment; this vessel is 58 feet in length and 45 net tons.

4. *Species and amount*. One thousand metric tons of shortbelly rockfish is requested. In addition, other *Sebastes* species, Pacific whiting (*Merluccius productus*), black cod (*Anoplopoma fimbria*), and squid (*Loligo opalescens*) caught incidentally during experimental fishing are requested to be retained.

5. *Time, place, and gear*. The applicant proposes to fish under the EFP in an area of the Pacific off Pigeon Point and Half Moon Bay, California, at unspecified times with conventional pelagic and roller trawl gear that has a detachable liner with a mesh size of one and one-half inches.

6. *Additional information*. The applicant has agreed to keep specific catch logs and to accommodate observers as requested.

In 1982, four EFPs were issued to U.S. fishing vessels to harvest shortbelly rockfish with pelagic trawls in the FCZ for delivery to a foreign processing vessel. Of the amount delivered, 89 percent was shortbelly rockfish, 11 percent was Pacific whiting, and less than one-half of one percent was other rockfish, sablefish, flatfish, and other fish. No salmon were taken. In 1983, one EFP was issued to a U.S. fishing vessel to harvest shortbelly rockfish for delivery to a shorebased, domestic processor. However, no fishing was done under this EFP for technical reasons.

(16 U.S.C. 1801 *et seq.*)

Dated: June 8, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-16000 Filed 6-13-84; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Amfac Tropical Products, having a place of business in Kaaau, Hawaii 96749, an exclusive right to practice the invention embodied in U.S. Patent 4,002,774, "Method for Removing Seeds from Papayas." The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing, Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 84-15978 Filed 6-13-84; 8:45 am]

BILLING CODE 3510-04-M

Patent and Trademark Office

Electronic Patent-Data Dissemination Guidelines

Introduction

The U.S. Patent and Trademark Office (PTO) has undertaken a program to fully automate its operations. As a result of the automation, new forms of patent data will be created and new techniques will become available to facilitate the end use of one of the largest technical information resources of the nation, the files of U.S. and foreign patents. To fulfill its mission to disseminate such information and to aid in the management of the electronic information resources, the PTO has formulated the following general principles and guidelines regarding electronic, digital patent data dissemination and distribution.

To the extent that formal regulations will be necessary to carry out these guidelines, separate formal rulemaking

procedures will be undertaken. The purpose of this notice is to inform the public as early as possible of the PTO's present policies in automating its patent operations.

The public is urged to consider and submit comments on these guidelines. Please address comments to: J. Howard Bryant, Administrator for Automation, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Background

In response to Pub. L. 96-517, the PTO prepared and submitted to Congress on December 13, 1982, its plan for the complete automation of its operations by 1990. The mandate to develop the plan stemmed from the recognition that problems of increasing magnitude threaten the effectiveness of the U.S. patent system. These problems relate to the increasing difficulty of maintaining the integrity of the all-paper hand-file and retrieval search files on which patent examination depends. Surveys indicate that at any one time, about seven percent of the search files are missing or misfiled. The process of matching the 20,000 documents of correspondence and other items that arrive in the PTO daily to the 240,000 pending patent applications is prone to a high rate of error. The already enormous data base in the patent examining search files alone—more than 250,000,000 documents—is projected to double by the end of the century. The solution to these problems is the application of computer technology to the functions of the PTO. The automation plan was developed around the concept of an essentially paperless office, using computer processable, electronic data bases to replace the existing paper files. Data will be converted to computer processable form from applications and patent search files using a variety of technical methods—optical character recognition, digital facsimile scanning, and word processing. Once the electronic data base is created, patent examiners and other PTO personnel will use it to perform searches, conduct examinations, and prepare office actions. A specially configured electronic workstation will be used to support these functions. The electronic data base also will provide the data to print the *Official Gazette* and to make copies of patents for sale to the public.

Automation is being accomplished in three stages, beginning with the installation of a proof-of-concept system to prove and refine the application of the technology to the patent process. Once proven, the test installation will be expanded in the second stage to support

all of the internal functions of the PTO. In the third stage, public access to patent information will be expanded, and electronic interconnections between cooperating foreign patent offices will be established.

Considerable progress has been made in implementing the automation plan. A \$300 million contract has been awarded to the Planning Research Corporation, teamed with the Chemical Abstracts Service (a not-for-profit arm of the American Chemical Society) to provide computer software and equipment, together with supporting services, for an Automated Patent System (APS). Installation of the Automated Patent System for Stage 1 will begin late in 1984 and its evaluation will be completed in the summer of 1985. Part of the electronic data base—the text of patents from 1970 to the present—is available as a by-product of patent printing. Two pending procurement actions will provide for the conversion into computer processable form of the remainder of the backfile of U.S. patents and all future applications. Agreements have been reached with the European and Japanese Patent Offices to exchange electronic patent data bases. In brief, the most significant initial steps leading to the automation of the PTO have been carried out as planned.

As a result of the automation program, the PTO plans to create or obtain and maintain the following electronic data bases in its Automated Patent System (APS):

1. All U.S. patents, patent application files, and related patent data such as bibliographic, classification, status, and ownership information;
2. A comprehensive collection of foreign patent documents and related patent data such as bibliographic and classification information, captured by the PTO or obtained through exchanges with other patent offices, intergovernmental organizations, or other entities;
3. A collection of selected non-patent technical literature.

These data bases will be accessed using electronic workstations with dual, high-resolution displays, and software that provides the capability to use index and full text search techniques. These search techniques includes the ability to search according to the current U.S. Patent Classification System, and an international patent classification system. The patent examiners will also be provided with access to selected commercial search data bases using their electronic workstations.

The PTO considered several approaches to the dissemination of

patent data, and adopted the following general principles and guidelines.

I. Dissemination Goals and Objectives

It is the goal of the PTO to achieve effective, widespread dissemination of patent information to all segments of the U.S. public.

A. This will be accomplished directly by providing electronic data base search and retrieval services in public search facilities located in the PTO and other locations which may be established by the Government. To the extent technically feasible and economically viable, services also will be provided in cooperation with Patent Depository Libraries (PDLs), under provision of 35 U.S.C. 13. PDLs are Federal, state and local government or non-commercial university libraries designated by the PTO to offer public, non-profit access to patent collections.

B. The PTO will pursue its dissemination goal indirectly by encouraging the private sector to offer commercial patent search and retrieval services outside the public search facilities and PDLs. The PTO will seek to avoid competition with private sector firms in providing such services to the public.

II. Direct Dissemination to the Public

A. The PTO will seek to provide the following in the public search facilities:

1. Electronic access to all the capabilities of the Automated Patent System (APS) that will be available to patent examiners, excluding pending and abandoned applications not accessible under 35 U.S.C. 122, at user fee rates based on the marginal cost of providing the access; and
2. Access at commercial rates, to commercial data bases that are available to the patent examiners.

B. To the extent that it is technically feasible and economically viable, the PTO will seek to provide in the PDLs access to the capabilities of the Automated Patent System, excluding pending and abandoned applications not accessible under 35 U.S.C. 122, at user fee rates based on the marginal cost of providing those services.

III. Distribution to Commercial Data Base Vendors

The PTO will pursue its dissemination goals indirectly by making its electronic patent data available to commercial data base vendors that provide commercial search and retrieval services to the public. The PTO will provide its data to such commercial data base vendors under the following conditions:

A. All U.S. patent data created by the PTO will be made available in bulk form, that is on magnetic tape or another suitable medium.

B. In general, the PTO will not distribute the data received from another patent office but will seek to have contractual arrangements established directly between the other patent office and the commercial data base vendor. The PTO will not act as a service agent or representative of another office unless there is a special need that cannot be met otherwise.

C. Fees charged to commercial data base vendors for bulk U.S. patent data will be based on the marginal cost of providing such distribution services plus a fair market value charge for the data, as set by the PTO.

D. Normally, arrangements with commercial data base vendors will be non-exclusive. Bulk resale of PTO data by commercial data base vendors will be prohibited by the terms of the bulk sale agreement.

IV. Exchange of International Data

International electronic patent data exchanges between the PTO and other patent offices will be made when deemed to be advantageous. Dissemination of data obtained through data exchanges will be based on the following guideline: All data obtained by exchanges from other patent offices will be obtained under agreements that will permit the data to be incorporated into the Automated Patent System (APS). If the data cannot be incorporated into the Automated Patent System (APS), it will be governed by these guidelines as they apply to commercial data bases.

Dated: June 8, 1984.

Gerald J. Mossinghoff,
Commissioner of Patents and Trademarks.

[FR Doc. 84-15980 Filed 6-13-84; 8:45 am]

BILLING CODE 3510-15-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Science Panel Meeting

June 4, 1984

The USAF Scientific Advisory Board Air Force Office of Scientific Research (AFOSR) Review Committee will meet July 30-31 from 8:00 a.m. to 5:00 p.m. and August 1 from 8:00 a.m. to 12:00 p.m. in Room 5D1014, at the Pentagon, Washington DC.

The meeting will be closed to the public.

The purpose of the meeting will be to review the balance and composition of the AFOSR program.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202/697-8404.

Harry C. Waters,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 84-15920 Filed 6-13-84; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

National Center for Research in Vocational Education Advisory Council; Meeting

AGENCY: Department of Education.

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 function 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: July 9, 1984.

ADDRESS: The National Center for Research in Vocational Education, Ohio State University, 1960 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 Education Act of 1963 as amended by the Education Amendments of 1976 (Pub. 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 July 9, 1984 from 1:00 p.m. to 4:30 p.m. The proposed agenda includes:

- 1:00-2:00—Recommendations for the Improvement of Vocational Education
- 2:00-3:00—Interim Review of the Education for Tomorrow's Jobs Seminar Recommendations
- 3:00-4:00—Recommendations for the Third Year of NCRVE's Contract
- 4:00-4:30—Other.

This meeting will be held in conjunction with a regular meeting of the Council to advise the Center Director.

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: June 6, 1984.

Robert M. Worthington,

Assistant Secretary for Vocational and Adult Education.

[FR Doc. 84-15963 Filed 6-13-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Austria

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Austria Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/AT (EU)-62, for the retransfer of five spherical fuel elements and six fuel rods for post-irradiation examination, from the Federal Republic of Germany to Seibersdorf, Austria. The irradiated elements and rods contain approximately 19 kilograms of uranium-

238, 2.9 kilograms of uranium-235, 0.344 kilograms of uranium-233, 18.9 kilograms of thorium, and 6 grams of plutonium. Upon completion of the analytical work, it is planned to return these materials to the Federal Republic of Germany for disposal as waste.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: June 8, 1984.

George J. Bradley, Jr.,

Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-15938 Filed 6-13-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

[Docket No. CAS-RM-80-123-Mo.]

Residential Conservation Service; Hearing on Adequacy of Implementation of Missouri State Plan

AGENCY: Conservation and Renewable Energy.

ACTION: Notice of public hearing.

SUMMARY: The Department of Energy's (DOE) current information on the Missouri Residential Conservation Service (RCS) program suggests that the program is not being adequately implemented. Therefore, pursuant to the National Energy Conservation Policy Act (NECPA), as amended (42 U.S.C. 8220(a)), DOE announces a public hearing on the status of the State RCS program.

DATE: The hearing will be held on June 25, 1984 at 9:30 a.m. Written comments with supporting data (5 copies) must be received by July 16, 1984, 4:30 p.m. In addition, requests to speak at the hearing must be received no later than 4:30 p.m. on June 21, 1984. Requests should contain the party's name, address and telephone number and organization affiliation, if any. Oral presentations will be limited to the issue of the adequacy of the implementation of the State RCS plan. Please bring five copies of the oral statement to the hearing.

ADDRESSES: The hearing will be held at the Federal Building, Room 147, 601 East 12th Street, Kansas City, Missouri 64106.

All written comments and requests to speak at the hearing should be addressed to: Office of Conservation and Renewable Energy, Hearings and Dockets Branch, Room 6B-025, RCS Federal Standby Plan, Docket No. CAS-RM-80-123-Mo., U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585. (202) 252-9319. Material relevant to this hearing will also be available for inspection at the Freedom of Information Public Reading Room, Room 1E-190, Mail Stop 232.1, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6020, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gina Urso, CE-115, Office of Building Energy Research and Development, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, D.C. 20585, (202) 252-1650.

SUPPLEMENTARY INFORMATION: Under the Residential Conservation Service (RCS) program established by Part I of Title II of NECPA (42 U.S.C. 8211 *et seq.*), "covered" electric and natural gas utilities are required to offer to their residential customers energy audits and certain other related services. A utility is "covered" by the program in any calendar year if during the second preceding calendar year it had sales of natural gas or electric energy, for purposes other than resale, in excess of 10 billion cubic feet or 750 million kilowatt hours, respectively (42 U.S.C. 8212).

Pursuant to DOE regulations (47 FR 27752, June 25, 1982), a State may elect to participate in the RCS program by submitting a plan for DOE approval. The plan must show how the State and its covered utilities intend to implement the RCS program. If a State does not have an approved plan or if DOE determines, after notice and opportunity for a public hearing, that an approved plan is not being adequately implemented, DOE shall order covered utilities in the State to implement the Federal Standby Plan (48 FR 44146, September 27, 1983) within 90 days of the order (42 U.S.C. 8220(a)).

Our current information on the Missouri RCS program suggests that the program is not being implemented in accordance with the RCS plan approved by DOE on April 13, 1981. Since questions of adequate implementation have arisen concerning Missouri's approved RCS plan, DOE will hold the public hearing so that interested parties may submit relevant information. Subsequent to the hearing, DOE will consider all relevant views and data submitted on or prior to the closing date

for public comment. Thereafter, DOE will issue a final determination, accompanied by a statement of the basis for its determination. If the final determination is to implement the Federal Standby Plan, DOE will, within a reasonable time, order each of the covered utilities in Missouri to implement the Federal Standby Plan within 90 days of the order.

Issued in Washington, D.C., on June 6, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 84-15938 Filed 6-13-84; 8:45 am]

BILLING CODE 8450-01-M

Federal Energy Regulatory Commission

[Docket No. ER84-475-000]

Arizona Public Service Co.; Filing

June 12, 1984.

The filing Company submits the following:

Take notice that on June 4, 1984, Arizona Public Service Company (Arizona) tendered for filing Amendment No. 2 (Amendment), executed April 26, 1984, to the Interruptible Transmission Service Agreement between Arizona and Tucson Electric Power Company (Tucson).

Arizona states that this Amendment proposes to update to current levels the rates to be charged for interruptible transmission service, and also provides for an extension of the term of the original Agreement.

Arizona proposes an effective date of November 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Tucson and the Arizona Corporation Commission.

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, N.E., 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 motions or protests should be filed on or before June 28, 1984. 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.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-15884 Filed 6-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER77-485-005]

Carolina Power & Light Co.; Compliance Filing

June 12, 1984.

Take notice that on May 21, 1984, Carolina Power and Light Company (CP&L) submitted for filing its compliance report pursuant to Commission Opinion No. 132-A issued March 7, 1984.

CP&L has filed amendments to its rate schedules, a proposal to collect from its customers the difference between the previously accepted compliance rate and the rate approved in the above opinion.

In accordance with the Opinion, CP&L submits copies of the following:

1. Resale Service Schedule RS-12F;
2. Resale Service Schedule RS-12G;
3. Resale fuel Adjustment Clause Rider 2A(b); and

4. Lists, by customer, amounts due CP&L as a result of Opinion No. 132-A.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before June 26, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-15985 Filed 6-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-473-000]

Centel Corp.; Filing

June 12, 1984.

The filing Company submits the following:

Take notice that on June 4, 1984, Centel Corporation (Centel) tendered for filing a proposed Appendix No. 1 to Service Schedule P (Participation Power Service) to be a part of the Electric Interconnection and Interchange Agreement between Centel Corporation and Sunflower Electric Cooperative, Inc., dated June 3, 1980. This Appendix contains the rate determination calculations for the contract year

beginning June 1, 1984 and ending May 31, 1985.

Centel proposes an effective date of June 1, 1984, and therefore requests waiver of Commission's notice requirements.

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, N.E., 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 motions or protests should be filed on or before June 14, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15986 Filed 6-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-474-000]

Centel Corp.; Filing

June 12, 1984.

The filing Company submits the following:

Take notice that on June 4, 1984, Centel Corporation (Centel) tendered for filing a proposed Service Schedule P (Participation Power Service) and Appendix No. 1 to Service Schedule P (Participation Power Service), both as a part of the Electric Interconnection and Interchange Agreement between Centel, formerly Western Light and Telephone Company, and Midwest Energy, Inc., formerly Central Kansas Electric Cooperative, Inc., dated June 27, 1963. This Appendix contains the rate determination calculations for the contract year beginning June 1, 1984 and ending May 31, 1985.

Centel proposes an effective date of June 1, 1984, and therefore requests waiver of the Commission's notice requirements.

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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 27, 1984. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15987 Filed 6-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-224-001]

Central Vermont Public Service Corp.; Compliance Filing

June 11, 1984.

Take notice that on May 4, 1984, Central Vermont Public Service Corporation (Central Vermont) tendered for filing rate schedule supplements and other data to cure a deficiency indicated by its filing of a system sales agreement with New England Power Company. The rate schedule supplements clarify that the power sales are to be made on a negotiated basis and they establish ceiling prices for those sales. In addition to the system sale agreement with the New England Power Company, the affected FERC rate schedules are:

FERC rate schedule	Customer
109	Northeast Utilities.
114	New England Power Company.
113	Public Service Company of New Hampshire.
115	Public Service Company of New Hampshire.

Copies of the filing were served upon each affected customer and upon the regulatory commission of Connecticut, Massachusetts, New Hampshire and Vermont.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before June 22, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15988 Filed 6-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-456-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

June 8, 1984.

Take notice that on June 1, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-456-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Vulcan Materials Company (Vulcan) under the authorization issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 300 million Btu equivalent of natural gas per day to Vulcan's Pittsburgh, Pennsylvania, plant and 1 billion Btu per day equivalent of natural gas to each of Vulcan's Huron and Olds Street plants in Sandusky, Ohio, for a one-year term effective the date deliveries of gas commence hereunder. Columbia states that the gas to be transported would be purchased from POI Energy, Inc., by Vulcan and would be used as boiler fuel and process gas. Columbia indicates that the gas to be purchased involves gas supplies released and that such supplies are subject to the ceiling price provisions of sections 102, 103, 107 and 108 of the Natural Gas Policy Act of 1978. It is further indicated that Columbia would receive the gas at existing delivery points on its system and would redeliver the gas to Columbia Gas of Pennsylvania, Inc., the distribution company serving Vulcan's Pennsylvania plant, and to Columbia Gas of Ohio, Inc., the distribution company serving Vulcan's two plants in Ohio.

Columbia states that it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, depending on whether Columbia's gathering facilities are involved. It is further stated that Columbia would retain for company-use and unaccounted-for gas a percentage of the gas delivered hereunder as reflected in Columbia's

rate filings; the percentage is currently 2.85 percent.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-15989 Filed 6-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-457-000]

**Columbia Gas Transmission Corp.;
Request Under Blanket Authorization**

June 8, 1984.

Take notice that on June 1, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-457-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Libby-Owens-Ford Company (Libby-Owens) under the authorization issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 2 billion Btu equivalent of natural gas per day, less retainage, for Libby-Owens for a term of one year effective the date deliveries of gas commence hereunder. Columbia states that the gas to be transported hereunder would be purchased from Royal Petroleum Properties, Inc., and LOF-Tipka-Bartlo, Ltd. (Tipka), and would be used as boiler fuel in Libby-Owens' Ohio plant. Columbia indicates that the gas to be purchased by Libby-Owens involves gas supplies released by Columbia and that such supplies are subject to the ceiling price provisions of sections 102, 103 and 107 of the Natural Gas Policy Act of 1978. It is further

stated that Columbia would receive the gas at existing delivery points and redeliver such gas to Columbia Gas of Ohio, Inc., the distribution company serving Libby-Owens.

Columbia states that it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, depending on whether Columbia's gathering facilities are involved. It is further stated that Columbia would retain for company-use and unaccounted-for gas a percentage of the gas delivered hereunder as reflected in Columbia's rate filings; the percentage is currently 2.85 percent.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-15990 Filed 6-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-467-000]

Florida Power & Light Co.; Filing

June 11, 1984.

The filing Company submit the following:

Take notice that on May 29, 1984, Florida Power & Light Company (FPL) tendered for filing a document entitled Amendment Number One to Contract for Interchange Service Between FPL and City of Lakeland, Florida.

FPL states that under the Amendment FPL and City of Lakeland Florida utilize the provisions of the existing Contract for Interchange Service between FPL and City of Lakeland, Florida for the parties to establish additional service necessary vehicle to better maximize the

overall economy of power production in the State of Florida.

FPL requests that the Amendment be made effective no later than 60 days from the date of filing. FPL also requests waiver of the Commission's notice requirements.

A copy of this filing was served upon the City of Lakeland, Florida.

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, N.E., 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 June 22, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants 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.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-15991 Filed 6-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-468-000]

Gulf Power Co.; Filing

June 11, 1984.

The filing Company submits the following:

Take notice that on May 30, 1984, Gulf Power Company (Gulf) tendered for filing Wholesale Electric Service Contract Supplements to its FPC Electric Tariffs providing changes in Contract Capacity for service to two delivery points by Gulf to Florida Public Utility Company (Calhoun County), located in Florida. These Contract Supplements are proposed to be effective for service commencing on May 7, 1984 (Altha) delivery point and September 28, 1984 (Blountstown delivery point).

Gulf request an effective date of May 7, 1984, and therefore requests waiver of the Commission's notice requirements.

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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 22, 1984. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15992 Filed 6-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-462-000]

Gulf States Utilities Co.; Filing

June 11, 1984.

The filing company submits the following:

Take notice that Gulf States Utilities Company (Gulf States), on May 24, 1984 tendered for filing a proposed amendment to its Power Interconnection Agreement with the City of Lafayette, Louisiana, (Lafayette), dated January 8, 1974 and Schedule LTS of said Agreement. The proposed amendment would delete provisions of the Agreement requiring Gulf States and Lafayette to submit proposed rate change applications and supporting documents to the nonfiling party thirty (30) days prior to filing with any regulatory authority.

Gulf States indicates that said Amendment No. 1 to the Power Interconnection Agreement has been agreed to by Gulf States and Lafayette as a part of the consideration involved in the settlement of Gulf States' rate case under FERC Docket No. ER82-375-000. The City of Lafayette has executed said Amendment No. 1 as a party thereto.

Copies of the filing were served upon the Public Utility Commission of Texas, the Louisiana Service Commission, and the Mayor of the City of Lafayette.

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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before June 22, 1984. Protest 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15993 Filed 6-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-14-000]

Moncrief Oil Enterprises; Request for Clarification

June 12, 1984.

On December 5, 1983, Moncrief Oil Enterprises, Moncrief Building, Ninth at Commerce, Fort Worth, Texas 76102 (Moncrief) filed a "Request for Clarification of FERC Order No. 108-A." In its request, Moncrief asks for clarification of whether Order No. 108-A, Docket No. RM80-21-000, III FERC Stats. & Regs. [Preambles], ¶ 30,507 (1983) permits the purchaser under an existing intrastate contract subject to section 105(b)(2) of the Natural Gas Policy of 1978 (NGPA), 15 U.S.C. 3315(b)(2) (1982), to retroactively reimburse Moncrief for Florida state severance taxes invoiced but not received for natural gas deliveries made during the period December, 1978, through October, 1982. Moncrief states that the sales of natural gas in question were made from the Jay Unit in Santa Rosa County, Florida, to the purchaser, St. Regis Paper Company (St. Regis) who refused to pay the tax amounts pending final action in Docket No. RM80-21-000. Moncrief's request shall not be considered in Docket No. RM80-21-000, but rather has been assigned Docket No. GP84-14-000.

Any person who desires to be heard or to make a protest to the request should file, within 20 days after this notice is published in the **Federal Register**, with the Commission a motion to intervene or a protest in accordance with Rules 211 or 214 of the Rules of Practice and Procedure. Such motion to intervene or protest should be filed at 825 North Capitol Street NE., Washington, D.C. 20426. All protests filed will be considered but will not make the protestants parties to the proceeding. Any party who wishes to become a party must file a motion to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15994 Filed 6-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA84-16-000]

R. H. Engelke; Petition for Adjustment

June 12, 1984.

On May 11, 1984, R. H. Engelke filed with the Federal Energy Regulatory Commission a petition for an adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and rule 1101 *et seq.*, wherein Engelke sought authorization to retain the NGPA section 103 price for separate producing intervals not originally covered by the initial section 103 price applications. The producing intervals did, however, receive the appropriate section 103 determination. Engelke bases its petition on the Commission's finding in Commission Order No. 149 wherein the Commission stated that it would be inequitable to require refunds in circumstances where a producer relied on a misinterpretation of the definition of "new, onshore production well."

Subpart K of Part 385 of the Commission's Rules of Practice and Procedure sets out the procedures that apply to this adjustment proceeding. Any person who wishes to participate in this proceeding shall file a petition to intervene in accord with Subpart K. All such petitions must be filed within 15 days after this notice is published in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15995 Filed 6-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-461-000]

Columbia Gas Transmission Corp., Application

June 11, 1984.

Take notice that on June 1, 1984, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-461-000 an application pursuant to Section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing Applicant to sell natural gas to its jurisdictional customers in accordance with the provisions of an experimental Incentive Sales Rate Schedule (Rate Schedule IS) to be incorporated in Applicant's FERC Gas Tariff, Original Volume No. 1, for a period through October 31, 1984, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant asserts that the proposed Incentive Sales (IS) service is designed

to increase Applicant's competitiveness in its traditional markets by offering its customers the economic incentive to increase their purchases from Applicant, thereby reducing their cost of gas and Applicant's exposure to take-or-pay and minimum bill related payments. Applicant also asserts that, in contrast to many other special discount sales programs and special marketing programs, its customers may use IS gas for their general system supplies, rather than limiting availability to specific circumstances. It is stated that this IS service would be available on an experimental basis during the period June through October 1984.

Applicant further proposes an experimental five-month sales program which, in addition to its existing transportation programs, is designed, it is submitted, to enhance its competitiveness in its traditional markets by offering its present jurisdictional customers the economic incentive to increase their purchases from Applicant in a non-subsidized manner. It is asserted that in contrast to certain other special programs proposed or implemented by Applicant and other pipelines, Applicant's customers may use the quantities of gas available under the Rate Schedule IS for general system supplies or for other purposes. Applicant asserts it would make sales thereunder that otherwise would not be made by making available to its customers supplies which would be purchased on an incremental least-cost basis to the extent consistent with certain limitations.

Applicant asserts in addition to reducing its exposure to take-or-pay and minimum bill related payments, any increased sales which Applicant can make under the Rate Schedule IS would, by virtue of the credits transferred to Account No. 191, reduce the cost of gas to all of its customers. Applicant states it is operating on a least-cost purchase policy consistent with contractual and operational constraints. It is asserted, this policy is being implemented by establishing a "core" gas supply below which it is not feasible to purchase—such as (i) the contract minimums specified in Applicant's gas purchase contracts with Southwest producers¹ (except where other contractual or operational circumstances require purchases at higher levels) and (ii) the minimum volumes that Applicant must purchase from its pipeline suppliers to serve requirements which cannot be

served from other sources. It is stated that additional purchases above this core gas supply are then made strictly on a least-cost basis.

Applicant states that the projected additional purchases for the month of June 1984, i.e., purchases in excess of Columbia's core gas supply, as reflected in its May 1984 Operational Balance, include approximately 4,000,000 Mcf of Southwest producer purchases at a projected average cost per contract of \$2.6221, or less, per dt and approximately 0.5 Bcf of purchases from Tennessee Gas Pipeline Company, a division of Tenneco Inc. (Tennessee), under its Rate Schedule CD-2 at an incremental cost of \$2.62 per dt.

Applicant asserts that if the IS service proposed herein is authorized, it would be able to make additional incremental purchases from its pipeline and producer suppliers at prices as low as \$2.62 per dt during June 1984 to supply the incremental market. Applicant states that it and its customers are already paying, or would pay, the fixed costs associated with pipeline supplies below minimum bill levels. It is further asserted that the IS service provides a means of making economical supplies, such as these incremental pipeline supplies, available to Applicant's customers at a marketable rate.

Applicant proposes that its Rate Schedule IS operate in the following manner:

A. The experimental, incentive-based Rate Schedule IS would be available to Applicant's jurisdictional sales customers, as conditioned below, on an incremental basis without restriction as to end-use to the extent they are able to purchase quantities of gas (exclusive of quantities prepaid under the Rate Schedule WS) in excess of specified monthly base levels. Applicant asserts the IS sales rate would then apply to incremental physical deliveries in excess of the monthly base levels.

Applicant further asserts service under the Rate Schedule IS would not be available (i) to a customer which, due to operational constraints, Applicant can only serve with quantities of gas purchased from a particular supplier at costs in excess of the limitation set forth below or (ii) to a customer that is also a customer of a competing pipeline of Applicant (partial requirements customer) during any month when said customer is not taking its full contract demand under the competing pipeline's firm sales rate schedules. Applicant accordingly asserts, it would require that a partial requirements customer, in order to be eligible for IS service during a given month, furnish Applicant with

an affidavit attesting that it purchase a quantity of gas equivalent to its contract demand times the number of days in the month under the competing pipeline's firm sales rate schedules.

B. With one exception,² it is asserted that individual customer participation would be triggered when physical deliveries, exclusive of quantities prepaid under the Rate Schedule WS, to a customer under Applicant's (i) applicable sales rate schedules, (ii) Rate Schedule SCES and (iii) Phase II Transportation Program for a particular month (June through October 1984) exceed the customer's projected requirements, exclusive of Rate Schedule WS nominations, which are reflected in Applicant's June 1984 Gas Estimate for the corresponding month.³ Applicant states that the 1984 Blue Book projections constitute the most logical IS base levels, since they represent the customer's latest estimates of physical requirements for this period, as furnished to Applicant during the spring of 1984. Applicant asserts that these customer estimates were prepared and submitted to it well before the inception and announcement of this program and should ensure that IS sales would not displace sales that Applicant would otherwise make under its regular firm sales rate schedules.

Applicant states it would not make deliveries under the Rate Schedule IS to the extent that a customer's total purchases under that rate schedule and under other applicable rate schedules on any day exceed its total daily entitlement. Applicant further asserts the IS gas would be delivered at existing delivery points, and no new facilities would need to be constructed.

C. Applicant proposes that the Rate Schedule IS would become effective in June 1984 and, in accordance with the herein requested pregranted approval for abandonment, to terminate on October 31, 1984.

D. Applicant asserts that supplies for the IS service would be purchased by it on an incremental least-cost basis consistent with the limitations described

¹It is explained that these contract levels, which are usually stated as a percentage of take-or-pay levels, are the minimum quantities which Applicant must purchase under its contracts with its Southwest producers to avoid abrogating contracts.

²The Cincinnati Gas & Electric Company (Cincinnati) would not be entitled to IS service for increased quantities which it purchases from Columbia due to any Commission order which directs Cincinnati, Texas Gas Transmission Corporation and Lawrenceburg Gas Transmission Corporation to cease their unlawful activities in Docket No. CP84-208-000, it is submitted.

³For the purpose of determining monthly IS participation, Applicant proposes the customers' monthly base levels would be appropriately prorated during the period in which the Rate Schedule IS is in effect to allow for differences between the customers' billing month and the authorized commencement and termination dates of this service.

below, but only to the extent that the gas is not otherwise required by Applicant for its general system supply.

E. Applicant asserts that in order to maximize the benefit to all customers, it would endeavor to maintain credits to Account No. 191 per dt of IS sales which are at least equal to the non-gas costs included in its sales commodity rate, currently \$0.5059 per dt. Accordingly, it is asserted that Applicant would not purchase incremental supplies for the IS program; and the Rate Schedule IS would not operate or be made available to customers during a given month, if the delivered cost to Applicant of such available incremental supplies exceeds \$2.90 per dt (supply price cap).⁴ However, Applicant asserts that it might make certain incremental purchases from Transcontinental Gas Pipe Line Corporation (Transco) at a price in excess of the \$2.90 per dt supply price cap if required to comply with the minimum bill waiver provisions of the settlement agreement in Docket Nos. RP83-11-000 and RP83-30-000.

Applicant asserts that the price for service rendered under Rate Schedule IS for customers purchasing under the Rate Schedules CDS or G would be a fully compensatory rate of \$3.5000 per dt. For customers purchasing under the Rate Schedule SGS the price for service rendered under the Rate Schedule IS would be \$3.6631 per dt, which consists of the \$3.5000 per dt plus a demand charge component of \$0.1631 per dt, it is submitted.

G. Applicant proposes that for all gas sold under the Rate Schedule IS, Applicant would credit to Account No. 191 for the benefit of all customers the net of the IS sales revenue less the aggregate of (i) the incremental cost of gas, (ii) an amount for fuel and line loss at 2.85 percent and (iii) the GRI Funding Unit.

Applicant further proposes to flow through Account No. 191 for the benefit of all of its customers all revenues collected under the IS program, unless otherwise directed by the Commission.

H. Applicant requests waivers, to the extent necessary, of the Commission's purchased gas adjustment (PGA) and related accounting regulations and the PGA provisions of its tariff for this limited-term program in order to treat the revenues and expenses attributable to the IS service outside of Applicant's regular PGA and Account No. 191 mechanism. Applicant proposes to

remove the incremental variable purchased gas costs, inclusive of an allowance for fuel and line loss, and incremental revenue associated with the IS service from its total purchased gas costs and revenue for the purpose of calculating the monthly purchased gas cost deferrals to Account No. 191 under Applicant's PGA mechanism. To the extent increased incremental purchases are made for the IS service from its pipeline suppliers below minimum bill levels, Applicant proposes that the fixed-cost portion of the commodity rates for those pipeline suppliers remain as a current cost of gas in the regular Account No. 191 calculations, where such unavoidable costs would be reflected notwithstanding the incremental IS purchases.⁵

Applicant proposes that in lieu of utilizing the regular PGA mechanism, it would file monthly reports with the Commission detailing (i) the source(s), quantities and incremental costs underlying the IS supply purchases and (ii) the customers, quantities and revenues associated with the IS sales. These reports would provide detail of the disposition of all IS revenue. This detailed information would also be included in Applicant's regular PGA filings in support of the IS credits transferred to Account No. 191.

I. Applicant asserts that upon its request, each customer that anticipates purchasing IS gas in excess of either 5 percent of its monthly base levels or 100,000 dt per month would be required to furnish Applicant in writing with a good-faith projection of its nominations of IS gas for each month during the term of the IS program. It is proposed that significant change in said projection must be promptly reported to Applicant.

Applicant asserts that the sale of natural gas under Rate Schedule IS is required by the present and future public convenience and necessity where all customers, regardless of whether they attain their base levels or not, would benefit by reductions in their costs of gas resulting from sales under the IS program through the crediting of excess revenues to Account No. 191 of \$0.5059 per dt of IS sales. Applicant states that as IS deliveries increase and more incremental purchases are made from increasingly expensive sources, the magnitude of the credit to Account No. 191 would consequently decrease.

Applicant asserts that the IS rate is fully compensatory and not subsidized

by non-participating customers. It is asserted that the IS program, by utilization of base levels taken from the customers' most recent projections, which were prepared and furnished to Applicant well before the inception of this program, should avoid displacing sales that otherwise would be made by Applicant under its regular firm sales rate schedules. Applicant asserts that the IS rate would recover amounts in excess of the costs that would be avoided by not making the IS sales.

Applicant states that the IS rate fully complies with the Commission's criteria for special sales rates, as it does not shift costs among customers and does not require non-participants to assume a greater share of capacity costs.

It is asserted that all customers would benefit from the Rate Schedule IS to the extent that Applicant's exposure to take-or-pay and minimum bill related payments would be reduced.

Applicant states that participation in the IS program is not limited to those jurisdictional customers with end-users possessing alternative fuel capability. It is stated that IS gas would be available for a customer's general system supply without restriction.

Applicant states that its proposal would provide another opportunity for market signals in its service territory to be transmitted directly to its suppliers. It is asserted that the IS service would provide an incentive for Applicant's relatively high-cost producers to reduce their prices to Applicant to the applicable incremental supply cost under its least-cost purchase policy (presently, a minimum of approximately \$2.62 per dt) in order to increase their sales to Applicant.

Applicant asserts that because IS sales would be incremental sales that Applicant otherwise would not anticipate making under its regular firm sales rate schedules, the pipeline suppliers making incremental sales to Applicant under the IS program, as well as their other customers, would directly benefit because of such pipeline suppliers' increased recovery of costs and diminution of minimum bill and/or take-or-pay exposure.

Applicant further asserts that the IS program would not divert system supplies from the originally intended end-users, because the IS supplies were previously contracted for and, under this program, would be sold to on-system customers for their unrestricted use.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 29, 1984, file with the Federal Energy Regulatory Commission, Washington,

⁴ It is explained that for supply limitation purposes, the incremental cost of producer supplies would be determined on the basis of the average price per contract, but in no event would any Natural Gas Policy Act of 1978 Section 104 supplies be included.

⁵ It is asserted the fixed costs associated with quantities of gas purchased from Transco for the IS service would not be included in the regular Account No. 191 calculations since, by virtue of the Transco minimum bill waiver, such fixed costs are avoidable.

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.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-16112 Filed 6-13-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OAR FRL 2608-8]

California State Motor Vehicle Pollution Control Standards; Opportunity for Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of opportunity for public hearing or request for within the scope determination.

SUMMARY: The California Air Resources Board (CARB) has notified EPA of an amendment of California's warranty regulations and has requested that EPA determine that these amendments are within the scope of existing waivers of federal preemption which have been granted pursuant to section 209(b) of the

Clean Air (Act), 42 U.S.C. 7543(b). These warranty amendments pertain to passenger cars, light-duty trucks, medium and heavy-duty vehicles, and motorcycles. This notice announces that EPA has tentatively scheduled a public hearing for July 5, 1984 and, if necessary, July 6, to consider CARB's request and the issue of the application of the federal emissions warranties in California. Any party desiring to present oral testimony for the record at the public hearing, instead of or in addition to written comments, must notify EPA by June 29, 1984. If no party informs EPA that it wishes to testify, EPA will consider the waiver request based on written submissions to the record. EPA will publish a notice in the **Federal Register** to announce that the scheduled hearing is cancelled if no party wishes to present testimony.

DATES: EPA will hold a public hearing, if requested, on July 5, 1984, beginning at 1:30 p.m. and, if necessary, July 6, beginning at 9:00 a.m., if any party notifies EPA by June 29, 1984, that it wishes to present oral testimony regarding CARB's request. Any party may submit written comments regarding CARB's request by August 3, 1984.

ADDRESSES: EPA will hold the public hearing announced in this notice at: U.S. Environmental Protection Agency, Regional Office (Region IX), Sixth floor, Hawaii Trust Territories Room, 215 Fremont Street, San Francisco, California. Parties wishing to present oral testimony at the public hearing should notify in writing: Charles N. Freed, Director, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Any party also may submit written comments regarding the waiver request to the same address. Copies of material relevant to the waiver request will be available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m., Monday through Friday) at the U.S. Environmental Protection Agency, Central Docket Section (A-130), Gallery I, Waterside Mall, 401 M Street SW., Washington, D.C. 20460 (Docket Number EN-84-04).

FOR FURTHER INFORMATION CONTACT: Mary T. Smith, Attorney/Advisor, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202) 382-2514.

SUPPLEMENTARY INFORMATION:

Background and Discussion

Section 209(a) of the Act, as amended, 42 U.S.C. § 7543(a), provides in part: "No state or any political subdivision thereof

shall adopt or attempt to enforce any standard relating to control of emissions from new motor vehicles or new motor vehicle engines subject to this part (or) require certification, inspection, or any other approval relating to the control of emissions * * * as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

Section 209(b) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209(a) for "[California] if [it] determines that [its] standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards [unless] the Administrator finds that: [A] The determination of [California] is arbitrary and capricious, [B] [California] does not need [its] standards to meet compelling and extraordinary conditions, or [C] [its] standards and accompanying enforcement procedures are not consistent with section 202(a) of [the Act]."

Once California has received a waiver of the application of the prohibitions of section 209(a) for its standards and enforcement procedures for a class of vehicles, it may adopt certain other conditions precedent to initial retail sale, titling or registration of the subject class of vehicles without the necessity of receiving a further waiver of Federal preemption. If California acts to amend previously-waived emission standards or accompanying enforcement procedures, the change may be included within the scope of the previous waiver if it does not undermine California's determination that its standards, in the aggregate, are as protective of public health and welfare as comparable Federal standards, does not affect the consistency of California's requirements with respect to section 202(a) of the Act, and raises no new issues affecting EPA's previous waiver determinations.

By letter of December 5, 1983, CARB requested that EPA determine that newly adopted amendments to its warranty regulations were within the scope of existing waivers of federal preemption. These amendments:

1. Adopt recent California legislation reducing the warranty coverage from 5 years/50,000 miles to 2 years/24,000 miles for specific fuel metering and ignition system components on vehicles certified to the optional standards under Health and Safety Code § 43101.5(a).¹

¹ These optional standards are:

2. Adds to California's "Emission Warranty Parts List" sealing gaskets or devices, and hardware when used in conjunction with emission-related components.

3. A procedure by which I/M emission inspection stations in California may diagnose and perform warranty repairs if a vehicle fails an I/M inspection test.

California states in its letter that these recent amendments to their warranty regulations fall within the scope of previous waivers of federal preemption since they do not alter applicable California emission standards or certification procedures, and raise no new issues with respect to the previous warranty waiver determination (44 FR 61096 (Oct. 23, 1979)). Additionally, California found that the amendments do not render California standards less protective of public health and welfare than comparable federal standards and are not inconsistent with section 202(a) of the Act.

I am inclined to agree with California that its recent warranty amendments are within the scope of previous waivers of federal preemption. However, I have decided to provide an opportunity for a public hearing and to solicit comments on an issue that has been raised by at least one manufacturer. This issue concerns the applicability of the federal emission warranty under section 207(a) of the Act in California if California does not require that some emission-control components be covered for the full length of the federal warranty. Since I have decided to provide an opportunity for a public hearing and to submit comments, parties may also address the issue of whether EPA should determine that California's recent amendments to its warranty regulations are within the scope of previous waivers of federal preemption. Should parties believe that these amendments are not within the scope of previous waivers of federal preemption, they should further address the following issues:

(1) Whether California's determination that the amended standards will be at least as protective of public health and welfare as applicable Federal standards is arbitrary and capricious;

(2) Whether California does not need its standards to meet compelling and extraordinary conditions; and

1. For all passenger vehicles, for the 1983 model year and subsequent, 0.39 grams per mile (gpm) for non-methane hydrocarbons (HC), 9.0 gpm for carbon monoxide (CO) and 0.7 gpm for oxides of nitrogen (NOx).

2. For all light-duty vehicles and medium-duty vehicles, of less than 4,000 pounds, for the 1983 model year and subsequent, .39 gpm non-methane HC, 9.0 gpm CO, and 1.0 gpm NOx.

(3) Whether the California standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

II. Procedures for Public Participation

If the scheduled hearing takes place, it will provide an opportunity for interested parties to state orally their views or arguments or to provide pertinent information concerning the within the scope request at issue. Any party desiring to make an oral statement should file 10 copies of its proposed testimony and other relevant material along with its request for a hearing with the Director of EPA's Manufacturers Operations Division at the address listed above not later than June 29, 1984. In addition, the party should submit 25 copies, if feasible, of the proposed statement to the Presiding Officer at the time of the hearing.

Since a public hearing is designed to give interested persons an opportunity to participate in this proceeding, there are no adversary parties as such. Statements by participants will not be subject to cross examination by other participants without special approval by the Presiding Officer. The Presiding Officer is authorized to strike from the record statements which he or she deems irrelevant or repetitions and to impose reasonable limits on the duration of the statements of any witness.

If EPA does hold the hearing, the agency will make a verbatim record of the proceedings. Interested persons may arrange with the reporter at the hearing to obtain a copy of the transcript at their own expense. The Administrator will base his determination with regard to CARB's request on the record of the public hearing, if any, and on any other relevant written submissions and may also consider other scientific, engineering or pertinent information. This information will be available for public inspection at the EPA Central Docket Section.

Dated: June 8, 1984.

Sheldon Meyers,
Acting Assistant Administrator for Air and Radiation.

[FR Doc. 84-15983 Filed 6-13-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

American Savings and Loan Association, Dedado, Guam; Appointment of Receiver

Notice is hereby given that pursuant to statutory authority, including that contained in section 406(c)(2) of the

National Housing Act, 12 U.S.C. 1729(c)(2) (1982), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for American Savings and Loan Association, Dedado, Guam, effective June 8, 1984.

Dated: June 11, 1984

J. J. Finn,
Secretary.

[FR Doc. 84-15909 Filed 6-13-84; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

[Docket No. R-0515]

Proposals To Reduce Risk on Large-Dollar Transfer Systems

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Extension of comment period.

SUMMARY: On March 29, 1984 (49 FR 13186; April 3, 1984), the Board requested comment on a number of proposals to reduce risks on large-dollar wire transfer networks. Comments were due by July 27, 1984. Acting pursuant to delegated authority, 12 CFR 265.2(a)(6), the Secretary of the Board has extended the comment period for 90 days.

DATE: Comments must be received by October 29, 1984.

FOR FURTHER INFORMATION CONTACT:

Edward C. Ettin, Deputy Director, Division of Research and Statistics (202/452-3368), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

By order of the Secretary of the Board, acting pursuant to delegated authority, 12 CFR 265.2(a)(6), June 8, 1984.

William W. Wiles,
Secretary of the Board.

[FR Doc. 84-15933 Filed 6-13-84; 8:45 am]

BILLING CODE 6210-01-M

Chemical New York Corp., et al.; Applications To engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and

permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing 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.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 6, 1984.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Chemical New York Corporation*, New York, New York; to engage *de novo* through its subsidiary, Chemical Mortgage Company, Columbus, Ohio, in purchasing home mortgages from savings institutions, savings and loan institutions and small mortgage companies; organizing placing, and servicing loans on commercial, residential and income producing property; acting as agent with regard to credit accident and health insurance directly related to CMC's extensions of credit; making equity investments in corporations designed to promote community welfare; providing data processing and data transmission services, data bases and facilities for the internal operations of Chemical New York Corporation and any of its subsidiaries, and providing to others data processing and transmission services, facilities, data bases or access to such services, facilities or data bases by any technologically feasible means for financial, banking, or economic data, and providing to others excess capacity and time sharing on data processing or

transmission equipment or facilities; arranging equity financing of commercial and industrial income-producing realty subject to the following limitations: each such financing shall exceed \$1,000,000, neither CMC nor its affiliates will provide financing for the equity investor in any parcel of real estate for which CMC arranges financing, neither CMC or its affiliates will acquire an interest in or participate in managing, developing, syndicating, promoting, or sponsoring the syndication of a project for which it arranges equity financing; and CMC's fee will be determined on a negotiated basis, will generally be based on the sales or mortgage price, and in no case, will be determined by the profitability of the property, and will not be greater than the fees that would be charged by an unaffiliated intermediary; providing portfolio investment advice (particularly advice as to investment of funds in real property interests); furnishing general economic information and advice, (particularly advice and studies directly related to real state and mortgages; providing financial advice to state and local governments with respect to the issuance of their securities (particularly regarding the issuance of industrial development bonds where specific real property is involved); and appraising real estate.

2. *J. P. Morgan & Co., Incorporated*, New York, New York; to establish an office of MFC in Singapore and to become a clearing member of The Singapore International Monetary Exchange, Limited ("SIMEX"), and to execute and clear futures contract, for nonaffiliated persons in Japanese yen, German Deutsche marks, Eurodollars and gold. MFC will also execute and clear such other futures contracts, or options thereon, of the type described in § 225.25(b)(18) of Regulation Y and subject to the conditions imposed therein, that may be traded on SIMEX from time to time.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Washington Bancorporation*, Washington, D.C.; to engage *de novo* through its subsidiary, Washington Mortgage Group, Inc., in making, acquiring, selling and servicing residential mortgage loans, principally single- and multi-family mortgages.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Southland Bank Corp.*, Butler, Georgia; to engage *de novo* through its subsidiary, Southland Insurance

Agency, Inc., Butler, Georgia, in acting as insurance agent or broker in offices at which Southland Bank Corp. or its subsidiaries are otherwise engaged in business, or in an office adjacent thereto with respect to any insurance that is directly related to an extension of credit by bank or bank-related subsidiaries of Southland Bank Corp. of the kind described in Regulation Y, or is directly related to provision of other financial services by a Bank or Bank-related subsidiary of Southland Bank Corp. These activities would be performed in the State of Georgia.

Board of Governors of the Federal Reserve System, June 8, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-15930 Filed 6-13-84; 6:45 am]

BILLING CODE 3210-01-M

Herington First, Inc. Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (49 FR 794) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or a bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound

banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 6, 1984.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Herington First, Inc.*, Herington, Kansas; to become a bank holding company by directly acquiring 29.17 percent of the voting shares of The First National Bank of Herington, Herington, Kansas. Herington First, Inc., has also applied to acquire 100 percent of First of Herington, Inc., Herington, Kansas, thereby indirectly acquiring First of Herington's voting shares of The First National Bank of Herington. In addition, Herington First, Inc., has applied to become a bank holding company by acquiring 10 percent of the voting shares of Peoples Insurance Agency, Inc., Sharon Springs, Kansas, thereby indirectly acquiring The Peoples State Bank, Sharon Springs, Kansas. Applicant has also applied to engage, through the acquisition of First of Herington, Inc., in the sale of general insurance in a community with a population not exceeding 5,000. This activity would be performed within a 12-mile radius of Herington, Kansas.

Board of Governors of the Federal Reserve System, June 8, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-15931 Filed 6-13-84; 8:45 am]

BILLING CODE 6210-01-M

Napoleon Bancorp; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal

Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than July 6, 1984.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Napoleon Bancorp*, Napoleon, Indiana; to become a bank holding company by acquiring 80 percent or more of the voting shares of The Napoleon State Bank, Napoleon, Indiana.

Board of Governors of the Federal Reserve System, June 8, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-15932 Filed 6-13-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Travel Expenses; Report on the Cost of Travel and Operation of Privately Owned Vehicles

The Travel Expense Amendments Act of 1975 (Public Law 94-22, May 19, 1975) requires the periodic investigation of the costs of travel and the operating costs of privately owned vehicles (automobiles, motorcycles, and airplanes) to employees while engaged on official business. Further the Act requires that the results of these investigations be reported to the Congress and published in the Federal Register.

The following report is being published to comply with the requirements of the Act.

Dated: June 5, 1984.

Ray Kline,

Acting Administrator of General Services.

Report to Congress

The Travel Expense Amendments Act of 1975 (Public Law 94-22, May 19, 1975, 5 U.S.C. 5707 (b)) requires that the Administrator of General Services, in consultation with the Comptroller

General of the United States, the Secretaries of Defense and Transportation, and representatives of Government employee organizations, conduct periodic investigations of the costs of travel and of operating privately owned vehicles to Government employees while engaged on official business and report the results to the Congress at least once a year. The Act, with respect to privately owned vehicles, further requires that a determination of the average, actual cost per mile be made based on the results of the investigations. Such figures must be reported to the Congress within 5 days of the determinations.

We have conducted our cost investigations and consulted with representatives of employee organizations, the General Accounting Office, and the Departments of Defense and Transportation. As required, we are reporting the results.

Our investigations of the cost of travel were conducted in two parts. Part I dealt with subsistence costs in high rate geographical areas (HRGA's). GSA uses these studies as the basis for prescribing maximum daily reimbursement rates within the \$75 statutory maximum for HRGAs, and employees are reimbursed for actual expenses within these limits. A city or other defined area is designated as an HRGA when the subsistence costs (rounded to the nearest dollar) exceed the \$50 statutory maximum per diem rate by 10 percent or more. Maximum daily reimbursement rates for subsistence expenses in HRGA's thus range from \$55 to \$75 per day.

The HRGA subsistence cost investigations (Part I) yielded the following information:

(1) Cost increased in a majority of the 181 previously existing HRGA's (enclosure 1);

(2) Reimbursement rates in 83 of the 181 previously existing HRGA's are already at the \$75 statutory maximum level and cannot be increased until legislation is enacted to provide for further increases. Subsistence costs in those 83 areas ranged from \$75.60 in New London, CT to a high of \$164.35 in New York City;

(3) Reimbursement rates in the other 98 previously existing HRGA's were under the \$75 statutory maximum;

(4) The administratively set rate in two of the 98 areas was adequate and required no change;

(5) The maximum reimbursement rates for 91 areas were increased to levels commensurate with the costs identified in our study;

(6) As subsistence costs in the remaining five areas were \$1 to \$11 lower than the existing administratively set maximum reimbursement rates, their maximum rates were reduced accordingly; and

(7) Eighteen new localities, three of which show subsistence costs in excess of the statutory maximum, were identified as eligible for HRGA designation, raising the total number of HRGA's to 199 (enclosure 2).

The results of Part I of the subsistence cost investigations were implemented to the extent possible within the statutory maximums through changes to the Federal Travel Regulations, GSA Bulletin FPMR A-40, Supplement 8. These changes were published in the Federal Register on December 9, 1983 (48 FR 55262). The newly designated HRGA's and rate adjustments for existing HRGA's were effective on December 18, 1983.

Part II of the subsistence cost investigations dealt with the adequacy of the \$50 maximum per diem allowance and the maximum \$75 rate for travel where the actual expense method of reimbursement is authorized due to unusual circumstances of the travel assignment. Based on the results of our investigations, we are reporting our determination that a per diem allowance of \$65 would be necessary to adequately compensate Government travelers for travel in areas not designated as HRGA's and an actual expenses rate of \$85 would be necessary for unusual circumstances type travel. We cannot take administrative action to increase the \$50 per diem rate or the \$75 actual expense rate, however, since the current allowances are already at the statutory maximums of \$50 and \$75, respectively.

Our investigations with respect to privately owned vehicles reveal an average cost of 20.5 cents per mile for operating an automobile, 25.0 cents a mile for operating a motorcycle, and 63.0 cents a mile for operating an airplane. The average per mile operating cost for automobiles has not changed since our last report, and therefore no regulatory change to the current 20.5-cent automobile mileage allowance is required. Although the costs of operation have increased for both motorcycles and airplanes, the current allowances of 20 cents per mile and 45 cents per mile, respectively, are at the statutory ceilings and cannot be administratively increased.

This report on the costs of travel and the operation of privately owned vehicles will be published in the Federal Register.

EXISTING HIGH RATE GEOGRAPHICAL AREA (HRGA) ALLOWANCE CHANGES

HRGA	Previous rate	Current study cost	Current rate
Alabama			
1. Birmingham	\$67	\$72.45	\$72
2. Huntsville	63	67.70	68
3. Mobile	62	62.50	63
Arizona			
4. Page:			
(Apr. 1-Oct. 31, incl.) in	60	64.95	65
(Nov. 1-Mar. 31, incl.) off	60	53.65	P/D
5. Phoenix/Scottsdale	70	76.00	75
6. Tucson	71	72.15	72
7. Yuma	55	56.75	57
Arkansas			
8. Little rock	64	69.85	70
California			
9. Fresno	72	77.10	75
10. Los Angeles	75	125.10	75
11. Monterey:			
(May 1-Oct. 31, incl.) in	75	89.65	75
(Nov. 1-Apr. 30, incl.) off	75	87.45	75
12. Palm Springs:			
(Dec. 1-Jun. 30, incl.) in	75	90.65	75
(Jul. 1-Nov. 30, incl.) off	73	80.15	75
13. Sacramento	75	83.70	75
14. San Diego	75	109.40	75
15. San Francisco/Oakland	75	126.95	75
16. San Jose	75	88.65	75
17. San Luis Obispo:			
(May 1-Oct. 31, incl.) in	70	73.50	74
(Nov. 1-Apr. 30, incl.) off	64	70.30	74
18. San Mateo	69	72.50	73
19. Santa Barbara	75	95.40	75
20. Santa Cruz:			
(May 1-Oct. 31, incl.) in	75	81.60	75
(Nov. 1-Apr. 30, incl.) off	71	74.60	75
21. Vallejo	68	58.45	58
Colorado			
22. Aspen:			
(Nov. 1-Apr. 30, incl.) in	75	84.35	75
(May 1-Oct. 31, incl.) off	75	82.55	75
23. Boulder	71	78.65	75
24. Colorado Springs:			
(Memorial Day-Labor Day, incl.) in	61	66.30	66
(All other times) off	61	51.95	P/D
25. Denver	75	100.10	75
26. Durango:			
(May 1-Nov. 30, incl.) in	65	71.40	71
(Dec. 1-Apr. 30, incl.) off	65	67.40	71
27. Glenwood Springs	69	67.90	68
28. Grand Junction	63	64.90	65
29. Vail:			
(Dec. 1-Apr. 30, incl.) in	75	128.65	75
(May 1-Nov. 30, incl.) off	75	91.10	75
Connecticut			
30. Bridgeport	75	80.90	75
31. Hartford	75	86.35	75
32. New Haven	75	82.60	75
33. New London/Groton:			
(Apr. 1-Oct. 31, incl.) in	72	75.60	75
(Nov. 1-Mar. 31, incl.) off	75	64.45	64
Delaware			
34. Wilmington	75	85.55	75
District of Columbia			
35. Washington	75	148.60	75
Florida			
36. Cocoa Beach:			
(Sep. 1-Apr. 30, incl.) in	65	68.15	68
(May 1-Aug. 31, incl.) off	65	67.45	68
37. Ft. Lauderdale:			
(Nov. 1-May 31, incl.) in	71	79.80	75
(Jun. 1-Oct. 31, incl.) off	71	77.70	75
38. Ft. Walton Beach:			
(May 1-Sep. 30, incl.) in	75	81.60	75
(Oct. 1-Apr. 30, incl.) off	55	64.00	64
39. Gainesville	56	60.45	60
40. Jacksonville	68	70.80	71
41. Miami	75	95.15	75
42. Orlando	69	75.20	75
43. Panama City:			
(May 1-Sep. 30, incl.) in	71	75.15	75
(Oct. 1-Apr. 30, incl.) off	71	56.95	57

EXISTING HIGH RATE GEOGRAPHICAL AREA (HRGA) ALLOWANCE CHANGES—Continued

HRGA	Previous rate	Current study cost	Current rate
44. Pensacola	60	63.15	63
45. Sarasota:			
(Dec. 1-Apr. 30, incl.) in	58	61.75	62
(May 1-Nov. 30, incl.) off	58	59.60	62
46. Tallahassee	57	60.35	60
47. Tampa/St. Petersburg	75	90.75	75
48. West Palm Beach:			
(Dec. 1-Apr. 30, incl.) in	60	69.55	70
(May 1-Nov. 30, incl.) off	60	64.10	64
Georgia			
49. Albany	56	59.65	60
50. Atlanta	75	94.30	75
51. Savannah	60	61.05	61
Idaho			
52. Boise	63	68.25	68
Illinois			
53. Chicago	75	121.75	75
54. Rockford	58	62.30	62
55. Springfield	62	64.70	65
Indiana			
56. Ft. Wayne	67	69.90	70
57. Gary	85	66.85	67
58. Indianapolis	75	81.40	75
59. South Bend	64	67.30	67
Iowa			
60. Des Moines	62	65.20	65
Kansas			
61. Wichita	74	76.35	75
Kentucky			
62. Covington	62	64.80	65
63. Lexington	73	75.80	75
64. Louisville/Charlestown, IN	74	75.15	75
Louisiana			
65. Baton Rouge	75	81.10	75
66. Lafayette	65	68.65	69
67. Lake Charles	63	65.45	65
68. New Orleans	75	101.70	75
Maine			
69. Portland	72	77.15	75
Maryland			
70. Annapolis	66	69.75	70
71. Baltimore	75	90.45	75
72. Ocean City:			
(May 1-Labor Day, incl.) in	75	105.50	75
(After Labor Day-Apr. 30, incl.) off	75	63.40	63
73. Salisbury	68	56.95	57
Massachusetts			
74. Boston	75	112.70	75
75. Hyannis:			
(Jun. 1-Labor Day, incl.) in	75	82.65	75
(After Labor Day-May 31, incl.) off	56	63.15	63
76. Martha's Vineyard/Nantucket:			
(Jun. 1-Labor Day, incl.) in	75	102.80	75
(After Labor Day-May 31, incl.) off	68	68.50	69
77. New Bedford	69	70.45	70
78. Pittsfield	66	71.00	71
79. Springfield	65	67.40	67
80. Worcester	67	68.80	69
Michigan			
81. Ann Arbor	68	69.70	70
82. Detroit	75	94.05	75
83. Grand Rapids	66	68.30	68
84. Kalamazoo	62	63.95	64
85. Pontiac	66	66.45	66
86. Saginaw	63	66.15	66
87. Warren	68	69.90	70
Minnesota			
88. Duluth	63	65.80	66
89. Minneapolis/St. Paul	75	89.05	75
Mississippi			
90. Gulfport:			
(May 1-Sept. 30, incl.) in	62	64.20	64
(Oct. 1-Apr. 30, incl.) off	62	57.70	58
91. Jackson	63	66.50	67

EXISTING HIGH RATE GEOGRAPHICAL AREA
(HRGA) ALLOWANCE CHANGES—Continued

HRGA	Pre- vious rate	Current study cost	Current rate
Missouri			
92. Kansas City	75	97.60	175
93. St. Louis	75	88.35	175
94. Springfield	57	62.25	62
Montana			
95. Great Falls	56	59.40	59
Nebraska			
96. Lincoln	55	58.00	58
97. Omaha	67	69.90	70
Nevada			
98. Carson City	55	56.35	56
99. Las Vegas	75	98.30	175
100. Reno	60	66.05	66
New Hampshire			
101. Manchester	69	73.60	74
102. Portsmouth: (Memorial Day-Oct. 31, incl.) in	63	64.55	65
(Nov. 1-After Mem. Day, incl.) off	63	53.90	P/D
New Jersey			
103. Atlantic City	75	117.60	175
104. Camden	67	71.35	71
105. Cape May: (Jun. 1-Labor Day, incl.) in	75	84.35	175
(After Labor Day-May 31, incl.) off	75	57.15	57
106. Dover	75	78.70	175
107. Eatontown	75	84.20	175
108. Edison	75	78.75	175
109. Newark	75	96.15	175
110. Princeton/Trenton	75	84.65	175
111. Tom's River: (Jun. 1-Sep. 30, incl.) in	69	82.00	175
(Oct. 1-May 31, incl.) off	69	71.45	175
New Mexico			
112. Albuquerque	73	80.45	175
113. Santa Fe: (Jun. 1-Oct. 31, incl.) in	75	94.85	175
(Nov. 1-May 31, incl.) off	71	79.45	175
New York			
114. Albany	74	79.50	175
115. Buffalo/Niagara Falls	73	76.30	175
116. Lake Placid: (Jun. 1-Labor Day, incl.) in	75	84.25	175
(After Labor Day-May 31, incl.) off	73	65.35	65
117. New York: Manhattan only	75	164.35	175
Other than Manhattan	75	114.25	175
118. Rochester	75	89.45	175
119. Syracuse	75	80.25	175
120. West Point	62	63.30	63
North Carolina			
121. Asheville	75	67.90	68
122. Charlotte	65	72.30	72
123. Durham	55	56.25	56
124. Raleigh	70	73.50	74
North Dakota			
125. Bismarck	61	63.65	64
Ohio			
126. Akron	61	65.25	65
127. Cincinnati/Findlay	75	80.35	175
128. Cleveland	75	84.25	175
129. Columbus	71	75.00	75
130. Dayton	74	77.45	175
131. Toledo	70	70.40	70
Oklahoma			
132. Oklahoma City	67	71.50	72
133. Tulsa	75	86.05	175
Oregon			
134. Portland	73	77.65	175
Pennsylvania			
135. Chester	59	64.50	65
136. Coatesville/Valley Forge	75	87.30	175
137. Erie	55	70.35	70
138. Harrisburg	75	83.00	175

EXISTING HIGH RATE GEOGRAPHICAL AREA
(HRGA) ALLOWANCE CHANGES—Continued

HRGA	Pre- vious rate	Current study cost	Current rate
139. King of Prussia/Fort Washing- ton	75	86.90	175
140. Philadelphia/Bala Cynwyd	75	98.70	175
141. Pittsburgh/Monroeville	75	95.15	175
142. Reading	58	63.05	63
143. York	63	65.85	66
Rhode Island			
144. Newport: (May 1-Oct. 31, incl.) in	75	102.60	175
(Nov. 1-Oct. 30, incl.) off	71	72.15	175
145. Providence	75	83.15	175
South Carolina			
146. Charleston	66	67.90	68
147. Columbia	65	67.60	68
148. Hilton Head: (Mar. 1-Nov. 30, incl.) in	75	112.25	175
(Dec. 1-Feb. 28/29, incl.) off	75	92.85	175
South Dakota			
149. Rapid City: (Jun. 1-Sep. 30, incl.) in	65	67.85	68
(Oct. 1-May 31, incl.) off	65	53.10	P/D
150. Sioux Falls	59	60.20	60
Tennessee			
151. Chattanooga	59	60.60	61
152. Knoxville/Oakridge	58	63.65	64
153. Memphis	73	75.20	75
154. Nashville	69	71.40	71
Texas			
155. Amarillo	61	65.35	65
156. Austin	75	86.10	175
157. Beaumont	58	60.25	60
158. Brownsville	60	62.05	62
159. Corpus Christi	75	75.95	175
160. Dallas/Fort Worth	75	110.60	175
161. El Paso	72	73.65	74
162. Galveston: (Memorial Day-Labor Day, incl.) in	75	94.00	175
(All other times) off	68	70.95	175
163. Houston	75	104.90	175
164. Lubbock	58	59.95	60
165. San Antonio	75	84.90	175
Utah			
166. Salt Lake City	75	79.30	175
Vermont			
167. Burlington	66	67.80	68
Virginia			
168. Manassas: (Apr. 1-Nov. 30, incl.) in	61	63.15	63
(Dec. 1-Mar. 31, incl.) off	61	58.90	63
169. Norfolk	74	78.30	175
170. Richmond	65	70.70	71
171. Roanoke	59	63.20	63
172. Williamsburg: (Apr. 1-Oct. 31, incl.) in	75	86.35	175
(Nov. 1-Mar. 31, incl.) off	65	69.60	70
Washington			
173. Seattle	75	95.90	175
174. Spokane	68	70.45	70
175. Tacoma	61	63.60	64
West Virginia			
176. Charleston	68	70.00	70
Wisconsin			
177. Madison	67	75.05	75
178. Milwaukee	75	83.10	175
Wyoming			
179. Casper	69	68.05	68
180. Cheyenne	62	64.90	65
181. Rock Springs	63	67.65	68

¹ Although the subsistence costs exceed \$75 per day, the daily allowance cannot exceed the statutory maximum of \$75.

² Seasonal rates are not differential because the difference in subsistence costs is not \$5 or more in accordance with GSA policy.

NEW AREAS WHICH QUALIFY FOR DESIGNATION
AS HRGA's

HRGA	Study cost	Current rate
1. Andover, MA	77.90	175
2. Bath, ME	57.00	57
3. Evanston, WY	56.05	56
4. Fort Myers, FL: (Dec. 1-Apr. 30, incl.) in	60.10	60
(May 1-Nov. 30, incl.) off	58.30	60
5. Gillette, WY	68.65	69
6. Jackson, WY: (Nov. 1-Mar. 31, incl.) in	86.60	175
(Apr. 1-Oct. 31, incl.) off	76.45	175
7. Lewes, DE: (May 1-Sep. 30, incl.) in	65.00	65
(Oct. 1-Apr. 30, incl.) off		P/D
8. Los Alamos, NM	57.80	58
9. Marquette, MI	55.00	55
10. Mechanicsburg, PA	55.40	55
11. Midland/Odessa, TX	67.45	67
12. Myrtle Beach, SC: (Mar. 1-Sep. 30, incl.) in	66.27	66
(Oct. 1-Feb. 28/29 incl.) off	48.89	P/D
13. St. Augustine, FL	60.55	61
14. Shreveport, LA	74.35	74
15. Victorville, CA	60.32	60
16. Warminster, PA	65.81	66
17. West Sacramento, CA	67.00	67
18. White Plains, NY	107.95	175

¹ Although the subsistence costs exceed \$75 per day, the daily allowance cannot exceed the statutory maximum of \$75.

[FR Doc. 84-15916 Filed 6-13-84; 8:45 am]

BILLING CODE 6820-24-M

National Archives and Records
ServiceAdvisory Committee on Preservation;
Meeting

Notice is hereby given that the Executive Committee of the Advisory Committee on Preservation will meet on Friday, July 13, 1984 from 9 a.m. to 4 p.m. in Room 105 of the National Archives Building, Washington, D.C.

The agenda for the meeting will be:

1. Finalize recommendations concerning preservation policies and practices at the National Archives.
2. Plan work for subcommittees.
3. Plan review of conservation program.

The meeting will be open to the public. For further information call Alan Calmes, 202-523-3159.

Dated: June 5, 1984.

Robert M. Warner,
Archivist of the United States.

[FR Doc. 84-15917 Filed 6-13-84; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory body scheduled to assemble during the month of June 1984.

Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee

June 27-29; 9:00 a.m., Holiday Inn
Bethesda, 8120 Wisconsin Avenue,
Bethesda, Maryland 20814
Open—June 27; 9:00-10:00 a.m.
Closed—Otherwise
Contact: Pamela J. Mitchell, Room 9C-
18, Parklawn Building, 5600 Fishers
Lane, Rockville, Maryland 20857, (301)
443-1367

Purpose: The subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of treatment development and assessment with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., June 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. Summaries of the meeting and roster of the committee members may be obtained from Mrs. Helen Garrett, Committee Management Officer, National Institute of Mental Health, Room 17C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4333.

Dated: June 8, 1984.

Sue Simons,
Committee Management Officer, Alcohol,
Drug Abuse, and Mental Health
Administration.

[FR Doc. 84-15961 Filed 6-13-84; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 84P-0172]

Food for Human Consumption; Enriched Bread Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Fuchs Baking Co. to market test a bread enriched to the nutrient levels recommended by the National Academy of Sciences, Food and Nutrition Board (FNB), in 1974 (with the exception that iron will remain at the level required by the standard of identity for enriched bread). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATE: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than September 12, 1984.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (formerly Bureau of Foods) (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of a standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). FDA is giving notice that a temporary permit has been issued to Fuchs Baking Co., Miami, FL 33166.

The permit covers limited interstate marketing tests of enriched special formula bread. The test product deviates from the standard of identity for enriched bread, 21 CFR 136.115, in that it will contain in each 2-slice (approximately 2 ounces) serving: (1) 6 percent of the U.S. Recommended Daily Allowance (RDA) of vitamin A, (2) 8 percent of U.S. RDA of vitamin B-6, (3) 8 percent of the U.S. RDA of folic acid, (4) 6 percent of the U.S. RDA of magnesium

and (5) 6 percent of the U.S. RDA of zinc. The test product meets all requirements of § 136.115, with the exception of these deviations.

The permit provides for the temporary marketing of 62,500 pounds per week of the product. The test product will be distributed in the State of Florida. The test product is to be manufactured at the Fuchs Baking Co., Miami, FL 33166.

The principal display panel of the label states the product name as "enriched special formula bread", and each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101. A side-by-side comparison of the percentage of U.S. RDA's for nutrients in the test product and in regular enriched bread is shown on the label for the applicable nutrients. This permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but not later than September 18, 1984.

Dated: June 7, 1984.

Richard J. Konk,
Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-15908 Filed 6-13-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84P-0171]

Food for Human Consumption; Enriched Bread Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Butter Krust Baking Co., Inc., to market test a bread enriched to the nutrient levels recommended by the National Academy of Sciences, Food and Nutrition Board (FNB), in 1974 (with the exception that iron will remain at the level required by the standard of identity for enriched bread). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than September 12, 1984.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (formerly Bureau of Foods) (HFF-214), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of a standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Butter Krust Baking Co., Inc., Sunbury, PA 17801.

The permit covers limited interstate marketing tests of enriched special formula bread. The test product deviates from the standard of identity for enriched bread, 21 CFR 138.115, in that it will contain in each 2-slice (approximately 2 ounces) serving: (1) 6 percent of the U.S. Recommended Daily Allowance (RDA) of vitamin A, (2) 8 percent of U.S. RDA of vitamin B-6, (3) 8 percent of the U.S. RDA of folic acid, (4) 6 percent of the U.S. RDA of magnesium, and (5) 6 percent of the U.S. RDA of zinc. The test product meets all requirements of § 136.115, with the exception of these deviations.

The permit provides for the temporary marketing of 62,500 pounds per week of the product. The test product will be distributed in the States of Pennsylvania and Maryland. The test product is to be manufactured at the Butter Krust Baking Co., Inc., Sunbury, PA 17801.

The principal display panel of the label states the product name as "enriched special formula bread", and each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101. A side-by-side comparison of the percentage of U.S. RDA's nutrients in the test product and in regular enriched bread is shown on the label for the applicable nutrients. This permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than September 12, 1984.

Dated: June 7, 1984.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-15908 Filed 6-13-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84F-0170]

Matsumoto Yushi-Seiyaku Co., Ltd.;
Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Matsumoto Yushi-Seiyaku Co., Ltd., has filed a petition proposing that the

food additive regulations be amended to provide for the safe use of ethoxylated octadecylamine reacted with octadecanoic acid for use as an antistatic agent for stretched polypropylene films.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (formerly Bureau of Foods) (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4B3801) has been filed by Matsumoto Yushi-Seiyaku Co., Ltd., c/o Center for Regulatory Services, 2347 Paddock Lane, Reston, VA 22091, proposing that § 178.3130 *Antistatic and/or anti-fogging agents in food-packaging materials* (21 CFR 178.3130) be amended to provide for the safe use of ethoxylated octadecylamine reacted with octadecanoic acid for use as an antistatic agent for stretched polypropylene films complying with 21 CFR 177.1520.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the *Federal Register* in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: June 1, 1984.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-15907 Filed 6-13-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84F-0183]

NL Chemicals/NL Industries, Inc.;
Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that NL Chemicals/NL Industries, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of zinc hydroxy phosphite as an anticorrosive pigment in resinous and polymeric coatings intended to contact dry food.

FOR FURTHER INFORMATION CONTACT: Julia L. Ho, Center for Food Safety and Applied Nutrition (formerly the Bureau

of Foods (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4B3767) has been filed by NL Chemicals/NL Industries, Inc., Wyckoff Mills Rd., Hightstown, NJ 08520, proposing that the food additive regulations be amended to provide for the safe use of zinc hydroxy phosphite as an anticorrosive pigment in resinous and polymeric coatings intended to contact dry food.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 1, 1984.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-15906 Filed 6-13-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-09006]

Colorado; Proposed Continuation of
Withdrawal; Air Force Academy,
Colorado

Correction

In FR Doc. 84-14698 beginning on page 22894 in the issue of Friday, June 1, 1984, make the following corrections.

On page 22894, third column, in the heading "Continuation" should read "Continuation".

On page 22895, first column, line 5, "1076" should read "1976"; in the second complete paragraph, line 7, "purposes" should read "purpose".

BILLING CODE 1505-01-M

[Serial No. I-1639]

Idaho; Termination of Classification
for Multiple-Use Management

1. Pursuant to the authority delegated by BLM Manual section 1203—

Delegation of Authority (48 FR 85), I hereby terminate the Bureau of Land Management Multiple-Use Classification Order dated November 9, 1967, and published in the **Federal Register** November 16, 1967, vol. 32, No. 222 page 15767-15768, insofar as it affects the lands described below:

Boise Meridian, Idaho

- T. 16 N., R. 19 E.,
Sec. 1, those portions within Lemhi County.
- T. 16 N., R. 20 E.,
Secs. 1 to 8 inclusive, those portions within Lemhi County;
Secs. 11 to 14 inclusive, those portions within Lemhi County.
- T. 17 N., R. 20 E., all public lands outside the National Forest boundary.
- T. 18 N., R. 20 E.,
Secs. 1, 12, 13, 24, 25, and 36.
- T. 15 N., R. 21 E.,
Secs. 1 to 4 inclusive;
Secs. 10 to 15 inclusive.
- T. 16 N., R. 21 E., all public lands within the township.
- T. 17 N., R. 21 E., all public lands outside the National Forest boundary.
- T. 18 N., R. 21 E., all public lands outside the National Forest boundary.
- T. 19 N., R. 21 E.,
Secs. 2 to 4 inclusive;
Secs. 9, 10;
Sec. 11, lots 3, 4, 5, 8, and 9, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 14, lots 2, 3, 7, and 8;
Sec. 15;
Secs. 20 to 29 inclusive;
Secs. 32 to 35 inclusive.
- T. 13 N., R. 22 E.,
Sec. 1, those portions within Lemhi County.
- T. 14 N., R. 22 E.,
Secs. 1 to 4 inclusive;
Sec. 5, E $\frac{1}{2}$;
Sec. 9, E $\frac{1}{2}$;
Secs. 10 to 13 inclusive;
Sec. 14, N $\frac{1}{2}$, SE $\frac{1}{4}$;
Secs. 24, 25, and 35, those portions within Lemhi County.
- T. 15 N., R. 22 E., all public lands within the township.
- T. 16 N., R. 22 E.,
Sec. 31.
- T. 13 N., R. 23 E.,
Secs. 1 to 6 inclusive, those portions within Lemhi County.
Secs. 8 to 12 inclusive, those portions within Lemhi County.
- T. 14 N., R. 23 E., all public lands outside the National Forest boundary.
- T. 15 N., R. 23 E.,
Sec. 31.
- T. 13 N., R. 24 E.,
Secs. 6 to 8 inclusive;
Secs. 16, 17, 18, and 21, those portions within Lemhi County.
- T. 14 N., R. 24 E.,
Sec. 30, W $\frac{1}{2}$;
Sec. 31.

The areas described contain approximately 129,770 acres.

The lands described above have been and will continue to be open to the mining laws, applications, and offers under the mineral leasing laws.

2. The following-described Recreation Sites, which were further segregated from appropriation under the general mining laws, will remain segregated by virtue of the classification order dated November 9, 1967, Vol. 32, No. 222 paragraph 3, page 15768:

Boise Meridian, Idaho

- Little Morgan Creek
- T. 15 N., R. 21 E.,
Sec. 1, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 2, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 11, NE $\frac{1}{4}$ NE $\frac{1}{4}$.
- Cow Creek
- T. 16 N., R. 21 E.,
Sec. 8, lots 4 and 5.
- Cronks Canyon
- T. 16 N., R. 21 E.,
Sec. 8, lot 8;
Sec. 17, lot 1.
- EZRA Creek
- T. 17 N., R. 21 E.,
Sec. 9, lots 1 and 4.
- T. 18 N., R. 21 E.,
Sec. 31, NE $\frac{1}{4}$ SW $\frac{1}{4}$.
- McKim Creek
- T. 17 N., R. 21 E.,
Sec. 17, lot 2.
- Ringle Creek
- T. 18 N., R. 21 E.,
Sec. 33, lots 1, 4, and 5.
- The areas described contain approximately 580.98 acres.

3. The segregative effect on the lands described in paragraph 1 of this order will terminate upon publication of this notice in the **Federal Register** as provided by the regulation in 43 CFR 2461.5(c)(2). At 9:00 a.m. on July 11, 1984, the lands shall be open to operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9:00 a.m. on July 11, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Chief, Branch of Land Operations, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: June 7, 1984.

Clair M. Whitlock,
State Director.

[FR Doc. 84-15918 Filed 6-13-84; 8:45 am]

BILLING CODE 4310-GG-M

[C-28259]

Colorado; Proposed Continuation of Withdrawal

June 7, 1984.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a 540-acre withdrawal be continued for an additional 20 year period. The lands will remain closed to surface entry and mining but have been and remain open to mineral leasing.

DATE: Comments should be received within 90 days of publication date.

ADDRESS: Comments should be sent to State Director, Colorado State Office, 1037 20th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-844-2592.

The Bureau of Reclamation proposes that the existing land withdrawals made by Secretarial Orders dated November 9, 1936, October 14, 1937, and June 20, 1945, as amended, be continued for a period of 20 years in accordance with Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

These orders withdrew approximately 540 acres of national forest land. The land is located in the San Juan National Forest in Tps. 36 and 37 North, R. 6 W., New Mexico Principal Meridian.

The purpose of the withdrawal is to protect the Pine River Project. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the State Director, Colorado State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**.

The existing withdrawal will continue until such final determination is made.

Robert D. Dinsmore,
Chief, Branch of Lands and Minerals
Operations.

[FR Doc. 84-15911 Filed 6-13-84; 8:45 am]

BILLING CODE 4310-JB-M

Utah; Closures or Restrictions

AGENCY: Bureau of Land Management, Interior.

ACTION: Restrictions on Use of the Green River and Bordering Public Land.

SUMMARY: Pursuant to 43 CFR 8364.1, it is ordered that the prohibitions listed below apply to the Green River Corridor (line of sight out to a maximum of 2 miles) beginning at Red Creek Rapids and continuing down river to the Utah-Colorado state line.

The following prohibited acts as set forth are hereby applied to the above described area:

1. Possessing or operating a motor powered water craft between Red Creek Rapids and Indian Crossing Recreation Site Boat Ramp in Brown's Park.
2. Storing or leaving a watercraft, camp trailer and other equipment unattended for more than 24 hours.
3. Camping or site occupancy of more than 3 consecutive days within sight of the Green River from Little Hole to Indian Crossing (excluding Indian Crossing) on BLM administered land. Occupancy is limited to 14 consecutive days maximum in any 30 day period on all other areas within the Green River Corridor.

This order exempts any Federal, state or local officer in performance of official duty and those persons having Diamond Mountain Resource Area Manager written authorization.

These actions are necessary to:
Preserve solitude and recreational experience associated with float boating.

Avoid long-term storage of vehicles/equipment that creates a visual intrusion and site occupancy to the exclusion of others.

Offer camping opportunities to various people at the limited number of camping sites or areas.

Any person who knowingly and willfully violates any of the prohibitions shall be fined not more than \$1,000 and/or imprisoned for not more than 12 months. (43 CFR 8360.0-7).

This order shall remain in effect until rescinded or modified.

This order becomes effective May 30, 1984.

ADDRESS: Comments and suggestions should be sent to: District Manager,

Vernal District Office, 170 South 400 East, Vernal, Utah 84078.

Dated: June 4, 1984.

Lloyd H. Ferguson,
District Manager.

[FR Doc. 84-15910 Filed 6-13-84; 8:45 am]

BILLING CODE 4310-DQ-M

[I-19951, I-19965, and I-19966]

Public Land Sale; Ada and Boise Counties, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action I-19951, I-19965, and I-19966, Modified Competitive Sale of Public Land in Ada and Boise Counties, Idaho.

SUMMARY: The following described land has been examined and, through land use planning and public input, has been determined to be suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976. Fair market value will be available no less than 30 days prior to the sale date. Sealed bids only will be accepted.

Boise Meridian, Idaho

(I-19951)

T. 5 N., R. 1 E.,
Sec. 3, SW $\frac{1}{4}$ NW $\frac{1}{4}$.
Containing 40 acres.

(I-19965)

T. 6 N., R. 2 E.,
Sec. 17, SE $\frac{1}{4}$ NE $\frac{1}{4}$.
Containing 40 acres.

(I-19966)

T. 6 N., R. 2 E.,
Sec. 31, lot 1.
Containing 38.81 acres.

The land, when patented, will be subject to the following reservations to the United States:

1. Ditches and canals.
2. Geothermal resources.
3. All valid, existing rights and reservations of record.

Sale of the lands will be subject to temporary continued use of existing grazing privileges.

The land is hereby segregated from all appropriation under the public land laws including the mining laws until sold or September 25, 1984.

The land is being offered for sale subject to a preference bidding designation to allow Spring Valley Livestock Co. to meet the highest bid of each tract based on historical use and adjacent land ownership. Refusal or failure to meet the highest bid within 30 days of this sale offering shall constitute a waiver of such bidding provisions and

the land will be offered to the highest bidder.

Sealed bids must be received in this office no later than August 31, 1984. Bids for less than the fair market value will not be accepted. A bid will constitute an application for conveyance of mineral interests of no known value. A \$50 non-returnable filing fee for processing such conveyance, along with one-fifth of the full bid price, must accompany each bid. Any unsold parcel will be offered every Tuesday until sold or until September 25, 1984.

DATE AND ADDRESS: The sale offering will be held on September 4, 1984, at 10:00 a.m. in the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale terms and conditions, bidding procedures, and other details can be obtained by contacting Mike Berch at the above address, or by calling (208) 334-1582.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the Boise District Manager at the above address.

Dated: June 5, 1984.

Martin J. Zimmer,
District Manager.

[FR Doc. 84-15914 Filed 6-13-84; 8:45 am]

BILLING CODE 4310-QG-M

[I-19953, I-19956 and I-19960]

Public Land Sale; Ada County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action I-19953, I-19956, and I-19960, Modified Competitive Sale of Public Land in Ada County, Idaho.

SUMMARY: The following described land has been examined and, through land use planning and public input, has been determined to be suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976. Fair market value will be available no less than 30 days prior to the sale date. Sealed bids only will be accepted.

Boise Meridian, Idaho

(I-19953)

T. 5 N., R. 1 E.,
Sec. 7, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 8, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 18, NE $\frac{1}{4}$ NE $\frac{1}{4}$.
Containing 240 acres.

(I-19956)

T. 5 N., R. 1 E.,
Sec. 22, S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$.
Containing 120 acres.

(I-19960)

T. 5 N., R. 1 W.,
Sec. 1, lot 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 2, lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$.
Containing 197.06 acres.

The land, when patented, will be subject to the following reservations to the United States:

1. Ditches and canals.
2. Geothermal resources, oil and gas.
3. All valid, existing rights and reservations of record.

Sale of the lands will be subject to temporary continued use of existing grazing privileges.

The land is hereby segregated from all appropriation under the public land laws including the mining laws until sold or September 25, 1984.

The land is being offered for sale subject to a preference bidding designation to allow Spring Valley Livestock Co. and Highland Livestock and Land Co. to meet the highest bid of I-19953, William Kosterman to meet the highest bid of I-19956, and Highland Livestock and Land Co. to meet the highest bid of I-19960 based on historical use and adjacent land

ownership. Refusal or failure to meet the highest bid within 30 days of this sale offering shall constitute a waiver of such bidding provisions and the land will be offered to the highest bidder.

Sealed bids must be received in this office no later than September 10, 1984. Bids for less than the fair market value will not be accepted. A bid will constitute an application for conveyance of mineral interests of no known value. A \$50 non-returnable filing fee for processing such conveyance, along with one-fifth of the full bid price, must accompany each bid. Any unsold parcel will be offered every Tuesday until sold or until September 25, 1984.

DATE AND ADDRESS: The sale offering will be held on September 11, 1984, at 10:00 a.m. in the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale terms and conditions, bidding procedures, and other details can be obtained by contacting Mike Berch at the above address, or by calling (208) 334-1582.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the Boise District Manager at the above address.

Dated: June 5, 1984.

Martin J. Zimmer,
District Manager.

[FR Doc. 84-15915 Filed 6-13-84; 8:45 am]

BILLING CODE 4310-GG-M

Realty Action Sale of Public Lands; Socorro and Catron Counties, New Mexico

The following described parcels of land have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) (FLPMA) at no less than the appraised fair market value shown. The parcels are isolated, difficult and uneconomical to manage as part of the public lands, and are not suitable for management by another Federal department or agency. The sale is consistent with the Bureau's planning efforts, and the public interest will be served by offering this land for sale.

Parcel 1a, 1b, 1c, 1d, and 2 will be offered for sale using competitive bidding procedures (43 CFR 2711.3-1). On Parcel 3 the bidding will be modified to allow bids from designated bidders only. Parcels 4 through 12 will be offered as direct sales to the current occupants of the lands.

Parcel No.	Serial No.	Legal description, NMPM	Acreage	Appraised value	Method of sale
1a	NM 57054	T. 3 S., R. 11 W., Sec. 21, W $\frac{1}{2}$	320	\$37,550	Competitive.
1b	NM 57054	T. 3 S., R. 11 W., Sec. 21, E $\frac{1}{2}$	320	37,550	Do.
1c	NM 57054	T. 3 S., R. 11 W., Sec. 22, NW $\frac{1}{4}$	160	18,800	Do.
1d	NM 57054	T. 3 S., R. 11 W., Sec. 22, SW $\frac{1}{4}$	160	18,800	Do.
2	NM 57057	T. 1 S., R. 1 W., Sec. 23, lot 37. Also known as: Tract 48A of MRGCD map 150	4.57	4,575	Do.
3	NM 57055	T. 2 S., R. 10 W., Sec. 14, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$	20	15,000	Modified competitive.
4	NM 57051	T. 1 S., R. 1 W., Sec. 23, portion of lots 23 and 24. T. 2 S., R. 1 W., Sec. 1, portions of lots 41, 44, and 45. Sec. 2, portion of lots 46 and 60, Sec. 11, portion of lot 42. Sec. 12, lots 27, 32, and 34	Approx. 39.85	100	Direct.
5	NM 57060	T. 1 S., R. 1 W., Sec. 23, portion of lot 40. T. 2 S., R. 1 W., Sec. 1, portion of lot 49. Also known as: Portion of highway, MRGCD maps 150 and 153.	Approx. 0.56	2.50	Do.
6	NM 54592	T. 2 S., R. 1 W., Sec. 2, portions of lot 40 and tract 41. Also known as: Portion of tract 70 of MRGCD map 153.	Approx. 0.50	700	Do.
7	NM 54594	T. 2 S., R. 1 W., Sec. 1, portion of lot 45. Also known as: Portion of tracts 168a and 168b of MRGCD map 153.	Approx. 0.21	250	Do.
8	NM 54599	T. 2 S., R. 1 W., Sec. 11, portion of lot 41. Also known as: Portion of tract 32B-1, MRGCD maps 154 and 155.	Approx. 0.01	2.50	Do.
9	NM 54604	T. 2 S., R. 1 W., Sec. 11, portion of lot 41. Also known as: Portion of a road on MRGCD maps 154 and 155.	Approx. 0.58	2.50	Do.
10	NM 57048	T. 2 S., R. 1 W., Sec. 1, portion of lot 47. Also known as: Portion of tract 168b-2 of MRGCD map 153	Approx. 1.30	1,300	Do.
11	NM 54600	T. 4 S., R. 1 E., Sec. 6, portion of lot 20	Approx. 0.47	110	Do.
12	NM 54601	T. 4 S., R. 1 E., Sec. 6, portion of lot 20	Approx. 0.44	135	Do.

Sales Procedures

All bidders must be 18 years of age or over and U.S. Citizens, and corporations be subject to the laws of any state or of the United States. Bids must be made by the principal or his duly qualified agent.

Sealed bids will be considered only if received in the Socorro Resource Area Office, 122 Plaza, P.O. Box 1219, Socorro, New Mexico 87801, before 10:00

a.m. on August 15, 1984, the date of the opening. Bids of less than fair market value will be rejected as required by FLPMA.

Each sealed bid must be accompanied by postal money order, bank draft or cashier's check made payable to the Bureau of Land Management, for not less than one-fifth of the amount of each bid. The sealed envelope must be marked in the lower left-hand corner as

follows: "Public Sale Bid Parcel —, Serial No. —, Sale Held (date), 1984.

Bids will be accepted for separate parcels. Additionally, bids will be accepted for the entire 960-acre tract, to be identified as Parcel 1, which consists of combined parcels 1a, 1b, 1c, and 1d. The highest qualifying bid for each parcel will establish the sale price for that parcel; except if a single bid for combined parcels 1a through 1d exceeds

the sum of high bids received for these parcels separately, then the single bid will be the sale price for parcels 1a, 1b, 1c, and 1d.

Parcel 3 will be offered as a modified competitive sale to the designated bidders who are the known accessible landowners. Only bids from the following designated bidders will be accepted on Parcel 3: Barney Padgett, P.O. Box 182, Datil, New Mexico 87821; Russel Richards, P.O. Box 95, Datil, New Mexico 87821; Johnson Land and Cattle Company, P.O. Box 154, Datil, New Mexico 87821; and David Guess, General Delivery, Datil, New Mexico 87821.

If two or more envelopes are received containing valid bids of the same amount for the same parcel, the successful bid will be determined by drawing. The drawing will be held by the Authorized Officer immediately following the opening of the bids.

The successful bidder will be required to pay the remainder of the sale price within 30 days. Failure to submit the full sale price within 30 days will disqualify the apparent high bidder and the deposit will be forfeited and disposed of as other receipts of sale. The land will then be offered to the next high bidder.

All bids will be either returned, accepted, or rejected with 30 days of the sale date. Parcels not sold on the day of the sale will be offered for sale every first Tuesday of each month, same time and place, on a competitive sealed bid basis until sold, or until January 13, 1985, at close of business.

Parcels 4 through 12 will be offered directly to the listed occupants not less than 60 days from date of this notice. If unsold, they will be offered for sale by the competitive procedure.

Parcel 4

Middle Rio Grande Conservancy District, 1930 2nd St. SW, Albuquerque, NM 87102.

Parcel 5

New Mexico State Highway Department, P.O. Box 1149, Santa Fe, NM 87503.

Parcel 6

Justiniano Santillanes, General Delivery, Lemitar, NM 87823.

Parcel 7

Donovan L. Swann, Rt. 1, Box 32, Lemitar, NM 87823.

Parcel 8

W. R. and Rosie Leona Griffay, Route 1, Box 63, Socorro, NM 87801.

Parcel 9

County of Socorro, P.O. Box I, Socorro, NM 87801.

Parcel 10

Constancio Sanchez, P.O. Box 1791, Socorro, NM 87801.

Parcel 11

Hubert R. Spurgin, Star Rt. 2, Socorro, NM 87801.

Parcel 12

Manuel and Sofie Rosas, Star Rt. 2, Box 132, Socorro, NM 87801.

Terms and Conditions

Patents issued as a result of the sale will be subject to all valid and existing rights and will contain the following reservations:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. All mineral deposits in the land so patented. Such minerals shall be subject to the right to explore, prospect for, mine and remove under applicable law and such regulations as the Secretary may prescribe.

3. All the geothermal steam and associated geothermal resources as to land so patented, and to it, or persons authorized by it, the right to prospect for, mine and remove such deposits upon compliance with the conditions and subject to the provisions and limitations of the Act of December 24, 1970 (84 Stat. 1566).

Parcels 1a Through 1d

On Parcels 1a, 1b, 1c, and 1d, the patents will be issued subject to those grazing rights granted by a term permit for grazing lease 2047 including the allowance of continued yearlong grazing of 228 head (836 AUMs) until February 28, 1989, at a cost not higher than the BLM grazing fee scheduled for a given year. On Parcels 1b and 1d, the patents will also be subject to those rights under Serial Number NM 52225 for buried telephone cable granted under the authority of FLPMA and under Serial Number NM 05468 for a highway granted under Section 17 of the Act of November 9, 1921.

Parcels 2 and 4 Through 12

On Parcels 2 and 4 through 12, the patents will be issued recognizing that they lie within a floodplain and as such the patentees and their successors will be limited by Section 3(d) of Executive Order 11988 of May 24, 1977 from seeking compensation from the United States or its agencies in the event

existing or future facilities on the patents are damaged by floods.

Supplementary Information:

Additional information concerning the land, terms and conditions of sale, and bidding instruction may be obtained from the Socorro Resource Area Office at the above address, or by calling Jon Hertz or Bernie Creager, Area Realty Specialist (505) 835-0412. For a period of 45 days from date of this notice, interested parties may submit comments regarding the proposed action.

Comments must reference specific parcel numbers. Adverse comments received on specific parcels will not affect the sale of any other parcel. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

The BLM may accept or reject any or all offers, or withdraw any land or interest in land for sale, if, in the opinion of the Authorized Officer, consummation of the sale would not be fully consistent with FLPMA or another applicable law.

F. Wayne Albrecht,

Acting Area Manager.

[FR Doc. 84-15912 Filed 6-13-84; 8:45 am]

BILLING CODE 4310-FB-M

Shoshone District Advisory Council Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the Shoshone District Advisory Council.

DATE: Wednesday, July 25, 1984, at 9:00 a.m.

ADDRESS: BLM District Office, 400 West F Street, Shoshone, Idaho 83352.

FOR FURTHER INFORMATION CONTACT: Jon Idso, ADM for Resources, Shoshone District Office, P.O. Box 2 B, Shoshone, Idaho 83352. Telephone (208) 886-2206 or FTS 554-6576.

SUPPLEMENTARY INFORMATION: The proposed agenda for the meeting includes the following items:

Monument RMP Update
Review RMP Comments and Hearing

Testimony
Develop Recommendation(s) on RMP

The Shoshone District Advisory Council is established under section 309

of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579; 43 U.S.C. 1701 et seq.) as amended. Operation and administration of the Council will be in accord with the Federal Advisory Committee Act of 1972 (Pub. L. 92-463; 5 U.S.C. Appendix 1) and Department of Interior regulations, including 43 CFR Part 1784.

The meeting will be open to the public. Anyone may present an oral statement before the Council between 1:00 and 2:00 p.m. or may file a written statement with the Council regarding matters on the agenda. Oral statements will be limited to ten minutes. Anyone wishing to make an oral statement should notify the Shoshone District Manager by July 24, 1984. Records of the meeting will be available in the Shoshone District Office for public inspection or copying within 30 days after the meeting.

Charles J. Haszler,
District Manager.

[FR Doc. 84-15913 Filed 6-13-84; 8:45 am]
BILLING CODE 4310-GG-M

Nevada; Filing of Plats of Survey and Order Providing for Opening of Lands

1. The Plats of Survey of lands described below will be officially filed at the Nevada State Office, Reno, Nevada, effective at 10:00 a.m., on July 20, 1984.

Mount Diablo Meridian, Nevada
T. 22 N., R. 51 E.

2. The land within the above township is between 6,400 and 8,400 ft. elevation above sea level. The soil consists of sandy clay loam in the lower elevations and rocky in the mountains. Undergrowth consists of scattered sagebrush, crested wheat grass, juniper, pinon pine and mountain mahogany.

Numerous trail roads are located in secs. 1 and 12, as well as a large amount of mining activity.

Principal users of the area are miners and local ranchers.

Mount Diablo Meridian, Nevada
T. 21½ N., R. 51½ E.

3. The land within the above township is about 6,400 ft. above sea level. The soil is rocky in the mountains and sandy clay at the lower elevations. Undergrowth consists of sagebrush, crested wheat grass, juniper and pinon pine.

Principal users of the area are ranchers.

Mount Diablo Meridian, Nevada
T. 22 N., R. 51½ E.

4. The land within the above township varies between 6,400 and 7,800 ft. above sea level. The soil consists of sandy clay loam in the lower elevations and rocky in the mountains. Undergrowth consists of sagebrush, crested wheat grass, juniper and pinon pine.

Numerous trail roads cross the township from East to West.

A large amount of mining activity is located in sec. 13.

Gardner Spring is located in sec. 1. Principal users of the area are mining and livestock grazing.

Mount Diablo Meridian, Nevada
T. 21½ N., R. 52 E.

5. The land within the above township varies between 5,870 ft. and 7,060 ft. above sea level. The soil is rocky in the mountains and sandy clay at the lower elevations. Undergrowth consists of sagebrush, juniper, mountain mahogany and pinon pine.

Nevada State Highway No. 278 enters the Township on the south boundary of sec. 1 and leaves the township on the north boundary of sec. 1.

Tellurometer Traverse Station U-40-1 is located in sec. 5.

Several trail roads are within the Township.

Principal users of the area are ranchers.

Mount Diablo Meridian, Nevada
T. 22 N., R. 52 E.

6. The land within the above township ranges from about 5,860 to 7,840 ft. above sea level. The soil is rocky in the mountains and sandy clay loam at the lower elevations. The undergrowth consists of sagebrush, cheatgrass, crested wheat grass, Brigham tea, juniper, pinon pine and mountain mahogany.

Nevada State Highway No. 278, enters the township on the south boundary of sec. 35 and leaves the township on the north boundary of sec. 6.

A few trail roads are located within the township.

A windmill is located in sec. 16.

An abandoned railroad grade is visible in some places south of the State Highway.

Some mining activity is located in secs. 8 and 18.

Principal users of the area are ranchers and miners.

Mount Diablo Meridian, Nevada
T. 21½ N., R. 53 E.

7. The land within the above township ranges from about 5,860 to 5,900 ft. above sea level. The soil is sandy clay and undergrowth consists of sagebrush and scattered cacti.

Principal uses of the area are farming and ranching.

Access into the township is provided by improved and unimproved roads. No mineral formations of consequence were noted during the survey.

8. Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable land laws, the lands described above are hereby open to such applications and petitions as may be permitted. All such valid applications received at or prior to 10:00 a.m. on July 20, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing. The lands described above have been open and continue to be open to the mining and mineral leasing laws.

9. The Plat of Survey of lands described below was officially filed at the Nevada State Office, Reno, Nevada, effective at 10:00 a.m. on May 17, 1984.

Mount Diablo Meridian, Nevada
T. 21 N., R. 51 E.
(Dependent Resurvey).

The purpose of this notice is to inform the public and interested State and local government officials of the filing of plats of survey. Inquiries concerning the surveys shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520.

Wm. J. Malencik,
Deputy State Director, Operations.

[FR Doc. 84-15976 Filed 6-13-84; 8:45 am]
BILLING CODE 4310-84-M

[N-38198]

Nevada; Realty Action Corrected; Noncompetitive Sale

June 8, 1984.

Public Lands in Eureka County, Nevada

The May 18, 1984, notice of realty action pertaining to the above referenced noncompetitive sale is hereby corrected in respect to the county in which the sale is located. The sale lands are located in Eureka County rather than Elko County.

Rodney Harris,
District Manager.

[FR Doc. 84-15965 Filed 6-13-84; 8:45 am]
BILLING CODE 4310-HC-M

New Mexico; Filing of Plat of Survey

June 5, 1984.

The plat of survey described below was officially filed in the New Mexico

Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10 a.m. on June 4, 1984.

New Mexico Principal Meridian

A dependent resurvey of the north boundary and a portion of the subdivisional lines, Township 11 North, Range 18 West, Group 729 and accepted May 24, 1984.

This survey was requested by the Bureau of Indian Affairs, Albuquerque, New Mexico.

This plat will be placed in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of this plat may be obtained from that office upon payment of \$2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 84-15977 Filed 6-13-84; 8:45 am]

BILLING CODE 4310-FB-M

[OR 18666]

Oregon; Conveyance of Public Land; Order Providing for Opening of Land

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 660.00 acres of public land out of Federal ownership. This action will also open 1,280.00 acres of reconveyed land to surface entry and 320.00 acres to mining and mineral leasing.

EFFECTIVE DATE: July 25, 1984.

ADDRESS: Inquiries concerning the land should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that in an exchange of lands made pursuant to section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, a patent has been issued transferring 660.00 acres of land in Harney County, Oregon, from Federal to private ownership.

2. In the exchange, the following land has been reconveyed to the United States:

Willamette Meridian

T. 40 S., R. 34 E.,
Sec. 1, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 10, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 11, S $\frac{1}{2}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 12, NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 14, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 23, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 24, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 25, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$.

The area described contains 1,280.00 acres in Harney County, Oregon.

3. The mineral estate in the following described land has been and continues to be in United States ownership. The land has been and continues to be open to operation of the United States mining laws and mineral leasing laws:

Willamette Meridian

T. 40 S., R. 34 E.,
Sec. 1, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 10, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 11, S $\frac{1}{2}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 12, NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 14, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 25, S $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$.

The area described contains 960.00 acres in Harney County, Oregon.

4. At 8:30 a.m., on July 25, 1984, the land described in paragraph 2 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on July 25, 1984, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

5. At 8:30 a.m., on July 25, 1984, the land described in paragraph 2, except as provided in paragraph 3, will be open to location under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

6. At 8:30 a.m., on July 25, 1984, the land described in paragraph 2, except as provided in paragraph 3, will be open to applications and offers under the mineral leasing laws.

Dated: June 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-15978 Filed 6-13-84; 8:45 am]

BILLING CODE 4310-33-M

[OR 17419]

Oregon; Conveyance of Public Lands; Order Providing for Opening of Land

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 513.22 acres of public lands out of Federal ownership. This action will also open 480.00 acres of reconveyed land to surface entry and 440.00 acres to mining and mineral leasing.

EFFECTIVE DATE: July 25, 1984.

ADDRESS: Inquires concerning the land should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that in an exchange of lands made pursuant to section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, a patent had been issued transferring 513.22 acres of lands in Crook County, Oregon from Federal to private ownership. All minerals in the following described land have been reserved to the United States:

Willamette Meridian

T. 17 S., R. 18 E.,
Sec. 12, NW $\frac{1}{4}$ NE $\frac{1}{4}$.

The area described contains 40.00 acres in Crook County, Oregon.

2. In the exchange, the following land has been reconveyed to the United States:

Willamette Meridian

T. 17 S., R. 17 E.,
Sec. 1, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 12, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, NW $\frac{1}{4}$, and SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 14, S $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 15, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described contains 480.00 acres in Crook County, Oregon.

3. The mineral estate in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of section 1 was not reconveyed to the United States. The mineral estate will not be opened to operation of the United States mining laws and mineral leasing laws.

4. At 8:30 a.m., on July 25, 1984, the land described in paragraph 2 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on July

25, 1984, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

5. At 8:30 a.m., on July 25, 1984, the land described in paragraph 2, except as provided in paragraph 3, will be open to location under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

5. At 8:30 a.m., on July 25, 1984, the land described in paragraph 2, except as provided in paragraph 3, will be open to applications and offers under the mineral leasing laws.

Dated: June 8, 1984.

Harold A. Berends,
Chief, Branch of Lands and Minerals
Operations

[FR Doc. 84-15974 Filed 6-13-84; 8:45 am]
BILLING CODE 4310-33-M

Vernal District Grazing Advisory Board, Utah; Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Vernal District Grazing Advisory Board will be held on July 18, 1984.

The meeting will begin at 7:00 a.m. at the Bureau of Land Management office (at the above noted address).

The agenda for the meeting will consist of an Advisory Board tour of the Argyle Allotments.

Any members of the public interested in attending would have to provide their own transportation.

Summary minutes of the meeting will be maintained at the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Lloyd H. Ferguson,
District Manager.

[FR Doc. 84-15979 Filed 6-13-84; 8:45 am]
BILLING CODE 4310-DO-M

Proposed Plan Amendment and Environmental Assessment for Areas of Critical Environmental Concern, Medford District, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Proposed Plan Amendment and Environmental Assessment for Areas of Critical Environmental Concern.

SUMMARY: Pursuant to section 202 (c)(3) and (f) of the Federal Land Policy and Management Act (FLPMA) and section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a proposed Management Framework Plan Amendment and Environmental Assessment (EA) for areas of critical environmental concern (ACECs) in the Medford District. The assessment addresses alternatives for four potential ACECs on public lands within the Medford District in southwestern Oregon. The four potential ACECs include Woodcock Bog, Upper and Lower Table Rocks, King Mountain Rock Garden, and Foothills Creek (South Portion).

An additional potential ACEC, 1,240-acre Eight Dollar Mountain, will be analyzed in a separate environmental assessment within 12 months. Analysis for that area has been delayed so that alternatives for the area can be more closely coordinated with the U.S. Forest Service's proposed Botanical Interest Area designation for the western portion of Eight Dollar Mountain. Interim management assures that important resources of all potential ACECs are protected pending the designation decision.

Public reading copies will be available for review at the following locations:

Klamath County Library, Klamath Falls, Oregon
Josephine County Library, Grants Pass, Oregon
Coos County Library, Coquille, Oregon
Curry County Library, Gold Beach, Oregon
Douglas County Library, Roseburg, Oregon
Jackson County Library, Medford, Oregon
Rogue Community College Library, Grants Pass, Oregon
Library, Southern Oregon State College, Ashland, Oregon
Library, Oregon Institute of Technology, Klamath Falls, Oregon
Bureau of Land Management, Office of Public Affairs, 825 NE. Multnomah Street, Portland, Oregon

Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504
Library, University of Oregon, Eugene, Oregon
Library, Portland State University, 727 SW. Harrison, Portland, Oregon
Library, Oregon State University, Corvallis, Oregon

A limited number of copies of the document are available upon request to the BLM Medford District Office.

Written comments on the EA should be sent by August 15, 1984 to: District Manager, Attention: Joe Ross, EA Team Leader, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504.

A public meeting will be held on Wednesday, July 11, 1984 at 7:30 p.m. in the BLM's Medford District Office. BLM personnel will be available to answer questions regarding the Environmental Assessment at that time.

FOR FURTHER INFORMATION CONTACT: Joseph Ross, Environmental Protection Specialist, Medford District Office, Telephone: (503) 776-4604.

SUPPLEMENTARY INFORMATION: The plan amendment process was started with the publication of the Notice of Intent in the May 7, 1981 *Federal Register* and local newspapers. Proposed planning issues and criteria were published on August 20, 1981. Proposed alternatives were published for public review and comment on March 18, 1983.

Public meetings were held at public involvement points throughout the planning process. The proposed decisions will be published in the *Federal Register*. Brief descriptions of the potential ACECs follow:

Woodcock Bog Research Natural Area

111 acres of BLM-administered land in T. 39 S., R. 8 W., Sec. 31, W.M., Josephine County, Oregon.

Currently designated as a Research Natural Area, this 111-acre area has ten plant species under review by the U.S. Fish and Wildlife Service (USFWS) for possible listing as threatened or endangered. The area has hanging bogs, Jeffery pine—savannah areas and Port Orford cedar along the streams. The area is currently managed for research and education.

BLM's preferred alternative is to continue existing management of the area, currently designated as a Research Natural Area. The EA also analyzes an alternative under which the 111-acre area would be designated as an ACEC.

Upper and Lower Table Rocks

1,240 acres of BLM-administered land in T. 35 S., R. 2 W., Sec. 34 and 35; T. 36

S., R. 2 W., Secs. 1, 2, 3 and 9, W.M., Jackson County, Oregon.

The Table Rocks are erosional remnants of an intracanyon basaltic lava flow that filled the Rogue River Valley about five million years ago. The rocks have been a local landmark since the valley's settlement. Indians used the rocks for refuge and ceremonies. The table tops, as well as the rocks' south and western slopes, are highly scenic and sensitive visual areas. A subspecies of *Limnanthes* found here is proposed by the USFWS for listing as an endangered species. A variety of habitats from dry grassland to vernal pools exist on the mesas. The areas has 279 acres of commercial timber land which has limited forest management potential.

Designation of the ACEC would result in management for the Table Rocks (1) to preserve them as examples of major ecosystem types and outstanding biological phenomena (vernal pools and patterned ground vegetation); (2) to provide research and educational opportunities for scientists and others in the observation, study, and monitoring of the natural area; and (3) to help preserve a full range of genetic diversity for all proposed threatened or endangered fauna and flora. The EA identifies specific management requirements which would protect and prevent damage to plants, geologic formations and scenic values. BLM's preferred alternative is to designate the 1,240-acre Upper and Lower Table Rocks ACEC. The EA also analyzes a no action alternative.

King Mountain Rock Garden

155 acres of BLM-administered land in T. 33 S., R. 5 W., Secs. 13, 14, 23 and 24, W.M., Josephine County, Oregon.

The 155-acre area is a high elevation, serpentine soil-related plant community that fills a cell need identified in the Oregon Natural Heritage Plan. A diversity of plants grows in this area with two species on the Medford District sensitive species list, including one candidate species for federal listing. The area provides scenic panoramas. Forty acres of the area are commercial forest land (15 acres suitable for high intensity timber management and 25 for limited timber management).

Designation of the area, pursuit of mineral withdrawal and management plan development would provide protection to the area's special high elevation, serpentine habitat. BLM's preferred alternative is to designate a 90-acre King Mountain Rock Garden ACEC. Other alternatives analyzed for the area include a no action alternative

and ACEC designation of the 155-acre area.

Foot Creek (South Portion)

1,630 acres of BLM-administered land in T. 37 S., R. 4 W., Secs. 21, 22, 23 and 27, W.M., Jackson County, Oregon.

The 1,630-acre area provides habitat that has supported a nesting pair of Great Gray Owls. The last sighting by local residents was in 1983. Available data indicates that this may be the westernmost known nesting activity of the Great Gray Owl in Oregon. The area contains the largest known population of *Cypripedium montanum* in southwest Oregon. This orchid had been under review by the USFWS for possible listing as threatened or endangered. Consultation with the USFWS indicates that the plant will not be listed. The area has 1,239 acres of commercial forest land (857 acres suitable for high intensity timber management, 322 for low intensity management, and 60 for limited timber management).

BLM's preferred alternative is to continue existing management of the area with increased monitoring to protect and prevent damage to the habitat of *Cypripedium montanum* and the Great Gray Owl. Other alternatives analyzed in the EA include a no action alternative and ACEC designation of the 1,630-acre area.

Dated: June 7, 1984.

Hugh Shera,

Medford District Manager.

[FR Doc. 84-15974 Filed 6-13-84; 8:45 am]

BILLING CODE 4310-33-M

Fish and Wildlife Service

Endangered Species; Receipt of Application for Permit; Patuxent Wildlife Research Center, et al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.):

Applicant: Patuxent Wildlife Research Center, Laurel, MD—APP# 677649

The applicant requests an amendment to their permit PRT 2-1740 to include the take of the following species for scientific research and enhancement of survival: Hawaiian hoary bat (*Lasiurus cinereus semotus*), Andean condor (*Vulture gryphus*), Wood storks (*Mycteria americana*), Kirtland's warbler (*Dendroica kirtlandii*), Green sea turtle (*Chelonia mydas*), Hawksbill sea turtle (*Eretmochelys imbricata*), Leatherback sea turtle (*Dermochelys coriacea*), St. Croix ground lizard

(*Ameiva polops*), Virgin Islands tree boa (*Epicrates inornatus*).

Applicant: New York Zoological Society, Bronx, NY—APP# 560318

The applicant requests a permit to import three sets of serum samples from a pair of captive-bred babirusa (*Babryrousa babyrussa*) from Wilhelma Zoo, Stuttgart, West Germany, for enhancement of propagation.

Applicant: Y.O. Ranch Cactus Co., Mountain Home, TX—PRT 2-11352

The applicant requests a permit to sell in interstate commerce artificially propagated specimens of *Coryphantha minima*, *C. sneedii leei* and *Ancistrocactus tobuschii* for the purpose of enhancement of propagation.

Applicant: International Animal Exchange, Ferndale, MI—APP# 6118AB

The applicant requests a permit to purchase in interstate commerce one captive-born male Diana monkey (*Cercopithecus diana*) from San Diego Zoo, CA for enhancement of propagation.

Applicant: International Animal Exchange—APP# 0326BM

The applicant requests a permit to purchase in interstate commerce one male mongoose lemur (*Lemur mongoz*) and export it to Seoul Grand Park Zoo, Korea for enhancement of propagation.

Applicant: International Animal Exchange—APP# 9670BL

The applicant requests a permit to purchase in interstate commerce one captive-bred male Andean condor (*Vulture gryphus*) and export it to Seoul Grand Park Zoo, Korea for enhancement of propagation.

Applicant: International Animal Exchange—APP# 6117AB

The applicant requests a permit to purchase in interstate commerce three male and five female captive-born swamp deer (*Cervus duvauceli*) from W. R. Goddard Ranch, Ardmore, OK, for enhancement of propagation.

Applicant: International Animal Exchange—APP# 6102AB

The applicant requests a permit to purchase in interstate commerce two male captive-born Galapagos tortoises (*Geochelone elephantopus*) from Gentle Jungle, Burbank, CA, for enhancement of propagation.

Applicant: Puerto Rico Department of Natural Resources, Pta. de Tierra, PR—APP# 9715BL

The applicant requests a permit to take (capture, tag & release) specimens of the hawksbill sea turtle (*Eretmochelys imbricata*) on Mona

Island, Puerto Rico, for scientific research and enhancement of propagation.

Applicant: Dr. Richard A. Arnold,
University of CA, Berkeley, CA—
APP# 0190BM

The applicant requests a permit to take (capture) specimens of the Oregon silver spot butterfly (*Speyeria zerene hippolyta*) from the state of Oregon for scientific research and enhancement of propagation.

Applicant: Burnet Park Zoo, Liverpool,
NY—APP# 0573BM

The applicant requests a permit to purchase in interstate commerce two female Asian elephants (*Elephas maximus*) from Christiani Elephants, Inc., Myakka City, FL, for enhancement of propagation. These elephants will be on breeding loan to the Buffalo Zoological Gardens, Buffalo, NY until such time as the Burnet Park Zoo facilities have been completed.

Applicant: State of Alabama Highway
Department, Montgomery, AL—APP#
0904BM

The applicant requests a permit to take in order to relocate, specimens of the following mussels: fine-rayed Pigtoe (*Fusconaia cuneolus*), shiny pigtoe (*F. edgariana*), pink mucket pearly (*Lampsilis orbiculata*) and any other endangered freshwater mussels which may be encountered at bridge construction site on the Paint Rock River, AL, for enhancement of propagation and survival.

Applicant: Ralph Smith, Calimesa, CA—
APP# 152604

The applicant requests a permit to import captive bred turquoisine (*Neophema pulchella*), scarlet-chested (*N. splendida*) and hooded (*Psephotus chrysoterygius*) parakeets for enhancement of propagation from aviculturists in Europe.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 601, 1000 North Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, P.O. Box 3654, Arlington, Virginia 22203.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT 2/APP number when submitting comments.

Dated: June 11, 1984.

Steve Funderburk,
Chief, Branch of Permits, Federal Wildlife
Permit Office.

[FR Doc. 84-15959 Filed 6-13-84; 8:45 am]
BILLING CODE 4310-55-M

Issuance of Permit for Marine Mammals; Sea World, Inc.

On March 16, 1983, a notice was published in the *Federal Register* that an application had been filed with the Fish and Wildlife Service by Sea World, Inc., San Diego, CA, for a permit to take (capture) 5 California sea otters (*Enhydra lutris nereris*).

Notice is hereby given that on May 23, 1984, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Endangered Species Act of 1972 (16 U.S.C. 1539), the Fish and Wildlife Service issued a permit (PRT 2-10022) to Sea World for the take of one male sea otter for scientific research and captive propagation subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 605, 1000 N. Glebe Road, Arlington, VA.

Dated: June 11, 1984.

R. K. Robinson,
Chief, Branch of Permits, Federal Wildlife
Permit Office.

[FR Doc. 84-15958 Filed 6-13-84; 8:45 am]
BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 1240, Block 51, South Timbalier 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.

DATE: The subject DOCD was deemed submitted on June 8, 1984. 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 DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification 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 70805.

FOR FURTHER INFORMATION CONTACT:

Mr. Emile H. Simoneaux, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0872.

SUPPLEMENTARY INFORMATION: 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 DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs 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 revised § 250.34 of Title 30 of the CFR.

Dated: June 8, 1984.

John L. Rankin,
Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-15999 Filed 6-13-84; 8:45 am]
BILLING CODE 4310-MR-M

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that The Superior Oil Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0244, Block 71, West 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 Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on June 6, 1984.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Emile H. Simoneaux, Jr., Minerals Management Service, Gulf of Mexico Region; Rule and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0872.

SUPPLEMENTARY INFORMATION: 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 DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs 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 revised Section 250.34 of Title 30 of the CFR.

Dated: June 7, 1984.

John L. Rankin,
Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-15968 Filed 6-13-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 1083 and 1084, Blocks 73 and 74, West Delta 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 Grand Isle, Louisiana.

DATE: The subject DOCD was deemed submitted on June 7, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Emile H. Simoneaux, Jr., Minerals Management Service, Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0872.

SUPPLEMENTARY INFORMATION: 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 DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs 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 revised § 250.34 of Title 30 of the CFR.

Dated: June 7, 1984.

John L. Rankin,
Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-15967 Filed 6-13-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Forest Oil Corporation has submitted a DOCD describing the activities it proposed to conduct on Lease OCS-G 1152, Block 255, Vermilion 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.

DATE: The subject DOCD was deemed submitted on June 7, 1984.

ADDRESSES: A copy of the subject DOCD 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).

FOR FURTHER INFORMATION CONTACT: Mr. Emile H. Simoneaux, Jr., Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0872.

SUPPLEMENTARY INFORMATION: 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 DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executive of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: June 7, 1984.

John L. Rankin,
Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-15966 Filed 6-13-84; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30472]

Everett Railroad Company; Exemption From 49 U.S.C. 10901 and 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the Everett Railroad Company from the provisions of 49 U.S.C. 10901 and 11301 in connection with the acquisition and operation of 7.9 miles of rail line of Consolidated Rail Corporation extending from milepost 14.1 at Brookes

Mills, PA, to milepost 22.0 at Sproul, PA, in Blair County, PA and the issuance of a note in a principal amount not to exceed \$59,000.

DATES: This exemption is effective on June 13, 1984. Petitions to reopen must be filed by June 25, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30472 to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
- (2) Petitioner's representative: Alan W. Maples, P.O. Box 5802, Bethesda, MD 20814.

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: June 6, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,
Secretary.

[FR Doc. 84-18056 Filed 6-13-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration

By Notice dated March 30, 1984, and published in the *Federal Register* on April 6, 1984 (49 FR 13756), Ganes Chemicals, Inc., Lessee of Siegfried Chemical Inc., Industrial Park Road, Pennsville, New Jersey 08070, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Dextropropoxyphene (2273)	II

No comments or objections have been received. Therefore, pursuant to Section 303 of the comprehensive Drug Abuse

Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: June 6, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 84-15907 Filed 6-13-84; 8:45 am]

BILLING CODE 4410-09-M

MARINE MAMMAL COMMISSION

Marine Mammal Commission and Committee of Scientific Advisors on Marine Mammals; Meeting

Notice is hereby given that the Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals will meet on July 19, 20, and 21, 1984, in the Wood Center Ballroom, University of Alaska, Fairbanks, Alaska 99701.

On July 19, from 10:00 a.m. to 6:00 p.m., on July 20, from 9:00 a.m. to 6:00 p.m., and on July 21 from 8:00 a.m. to 12 noon, the Commission and Committee will meet in public session to discuss and consider a broad range of issues bearing on marine mammals of Alaska, marine mammal/fishery interactions, net entanglement, the Hawaiian monk seal, the California sea otter and outer continental shelf oil and gas activities.

There will be an executive session of the Commission and Committee to be held on July 19, from 8:30 a.m. to 10:00 a.m. to provide for the exchange of opinions and deliberations concerning internal personnel rules and practices, interagency liaison, and proposed policies and actions relating to international negotiations. These sessions are concerned with matters listed in 5 U.S.C. 522b(c) (2), (3), (6), and (9)(B), and will not be open to the public.

Dated: June 11, 1984.

John R. Twiss, Jr.,

Executive Director, Marine Mammal Commission.

FR Doc. 84-15902 Filed 6-13-84; 8:45 am]

BILLING CODE 6820-31-M

NUCLEAR REGULATORY COMMISSION

[ASLBP Docket No. 82-468-010L; NRC Docket Nos. 50-458-OL; 50-459-OL]

Gulf States Utilities Co., et al. (River Bend Station, Units 1 and 2); Oral Argument

June 11, 1984.

The oral argument on emergency planning contentions will begin at 9:30 A.M. on June 19, 1984 in Baton Rouge, Louisiana at the following address: Courtroom 905, Court of Appeals, First Circuit, Governmental Building, 222 St. Louis Street. The Board will consider adjustments to the schedule set forth in its May 3, 1984 Order and other matters as appropriate.

Dated June 11, 1984, Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

B. Paul Cotter, Jr.,

Chairman, Administrative Judge.

[FR Doc. 84-18013 Filed 6-13-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OL-4 (Low Power)]

Long Island Lighting Co. (Shoreham Nuclear Generating Plant, Unit 1); Resume Hearing

June 8, 1984.

Please take notice that the resumed evidentiary hearing in this low-power proceeding will commence at 9:00 a.m. local time, on Monday, July 30, 1984, at the Court of Claims, State Office Building, Veterans Memorial Highway, Hauppauge, New York 11787. The hearing will continue through Friday, August 3, and through the week of August 6, if necessary.

This resumed evidentiary hearing will consider LILCO's Application for Exemption, filed May 22, 1984. LILCO's Application for Exemption was filed pursuant to the Commission's discussion of a proposed modified application in its Order of May 16, 1984 (CLI-84-8, 19 NRC —). That Order stated that the modified application of LILCO should be submitted to this Board, and further provided:

In addressing the determinations to be made under 10 CFR 50.12(a), the applicant should include a discussion of the following:

1. The "exigent circumstances" that favor the granting of an exemption under 10 CFR 50.12(a) should it be able to demonstrate that, in spite of its noncompliance with GDC 17,

the health and safety of the public would be protected.²

2. Its basis for concluding that, at the power levels for which it seeks authorization to operate, operation would be as safe under the conditions proposed by it, as operation would have been with a fully qualified onsite A/C power source.

The Licensing Board shall conduct the proceeding on the modified application in accordance with the Commission's rules. The Licensing Board shall make findings and issue an initial decision. Any initial decision authorizing the grant of an exemption shall not become effective until the Commission has conducted an immediate effectiveness review.

Of course, these equities do not apply to the requisite findings on public health and safety and common defense and security.

It is so ordered.

Dated at Bethesda, Maryland this 8th day of June, 1984.

For the Atomic Safety and Licensing Board.
Marshall E. Miller,
Chairman, Administrative Judge.

[FR Doc. 84-16014 Filed 6-13-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289-SP, ASLBP 79-429-09-SP (Restart Remand on Management)]

Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1);
Order

June 11, 1984.

Scheduling Prehearing Conference

Notice is hereby given that a prehearing conference on the remanded issues set out in the Appeal Board Decision, ALAB-772, will be held on June 28, 1984 commencing at 9:00 a.m. in Hearing Room No. 1, Ground Floor, North Office Building, North Street and Commonwealth Avenue, Harrisburg, Pennsylvania.

Bethesda, Maryland, June 11, 1984.

For the Atomic Safety and Licensing Board.
Sheldon J. Wolfe,
Alternate Chairman, Administrative Judge.

[FR Doc. 84-16015 Filed 6-13-84; 8:45 am]

BILLING CODE 7590-01-M

² The Commission regards the use of the exemption authority under 10 CFR 50.12 as extraordinary. This method of relief has previously been made available by the Commission only in the presence of exceptional circumstances. See, *United States Department of Energy, et al.* (Climax River Breeder Reactor Plant), CLI-83-1, 17 NRC 1, 4-6 and cases cited therein (1983). A finding of exceptional circumstances is a discretionary administrative finding which governs the availability of an exemption. A reasoned exercise of such discretion should take into account the equities of each situation. These equities include the stage of the facility's life, any financial or economic hardships, any internal inconsistencies in the regulation, the applicant's good-faith effort to comply with the regulation from which an exemption is sought, the public interest in adherence to the Commission's regulations, and the safety significance of the issues involved.

[Docket No. 50-263]

Northern States Power Co. (Monticello Nuclear Generating Plant); Exemption

I

The Northern States Power Company (NSP/the licensee) is the holder of Facility Operating License No. DPR-22 (the license) which authorizes operation of the Monticello Nuclear Generating Plant, located in Wright County, Minnesota, at steady state reactor core power level not in excess of 1670 megawatts thermal. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section 50.54(o) of 10 CFR Part 50 requires that primary reactor containments for water-cooled power reactors be subject to the requirements of Appendix J of 10 CFR Part 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors," published on February 14, 1973. Appendix J contains the leakage test requirements, schedules, and acceptance criteria for tests of the leak-tight integrity of the primary reactor containment and systems and components which penetrate the containment; and on August 1975, each licensee was requested to review the extent to which its facility met these requirements.

On September 19, 1975, NSP submitted its evaluation of the Monticello Nuclear Generating Plant, and assessed its compliance with the rule. Subsequently, the licensee submitted a combination of proposed Technical Specification changes, exemption requests, and proposed design modifications as NSP's overall plan for achieving compliance with the requirements of Appendix J. The licensee requested certain exemptions from the requirements of Appendix J in a letter dated May 5, 1976. On October 28, 1976 a meeting was held with the licensee to discuss certain aspects of the exemption request. At this meeting, the licensee provided additional information to support various positions. The minutes of this meeting along with the submitted information and interchanged agreements were documented in a summary dated November 12, 1976. In the May 5, 1976 and in the November 12, 1976 documents, NSP requested exemption from Type B testing of certain instrument lines, Type C testing of certain valves, and from Type B testing of pressure and frequency of the drywell air locks, as required by Appendix J.

The Franklin Research Center, as a consultant to NRC, has reviewed all of the licensee's submittals and prepared a Technical Evaluation Report (TER) of its findings. The NRC staff has reviewed the TER and has noted its findings in the Safety Evaluation dated April 1984. The staff has concurred in the TER's bases and findings concerning the conclusions on the exemption request. The conclusion on proposed modifications to the piping and changes to the Technical Specifications are also noted in the Safety Evaluation along with the exception taken by the staff to one position assumed by our consultant.

III

We have found acceptable the following requests for exemption.

1. Section III.C.1 of Appendix J requires, in part, Type C testing of containment isolation valves which are required to operate intermittently under post-accident conditions. The licensee has requested an exemption from Type C testing requirements for the following valves:

- (a) MO-2006, 2007 Torus Spray Line
- (b) MO-2008, 2009 Torus Recirculation Line
- (c) MO-2020, 2021 Drywell Spray Line.

We have reviewed the licensee's submittals and drawings and have determined that:

(a) Valves, MO-2006 and 2007, in the torus spray line may be exempt from Type C testing because they are sealed by water from the residual heat removal (RHR) pumps under post-accident conditions;

(b) Valves, MO-2008 and 2009, in the torus recirculation line may be exempt from Type C testing because they are sealed by water from the suppression pool, provided the packing of these valves is not exposed to leakage coming from the torus spray line (MO-2010 and 2011); and

(c) Valves, MO-2020 and 2021, in the drywell spray line may be exempt from Type C testing because they are sealed by water from the RHR pumps under post-accident conditions.

2. Section III.C.2 of Appendix J requires, in part, that Type C testing be performed at the peak calculated accident pressure (Pa), which for Monticello is 41 psig. NSP requested an exemption from this requirement for the Main Steam Isolation Valves (MSIVs) to continue testing at 25 psig in accordance with current Technical Specifications rather than at (Pa) as required by Appendix J.

The MSIVs are leak tested by pressurizing between the valves. The MSIVs are angled in the main steam

lines in the direction of flow to afford better sealing upon closure. On this basis, we conclude that testing at a reduced pressure of 25 psig is acceptable. A test pressure of Pa acting under the inboard disc is sufficient to lift the disc off its seat, and result in excessive leakage into the reactor vessel. This would result in a meaningless test. The proposed test calls for a test pressure of 25 psig to avoid lifting the disc at the inboard valve. The total observed leakage through both valves (inboard and outboard) is then conservatively assigned to the penetration.

3. NSP requested an exemption from the frequency of Type B testing of the air lock. Specifically, they requested an exemption to do a three-day test of the air lock when it is in use rather than after each use. The revised rule required testing of the air locks as follows:

a. Every six months at a pressure of not less than Pa (and after periods when the air lock is opened and containment integrity is not required).

b. Within three days of opening (or every three days during periods of frequent opening) when containment integrity is required, at a pressure of Pa or at a reduced pressure as stated in the Technical Specifications.

Our consultant, the Franklin Research Center (FRC), has reviewed the licensee's proposal. Whenever the air lock was opened during the operating cycle, and containment integrity was required, the air lock gasket would be tested following closure if it had been greater than three days since the last leakage test.

FRC concluded that the licensee's proposal to test air lock gaskets within three days of an air lock opening is acceptable.

We agree with the FRC's conclusion that the air lock gasket leakage be tested within three days from an air lock opening. We further agree with the FRC's conclusion that the air lock testing frequency should make adequate allowances to detect potential deterioration of air locks through normal use. However, when the air lock remains closed, that is, there is no opening or closing of the doors to cause degradation of seals or damage to door mechanisms, we find that the reduced pressure testing frequency proposed by the licensee would be adequate to assure that the air lock door seal integrity is maintained.

The staff has reevaluated the six-month test requirement and has developed a revised position which meets the objectives of Appendix J requirements for containment air lock door tests. This revised position still

requires the containment air lock to be tested at six-month intervals at a pressure of Pa in accordance with Appendix J, except that this test interval may be extended up to the next refueling outage (up to a maximum interval between Pa tests of 24 months) if there have been no air lock openings since the last successful test at Pa. The intent of the Appendix J requirement is to assure that the air lock door seal integrity is maintained and that no degradation has occurred as a result of opening of the air lock doors between testing intervals at Pa. This position satisfies the objectives of the requirement. The licensee will be required to propose appropriate modifications to the Technical Specifications.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption requests:

1. Exemption is granted from the requirements of III.C.1 of Appendix J pertaining to the Type C testing of the torus spray line (MO-2006, 2007) valves and the drywell spray line (MO-2020 and 2021) valves. Similarly, exemption is granted from the requirements of III.C.1 of Appendix J pertaining to the Type C testing of the torus recirculation line (MO-2008 and 2009) valves provided the packing of these valves is not exposed to leakage coming from the torus spray line (MO-2010 and 2011).

2. Exemption is granted from the requirements of Section III.C.2 of Appendix J pertaining to the Type C testing of the Main Steam Isolation Valves, at a test pressure of Pa (peak calculated accident pressure). Testing at a reduced pressure of 25 psig is acceptable because of the unique design of the valves.

3. Exemption is granted to test air lock gaskets within 3 days of an air lock opening.

The NRC staff has determined that the granting of these exemptions will not result in any significant environmental impact and that pursuant to 10 CFR 50.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland, this 3rd day of June 1984.

For the Nuclear Regulatory Commission.
Darrell G. Eisenhut,
Director, Division of Licensing, Office of
Nuclear Reactor Regulation.

[FR Doc. 84-16016 Filed 6-13-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co. et al.; Issuance of Amendment To Facility Operating License and Negative Declaration and Final Determination of No Significant Hazards Consideration

The Nuclear Regulatory Commission (Commission) has issued Amendment No. 88 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, Pacific Power and Light Company, and The City of Eugene, Oregon (the licensee), which revised the operating license and the technical specifications for operation of the Trojan Nuclear Plant located in Columbia County, Oregon. The amendment was effective as of the date of its issuance.

The amendment authorizes the licensee to increase the storage capacity of the spent fuel pool from 651 fuel assemblies to 1408 fuel assemblies.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with this action was published in the Federal Register on December 5, 1983 (48 FR 54550). Requests for a hearing were filed by the State of Oregon and the Coalition for Safe Power.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the Safety Evaluation related to this action.

Accordingly, as described above, the amendment has been issued and made immediately effective and any hearing will be held after issuance.

The Commission has prepared an Environmental Impact Appraisal related to this action and has concluded that an environmental impact statement is not warranted because this action will not have a significant effect on the quality of the human environment.

For further details with respect to this action see (1) the application for amendment dated August 1, 1983, as supplemented and amended October 31, 1983 (2 letters); and supplemented November 23, December 9 and 30, 1983; and February 6 and April 25, 1984; (2) Amendment No. 88 to Facility Operating License No. NPF-1; (3) the Commission's related Safety Evaluation; and (4) the Environmental Impact Appraisal.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Multnomah County Library, 801 S. W. 10th Avenue, Portland, Oregon. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 8th day of June, 1984.

For the Nuclear Regulatory Commission,
James R. Miller,
Chief, Operating Reactors Branch No. 3,
Division of Licensing.

FR Doc. 84-16017 Filed 6-13-84; 8:45 am
BILLING CODE 7590-01-M

[License No. 42-19582-01; EA 84-51]

**Superior Production Logging, Inc.;
Order**

**Order To Show Cause and Order
Temporarily Suspending License
(Effective Immediately)**

I

Superior Production Logging, Inc., P.O. Box 399, Snyder, Texas 79549 (the "licensee") is the holder of a specific byproduct material license issued by the Nuclear Regulatory Commission (the "Commission or NRC") pursuant to 10 CFR Part 30. The license, issued on January 5, 1981, amended in its entirety on October 8, 1982, and due to expire on December 31, 1985, authorizes the use, storage, and transfer of byproduct material as described in the licensee's application dated October 24, 1980, and letters of February 6, 1982, June 15, 1982, and August 31, 1982.

II

A routine NRC safety inspection was conducted at the licensee's field office in Oklahoma City, Oklahoma, on April 9, 1984, and at the licensee's corporate office in Snyder, Texas, on April 30, 1984. During the inspection at the field office in Oklahoma City, the NRC inspector identified the following violations: (1) The survey meter used to perform contamination surveys in the use of liquid iodine-131 tracer material was not of the type described in the license application nor was it of a type that was suitable to perform such surveys for tracer work; (2) monthly surveys of the radioactive materials storage area were not being conducted as required by the licensee's procedures; (3) the radioactive materials storage well was not posted as required by 10 CFR 20.203(e)(1); (4) neither the license documents nor the Form NRC-3 was posted as required by 10 CFR 19.11; and (5) liquid iodine-131 was being transported on public highways in an unauthorized container.

During the April 30, 1984 inspection at the corporate office, the NRC inspector met with the licensee's Radiation Safety Officer (RSO) to perform an inspection of records and to review the licensee's management control of the safety requirements of their licensed program. The NRC inspector identified further violations as follows: (1) The Radiation Protection Officer and RSO had not conducted adequate audits and reviews of their licensed program to ensure that proper procedures were being followed and that licensed activities were being conducted in compliance with NRC requirements; (2) an individual had received exposures in excess of the limits specified in 10 CFR 20.101(a) without meeting the conditions of 10 CFR 20.101(b) for the second and third quarters of 1981; (3) the licensee had failed to conduct an adequate evaluation of the radiation exposure received by this individual during the period April 1, 1981 to January 31, 1982; and (4) training records were not maintained for individuals who directly supervise the use of radioactive materials as required by the licensee's safety procedures. Also during this inspection, the licensee could not produce the original license application nor the safety procedures that were submitted with the application when the inspector asked for them.

On May 31, 1984, an Enforcement Conference was held at the Region IV office to discuss the findings of the NRC inspections conducted on April 9 and 30, 1984. The NRC described the apparent violations of NRC requirements and

expressed concern regarding the lack of management control of the licensed program. The licensee's representatives responded but presented no information that would allow deletion or modification of the violations.

The results of the inspections and Enforcement Conference indicate that the licensee has been conducting licensed activities in violation of Commission requirements since receipt and use of materials as enumerated below:

1. 10 CFR 20.101(a) limits the whole body exposure of an individual in a restricted area to 1.25 rems per calendar quarter, except as provided by 10 CFR 20.101(b). Paragraph (b) allows a whole body exposure of 3.0 rems per calendar quarter provided certain specified conditions are met.

Contrary to this requirement, an individual received 1.33 rems for the second quarter of 1981 and 2.13 rems for the third quarter of 1981 without meeting the conditions, as specified in 10 CFR 20.101(b)(3), pertaining to determination of prior occupational whole body dose.

2. 10 CFR 20.201(b) states, in part, that each licensee shall make surveys as may be necessary to comply with the regulations contained in each section of 10 CFR Part 20. A "survey," as defined in 10 CFR 20.201(a), means an evaluation of the radiation hazards incident to the production, use, release, disposal, or presence of radioactive materials or other sources of radiation under a specific set of conditions.

Contrary to this requirement, the licensee failed to conduct adequate evaluations of the radiation exposures received by an individual working with licensed material in the state of Oklahoma. Specifically, the monthly personnel monitoring devices used for the purpose of evaluating the radiation exposures of an individual during the period April 1, 1981 to January 31, 1982 were not submitted for vendor processing until February 1982 and did not include devices or an evaluation of the radiation exposures for one individual for the months of May, June, and September 1981.

3. License Condition 19 requires, in part, that licensed material be used in accordance with statements, representations, and procedures contained in the application dated October 24, 1980.

a. Contrary to Section 2, Part I, of the Training and Safety Manual submitted with the application, the Radiation Protection Officer and RSO did not conduct audits and reviews from the time the license was issued to assure that procedures were being followed and that licensed activities were being

conducted in compliance with NRC requirements.

b. Contrary to Item 10 of the application, on April 9, 1984, the NRC inspector observed that the radiation detection instrument used at the licensee's facility in Oklahoma City, Oklahoma, was not the type indicated on the license application, nor of a type suitable for contamination surveys required for liquid iodine-131 tracer studies.

c. Contrary to Section 2, Item V.A, of the procedures submitted with the application, on April 9, 1984, the licensee's representative in Oklahoma City, Oklahoma, stated that monthly surveys of the radioactive materials storage area had not been conducted during the period June 21, 1983 to April 9, 1984.

d. Contrary to Section 2, Item I.D, of the procedures submitted with the application, training records were not available on April 30, 1984 for individuals directly supervising the use of radioactive materials at the Oklahoma City, Oklahoma, facility.

4. 10 CFR 19.11(a)(b) requires, in part, that each licensee shall post current copies of specified regulations, documents, and the license, or a notice describing these documents, and where they may be examined. 10 CFR 19.11(c) requires that Form NRC-3, "Notice to Employees," be posted.

Contrary to this requirement, on April 9, 1984, neither the documents nor the notice was posted at the licensee's facility in Oklahoma City, Oklahoma, nor were such documents available at the facility.

5. 10 CFR 20.203(e)(1) requires that each area or room in which licensed material is used or stored, and which contains any radioactive material in an amount exceeding ten times the quantity of such material specified in Appendix C of Part 20, shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words: CAUTION (or DANGER) RADIOACTIVE MATERIAL.

Contrary to this requirement, on April 9, 1984, at the Oklahoma City, Oklahoma, facility, a storage well containing such quantities of iodine-131 was not posted with such a sign.

6. License Condition 17 requires, in part, that the licensee shall transport licensed material in accordance with Title 10, Code of Federal Regulations, Part 71, "Packaging of Radioactive Material for Transport and Transportation of Radioactive Material Under Certain Conditions."

10 CFR 71.5(a) requires, in part, that no licensee shall transport any licensed material outside the confines of his plant

or other place of use, or deliver any licensed material to a carrier for transport, unless the licensee complies with applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation in 49 CFR Parts 170-189.

Contrary to 49 CFR 173.415(a), on April 9, 1984, the NRC inspector observed that an authorized Type A package was not being used to transport millicurie quantities of liquid iodine-131 from the licensee's facility in Oklahoma City, Oklahoma.

Under Section 186 of the Atomic Energy Act of 1954, as amended, a license may be suspended or revoked for, among other things, conditions which would warrant the Commission to refuse to grant a license on an initial application or for failure to observe the terms of the license, Commission regulations, or the Atomic Energy Act. As indicated above, the licensee's actions evinced a careless disregard of NRC requirements and a lack of control over its licensed operation. Based on the results of the inspection, the Commission has little confidence that this licensee understands the importance of adherence to NRC requirements or can be relied upon to comply with such requirements.

In sum, the licensee has not demonstrated that they have been complying with, nor are they currently capable of complying with, NRC requirements, including those associated with basic radiation safety. Accordingly, public health and safety require issuance of an Order to Show Cause why the license should not be revoked.

In view of the licensee's neglect and careless disregard of the Commission's requirements and lack of control of its licensed operations, the Director, Office of Inspection and Enforcement, has determined that no prior notice is required under 10 CFR 2.201(c), and pursuant to 10 CFR 2.202(a)(1), License 42-19582-01 should be suspended effective immediately pending further order.

III

Accordingly, pursuant to Sections 81, 161b, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 30, IT IS HEREBY ORDERED THAT:

1. Effective immediately, the licensee's authorization under License 42-19582-01 to receive or use byproduct material is suspended, except as permitted in condition 2 below;

2. Effective immediately, the licensee shall place all byproduct material in its

possession in locked storage or transfer such material to a person authorized to receive the material; and

3. The licensee shall show cause, in the manner herein provided, why its authorization under License 42-19582-01 to receive, possess, and use byproduct material should not be revoked.

IV

The licensee may show cause, within 25 days after issuance of this Order, as required by Section III.3 above, by filing a written answer under oath or affirmation setting forth the matters of fact and law on which the licensee relies. The licensee may answer, as provided in 10 CFR 2.202(d), by consenting to the entry of an Order in substantially the form proposed in this Order to Show Cause. Upon failure of the licensee to file an answer within the specified time, the Director, Office of Inspection and Enforcement, may issue without further notice, an Order revoking the license as described in Section III, above.

The licensee may request a hearing within 25 days after issuance of this Order. Any answer to this Order or any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555. A copy shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011. A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF SECTIONS III.1 and III.2 OF THIS ORDER.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be:

Whether, on the basis of the matters set forth in Section II of this Order, License 42-19582-01 should be revoked.

Dated at Bethesda, Maryland this 7th day of June 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,
Director, Office of Inspection and Enforcement.

[FR Doc. 84-16018 Filed 6-13-84; 8:45 am]
BILLING CODE 7590-01-M

**OFFICE OF PERSONNEL
MANAGEMENT****Proposed Extension of Forms For
OMB Review**

AGENCY: U.S. Office of Personnel
Management.

ACTION: Notice of proposed extension of
forms submitted to OMB for clearance.

SUMMARY: In accordance with the
Paperwork Reduction Act of 1980, this
notice announces a proposed extension
of forms which collect information from
the public. Office of Personnel
Investigations Form 10 is completed by
the general public and evaluates the
performance of the investigator. For
copies of this proposal, call John P.
Weld, Agency Clearance Officer, on
(202) 632-7720.

DATES: Comments on this proposal
should be received within 10 working
days from date of this publication.

ADDRESSES: Send or delivery comments
to:

John P. Weld, Agency Clearance Officer,
U.S. Office of Personnel Management
1900 E Street NW., Room 6410,
Washington, D.C. 20415
and

Katie Lewin, Information Desk Officer,
Office of Information and Regulatory
Affairs, Office of Management and
Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:
John P. Weld, (202) 632-7720.

Office of Personnel Management.

Donald J. Devine,
Director

[FR Doc. 84-15940 Filed 6-13-84; 8:45 am]
BILLING CODE 6325-01-M

**Proposed Extension of Forms for OMB
Review**

AGENCY: U.S. Office of Personnel
Management.

ACTION: Notice of proposed extension of
forms submitted to OMB for clearance.

SUMMARY: In accordance with the
Paperwork Reduction Act of 1980, this
notice announces a proposed extension
of a form which collects information
from the public. Standard Form 85, Data
for Nonsensitive or Noncritical-Sensitive
Position, is completed by applicants for
Federal positions throughout the
Government. OPM uses the information
to conduct investigations required by
Executive Order 10450, Security
Requirements for Government
Employment, issued April 1953, or
various public laws. For copies of this

proposal, call John P. Weld, Agency
Clearance Officer, on (202) 632-7720.

DATES: Comments on this proposal
should be received within 10 working
days from date of this publication.

ADDRESSES: Send or deliver comments
to:

John P. Weld, Agency Clearance Officer,
U.S. Office of Personnel Management,
1900 E Street NW., Room 6410,
Washington, D.C. 20415
and

Katie Lewin, Information Desk Officer,
Office of Information and Regulatory
Affairs, Office of Management and
Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:
John P. Weld, (202) 632-7720.

Office of Personnel Management.

Donald J. Devine,
Director

[FR Doc. 84-15941 Filed 6-13-84; 8:45 am]
BILLING CODE 6325-01-M

**OVERSEAS PRIVATE INVESTMENT
CORPORATION****Agency Report Forms Under OMB
Review**

AGENCY: Overseas Private Investment
Corporation.

ACTION: Request for comments.

SUMMARY: Under the provisions of the
Paperwork Reduction Act (44 U.S.C.
Chapter 35), agencies are required to
submit information collection requests
to OMB for review and approval, and to
publish a notice in the Federal Register
notifying the public that the Agency has
made such a submission. The proposed
form under review is summarized below.

DATE: Comments must be received
within 14 calendar days of this notice. If
you anticipate commenting on the form,
but find that you are unable to do so
within the foregoing period, you should
advise the OMB Reviewer and the
Agency Submitting Officer of your intent
to comment as early as possible.

ADDRESS: Copies of the subject form and
the request for review submitted to
OMB may be obtained from the Agency
Submitting Officer. Comments on the
form should be submitted to the Agency
Submitting Officer and the OMB
Reviewer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer

L. Jacqueline Brent, Office of
Personnel and Administration, Overseas
Private Investment Corporation, Room
405, 1129 Twentieth Street, N.W.,

Washington, D.C. 20527; Telephone (202)
653-2818.

OMB Reviewer

Francine Picoult, Office of Information
and Regulatory Affairs, Office of
Management and Budget, New
Executive Office Building, Washington,
D.C. 20503; Telephone (202) 395-7231.

Summary of Form Under Review

Type of Request: Revision.

Title: Application for Political Risk
Investment Insurance for Hydrocarbons
Projects.

Form Number: OPIC-77.

Type of Respondent: Business or other
institutions (except farms).

*Standard Industrial Classification
Codes:* All.

Description of Affected Public: U.S.
companies investing in hydrocarbons
development and production.

Number of Responses: 15 per year.

Reporting Hours: 12 hrs/response.

Federal Cost: \$3,750.

Authority for Information Collection:
Section 234(a) of the Foreign Assistance
Act of 1961, as amended.

Abstract (Needs and Uses): The
hydrocarbons application is used to
collect from eligible international
petroleum companies data on proposed
oil and gas projects, which is used in
drafting political risk insurance
contracts.

Dated: June 6, 1984.

Leo H. Phillips, Jr.,

Office of the General Counsel.

[FR Doc. 84-15919 Filed 6-13-84; 8:45 am]

BILLING CODE 3210-01-M

**Agency Report Forms Under OMB
Review**

AGENCY: Overseas Private Investment
Corporation.

ACTION: Request for Comments.

SUMMARY: Under the provisions of the
Paperwork Reduction Act (44 U.S.C.
Chapter 35), agencies are required to
submit information collection requests
to OMB for review and approval, and to
publish a notice in the Federal Register
notifying the public that the Agency has
made such a submission. The proposed
form under review is summarized below.

DATE: Comments must be received
within 14 calendar days of this notice. If
you anticipate commenting on the form,
but find that you are unable to do so
within the foregoing period, you should
advise the OMB Reviewer and the
Agency Submitting Officer of your intent
to comment as early as possible.

ADDRESS: Copies of the subject form and the request for review submitted to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: L. Jacqueline Brent, Office of Personnel and Administration, Overseas Private Investment Corporation, Suite 405, 1129 Twentieth Street, NW., Washington, D.C. 20527; Telephone (202) 653-2818.

OMB Reviewer: Francine Picoult, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503; Telephone (202) 395-7231.

Summary of Form Under Review

Type of Request: Revision.

Title: Request for Registration for Political Risk Investment Insurance.

Form Number: OPIC-50.

Frequency of Use: Other—once per investor per project.

Type of Respondent: Business or other institutions (except farms).

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies investing overseas.

Number of Responses: 500.

Reporting Hours: 250 hours.

Federal Cost: \$5,000.

Authority for Information Collection: Section 234(a) of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): OPIC-50 is submitted by eligible investors to register their intentions to invest overseas and in time, to seek OPIC insurance. By investor submitting Form 50 prior to making irrevocable commitment to invest, OPIC can demonstrate its incentive effect.

Dated: June 8, 1984.

Leo H. Phillips, Jr.,

Office of the General Counsel.

[FR Doc. 84-15964 Filed 6-13-84; 8:45 am]

BILLING CODE 3210-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-13129]

Hospital Corporation of America, Inc.; Application and Opportunity for Hearing

June 8, 1984.

Notice is hereby given that Hospital Corporation of America (the

"Company") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Commerce Union Bank under three existing indentures of the Company which are qualified under the Act and eight existing indentures of various governmental issuing authorities which have not been qualified under the Act in reliance upon section 304(a)(4) thereof is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Commerce Union Bank from acting as trustee under any of such indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the same issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Company alleges that:

1. The Company had outstanding as of May 15, 1984 \$500,000,000 debentures (the "Debentures") issued under the following indenture under which Commerce Union Bank acts as trustee, each of which indentures was qualified under the Trust Indenture Act of 1939 in connection with the registration of the Debentures issued thereunder pursuant to the Securities Act of 1933:

(a) 16½% Debentures due 2007; principal amount \$100,000,000; indenture filed January 15, 1982 (File No. 2-75696);

(b) Zero Coupon Debentures due 1997-2002; principal amount \$300,000,000; indenture filed May 20, 1982 (File No. 2-77611); and

(c) 15½% Debenture due 2007; principal amount \$100,000,000; indenture filed May 20, 1982 (File No. 2-77612).

As of May 15, 1984 the Company also had outstanding \$23,700,000 Bonds (the "Prior Bonds") issued under various indentures which were not qualified under the Act in reliance upon various exemptions therefrom, and under which Commerce Union Bank acts as trustee. The Commission has previously found that such trusteeships do not disqualify Commerce Union Bank from acting as trustee under any of such indentures. (See Files 22-12598, 22-12781, and 22-12916).

2. The Company was obligated pursuant to a loan agreement (the "Loan Agreement") on May 15, 1984 to make payments in order to meet the debt service and other payment requirements under a trust indenture dated as of April 1, 1984, between the City of Mayfield, Kentucky and Commerce Union Bank, as trustee (the "Indenture") and under \$1,000,000 principal amount of City of Mayfield, Kentucky Industrial Development Revenue Bond (Hospital Corporation of America Project), Series 1984 (the "Tax-Exempt Revenue Bonds") issued thereunder. The Tax-Exempt Revenue Bonds were issued to finance a hospital constructed for the benefit of the Company. The Tax-Exempt Revenue Bonds were issued in reliance upon the exemption from registration afforded by section 3(a)(2) of the Securities Act of 1933. The Trust Indenture was not qualified under the Trust Indenture Act of 1939 in reliance upon the exemption afforded by section 304(a)(4) of said Act. The Loan Agreement is a senior unsecured obligation of the Company.

3. Commerce Union Bank, One Commerce Place, Nashville, Tennessee 37219, acts as trustee with respect to various indentures relating to the Debentures, the Prior Bonds, and the Tax-Exempt Revenue Bonds.

4. The Company's respective obligations under the Debentures (and the indentures relating thereto), the Prior Bonds, and the Loan Agreement are wholly unsecured. All of the Debentures, the Prior Bonds, and the Loan Agreement pertaining to the indentures under which Commerce Union acts as trustee constitute indebtedness of the Company that is not subordinated to any other indebtedness of the Company. The Debentures (and the indentures relating thereto), the Prior Bonds, and the Loan Agreement rank equally one with the other.

5. Each of the indentures contains the provisions required by section 310(b) of the Trust Indenture Act of 1939.

The Company is not in default under the Debentures, the Prior Bonds, or with respect to its obligations relating to the Tax-Exempt Revenue Bonds.

6. For the foregoing reasons, the Company believes that Commerce Union Bank's serving as trustee under any one of the indentures listed in Paragraphs 1 and 2 above, and continuing such trusteeship during such time as the indebtedness under each such indenture is outstanding in each instance, should in no way inhibit, discourage or otherwise influence Commerce Union Bank's actions as trustee under any one or more of such indentures. Consequently, its trusteeship under any one or more of such indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Commerce Union Bank from acting as trustee under any of such indentures.

The Company waives notice of hearing and waives hearing and waives any and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice with respect to the application.

For a more detailed account of matters of fact and law asserted, all persons are referred to the application, which is a public document on file in the offices of the Commission at the Public Reference Room, 450 5th Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than July 6, 1984, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 84-15944 Filed 6-13-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-13140]

The Unimax Corp.; Application and Opportunity for Hearing

June 7, 1984.

Notice is hereby given that The Unimax Corporation (the "Company") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Bankers Trust Company under one existing indenture of the Company which is qualified under the Act and under one proposed indenture which is not qualified under the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company from acting as trustee under either of the indentures.

The Company alleges that:

1. The Company had outstanding as of February 29, 1984 \$7,306,300 of 7 1/2% Convertible Subordinated Debentures due in 1992 (the "Old Debentures") issued under an indenture dated as of May 1, 1972 (the "Old Indenture") under which Bankers Trust Company acts as trustee, which indenture was qualified under the Trust Indenture Act of 1939 in connection with the registration of the Old Debentures issued thereunder pursuant to the Securities Act of 1933, as amended (1939 Act File No. 22-7011).

2. In connection with a proposed merger, pursuant to which the Company will become a wholly-owned subsidiary of Unimax Holding Corporation, a Delaware Corporation and wholly-owned subsidiary of Utilities & Industries Corporation, a Delaware corporation, the Company proposes to issue 9% Subordinated Debentures due 1993 (the "New Debentures") in the aggregate principal amount of \$3,342,000 to the holders of, and in exchange for, its Class A Preference Stock, under an indenture to be dated July, 1984 under which Bankers Trust Company will act as trustee (the "New Indenture"). No registration statement will be filed with respect to the New Debentures in reliance upon the exemption from registration afforded by section 3(a)(9) of the Securities Act of 1933, as amended. The New Indenture will not be qualified under the Trust Indenture Act 1939 in reliance upon the exemption afforded by section 304(a)(9) of said Act.

3. The Company's present obligations under the Old Debentures and prospective obligations under the New Debentures (and the indentures relating thereto) are wholly unsecured. The Old Debentures constitute and the New

Debentures will constitute indebtedness of the Company that is subordinated to certain other indebtedness of the Company. The Old Debentures and the New Debentures will rank *pari passu* with each other.

4. The Old Indenture contains the provisions required by section 310(b) of the Trust Indenture Act of 1939.

5. The Company is not in default under the Old Debentures.

6. For the foregoing reasons, the Company believes that Bankers Trust Company's proposed trusteeship under the New Indenture and continued trusteeship under the Old Indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company from acting as trustee under either of the indentures, and continuing such trusteeships during such time as the indebtedness under each such indenture is outstanding should in no way inhibit, discourage or otherwise influence Bankers Trust Company's actions as trustee under either of the indentures.

The Company waives notice of hearing and waives hearing and waives any all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice with respect to the application.

For a more detailed account of matters of fact and law asserted, all persons are referred to the application, which is a public document on file in the offices of the Commission at the Public Reference Room, 450 5th Street NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than July 6, 1984, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 84-15945 Filed 6-13-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) Air Traffic Procedures Advisory Committee (ATPAC) to be held from July 23, at 1 p.m., through July 27, 1984, at 1 p.m., at

FAA Northwest Mountain Region Headquarters, 17900 Pacific Highway South, Seattle, Washington.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of minutes.
2. Discussion of agenda items.
3. Discussion of urgent priority items.
4. Report from Executive Director.
5. Old Business.
6. New Business.
7. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairman, members of the public may

present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify, not later than July 20, 1984, Mr. Walter H. Mitchell, Executive Director, ATPAC, Air Traffic Service, AAT-301, 800 Independence Avenue SW., Washington, D.C. 20591, telephone (202) 426-3725. Information may be obtained from the same source.

The next quarterly meeting of the FAA ATPAC is scheduled to be held from October 22 through October 26, 1984, in Washington, D.C.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on June 8, 1984.

Walter H. Mitchell,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 84-15925 Filed 6-13-84; 8:45 am]

BILLING CODE 4910-13-M

Sunshine Act Meetings

Federal Register

Vol. 49, No. 116

Thursday, June 14, 1984

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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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, June 11, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,053-L (2nd Amendment)
United American Bank in Knoxville,
Knoxville, Tennessee, and United
American Bank in Hamilton County,
Chattanooga, Tennessee

Recommendation regarding the Corporation's assistance agreement involving an insured bank pursuant to Section 13 of the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the

"Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: June 11, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 84-16083 Filed 6-12-84; 2:39 pm]

BILLING CODE 6714-01-M

2

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 10:10 p.m. on Friday, June 8, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to adopt a resolution (1) making funds available for the payment of insured deposits in Stewardship Bank of Oregon, Multnomah County (P.O. Portland), Oregon, which had been closed by the Superintendent of Banks for the State of Oregon on Friday, June 8, 1984; and (2) making funds available for an advance payment to uninsured depositors of Stewardship Bank of Oregon equal to 55 percent of their uninsured claims.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Michael A. Mancusi, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice of 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 June 11, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 84-16084 Filed 6-12-84; 2:40 pm]

BILLING CODE 6714-01-M

3

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, June 18, 1984, 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.

Recommendation regarding the Corporation's assistance agreement with an insured bank pursuant to section 13 of the Federal Deposit Insurance Act.

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:

Notice of acquisition of control:

Name and location of bank and names of acquiring persons authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases,

reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (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, N.W., 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: June 11, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 84-16085 Filed 6-12-84; 8:45 am]

BILLING CODE 6714-01-M

4

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 2:00 p.m. on Monday, June 18, 1984, 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.

Disposition of minutes of previous meetings.
Application for consent to acquire assets and assume liabilities and establish one branch:

People's Bank, Bridgeport, Connecticut, an insured mutual savings bank, for consent to acquire certain assets of and assume the liability to pay certain deposits made in the Shelter Rock Branch, Danbury, Connecticut, of Citytrust, Bridgeport, Connecticut, and for consent to establish that office as a branch of People's Bank.

Application for consent to establish a branch: Northwest Bank & Trust Company, Davenport, Iowa, for consent to establish a branch at #48 Northpark Shopping Mall, 320 West Kimberly Road, Davenport, Iowa.

Application for consent to establish a remote service facility: Northwest Bank & Trust Company, Davenport, Iowa, for consent to establish a remote service facility at St. Luke's Hospital, 1227 East Rusholme Street, Davenport, Iowa.

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. 46,060-L Toney Brothers Bank, Doerun, Georgia

Case No. 46,066-L Livingston State Bank, Livingston, New Jersey

Memorandum and Resolution re: First National Bank of Oak Lawn, Oak Lawn, Illinois

Memorandum and Resolution re: Proposed revisions to Reports of Income and Condition filed by savings banks which revisions will enable the Corporation to more effectively and efficiently monitor the financial condition and performance of savings banks.

Memorandum re: Leasing of additional space for the New York Regional Office.

Memorandum re: Buildout of Floors 17 and 18 in the Ecker Square Condominium Office Building, San Francisco, California.

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, requests, 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.

Discussion Agenda:

Memorandums re: Purchase of furniture and built-in workstations for the New York and Chicago Regional and Area Offices.

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: June 11, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 84-16086 Filed 6-12-84; 2:40 pm]

BILLING CODE 6714-01-M

5

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, June 19, 1984, 10:00 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

DATE AND TIME: Thursday, June 21, 1984, 10:00 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings

Correction and approval of minutes

Eligibility for candidates to receive

Presidential primary matching funds

Draft advisory opinion #1984-9, David R.

Harbarger, on behalf of Cuyahoga

County Republican Organization

Draft advisory opinion #1984-24, H. Richard

Mayberry, on behalf of the Sierra Club

Committee on Political Education

Notice of proposed rulemaking:

Nondiscrimination on the basis of

handicap

Notice of proposed rulemaking: Proposed revision of repayment formulas under 11 CFR Parts 9007 and 9038

Finance Committee report

Routine administrative matters

PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Information Officer, 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84-16035 Filed 6-12-84; 10:14 am]

BILLING CODE 6715-01-M

6

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—June 20, 1984.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Petition of United States Atlantic and Gulf Southeastern Conference for Investigation of Berthing Conditions at Port of Spain, Trinidad—Consideration of the record.

2. Docket No. 82-49: Reefer Express Lines Pty. Ltd. v. Uiterwyk Cold Storage Corporation, Eller & Company, Inc., and Tampa Port Authority—Consideration of the record.

CONTACT PERSON FOR MORE

INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84-16081 Filed 6-12-84; 3:31 pm]

BILLING CODE 6730-01-M

7

FEDERAL RESERVE SYSTEM

(Board of Governors)

"FEDERAL REGISTER" CITATION OF

PREVIOUS ANNOUNCEMENT: 49 FR 23975, June 8, 1984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, June 13, 1984.

CHANGES IN THE MEETING: The above open meeting has been cancelled.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne,
Assistant to the Board; (202) 452-3204.

Dated: June 11, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-16032 Filed 6-12-84; 10:03 am]

BILLING CODE 6210-01-M

8

FEDERAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF

PREVIOUS ANNOUNCEMENT: FR 49, May
22, 1984, Page No. 21591.

**PREVIOUSLY ANNOUNCED TIME AND DATE
OF THE MEETING:** 10:30 a.m., June 19,
1984.

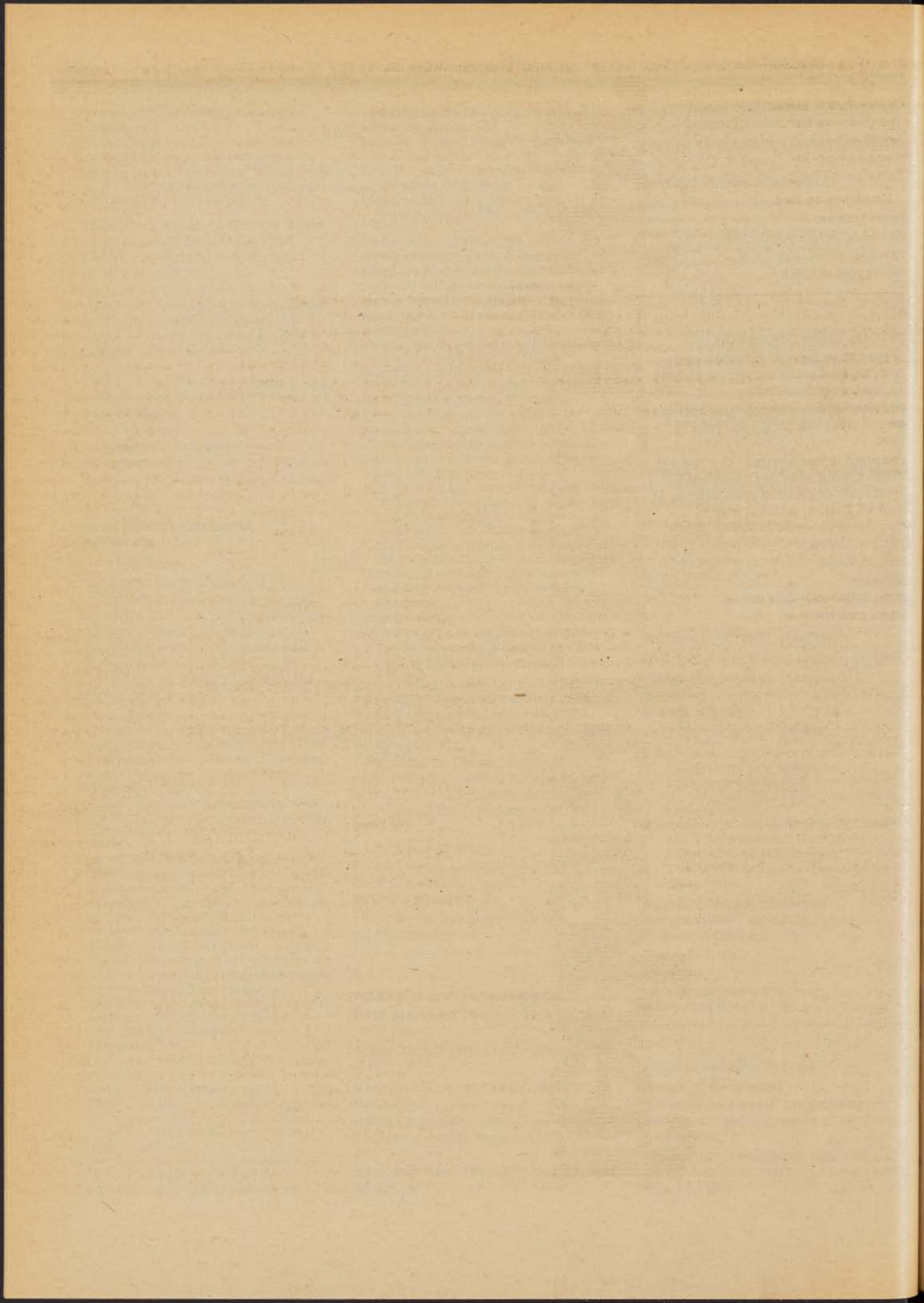
CHANGES IN THE AGENDA: The Federal Trade Commission has cancelled its previously announced open meeting of June 19, 1984, at which it was to consider proposed ad substantiation policy statement.

Emily H. Rock,

Secretary.

[FR Doc. 84-18047 Filed 6-12-84; 11:32 am]

BILLING CODE 6750-01-M



14 CFR Part 93

Thursday
June 14, 1984

Part II

**Department of
Transportation**

Federal Aviation Administration

14 CFR Part 93

**Metropolitan Washington Airports;
Supplemental Notice of Proposed
Rulemaking**

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 21955, Notice No. 83-3A]

Metropolitan Washington Airports

AGENCY: Federal Aviation Administration (FAA)/Department of Transportation (DOT).

ACTION: Supplemental Notice of Proposed Rulemaking (SNPRM).

SUMMARY: On April 26, 1983 (48 FR 19174; April 28, 1983) the FAA proposed an amendment to its comprehensive Metropolitan Washington Airports Policy (46 FR 58036; November 27, 1981) to lower the annual limit on the number of passengers carried at Washington National Airport ("the cap"). In the Department of Transportation and Related Agencies Fiscal Year 1984 Appropriations Act, Pub. L. 98-78, 97 Stat. 453, August 15, 1983, the Secretary was directed not to proceed to a final rule for 60 days and to undertake discussions with the air carriers serving National and other interested parties to consider particular issues related to the overall policy. Public meetings were held with representatives of air carriers and industry groups, and with local officials and community groups interested in the operation of National and Dulles International Airports. These discussions led to the preparation of a new DOT/FAA proposal, upon which the interested parties provided comments. After further refining its proposals, DOT/FAA is now proposing several related amendments to the Metropolitan Washington Airports Policy for public notice and comment.

These amendments would amend existing rules to (1) set an annual passenger limit of 15.2 million and use actual historical counts of passengers at National instead of projections of future counts for the purposes of future reductions in air carrier operations; (2) allow air carriers greater flexibility by shifting certain IFR reservations ("slots") from one hour to another; (3) establish a "use or lose" rule for slots carriers may not be operating; (4) provide specific terms under which new entrant carriers may obtain access to National; and (5) provide a procedure for determining which air carriers will lose slots when the cap is reached.

The proposal in the April 1983 Notice of Proposed Rulemaking concerning commuter air carrier "stol" operations and the decision that daytime noise

levels should not be imposed at National are not changed by this Supplemental Notice.

DATES: Comments must be received by July 16, 1984.

ADDRESSES: Comments of this proposal may be mailed in duplicate to:

Docket No. 21955, Rules Docket, AGC-204, Room 916, Office of the Chief Counsel, Federal Aviation Administration, Washington, D.C. 20591.

or delivered in duplicate to:

Room 916, 800 Independence Avenue, SW., Washington, D.C.

Comments delivered must be marked: Docket No. 21955. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Edward P. Faberman, Deputy Chief Counsel, Federal Aviation Administration, Washington, D.C. 20591, 202-426-3773.

or

Gregory Wolfe, Office of the General Counsel, Office of the Secretary of Transportation, Washington, D.C. 20590, 202-426-4710.

SUPPLEMENTARY INFORMATION: On November 27, 1981, DOT/FAA published the Metropolitan Washington Airports Policy and implementing regulations (Amendments 93-44 and 159-27; 46 FR 58036) to guide the future operation and development of Washington National and Dulles International Airports. The implementing regulations, some of which became effective on December 6, 1981, the rest on March 1, 1982, made several important changes in the operational rules at National Airport. The nonstop service or "perimeter" rule (14 CFR 159.60) was changed to permit nonstop operations to any airport within 1000 miles. The assignment of slots (authorizations to land and take off) under the High Density Rule was altered: air carrier allocations were reduced from 40 to 37 per hour, and commuter air carrier allocations were increased from 8 to 11 per hour (14 CFR 93.123). A strict nighttime noise rule was established, prohibiting all but the quietest aircraft from taking off after 9:59 p.m. or landing after 10:30 p.m. (14 CFR 159.40).

Finally, an annual passenger ceiling ("cap") was set (14 CFR 93.124). In summary, the rule provides that each January FAA will make a projection of the number of passengers to be enplaned and deplaned at National between the following April and April of the next year. When that projection

shows more than 16 million passengers, the FAA will transfer one slot or more per hour, as required, from air carriers to commuter air carriers. The cap was necessary because the reduction in air carrier slots from 40 to 37 "would not by itself bring about a significant shift in future passenger activity to Dulles or BWI [Baltimore-Washington International Airport]." Sixteen million was selected as the cap because "[i]t [was] a level which should not necessitate further reduction in air carrier scheduling slots for at least another 2 years, thereby giving the carriers time to plan for future changes in the way in which they serve the Washington metropolitan area." 46 FR 58038.

In early 1983, it appeared that passenger activity at National would not meet the levels projected in 1981. Because of restrictions placed on air carrier operations as a result of the air traffic controllers' strike and of the recession, passenger operations at National were not expected to reach 16 million for some time. In order to update the Airports Policy to reflect actual operating experience and to bring about the diversion of regional growth from National to Dulles and BWI in a time frame closer to that originally intended in the 1981 rules, the FAA proposed in April 1983 to reduce the cap to 14.8 million, or in the alternative to whatever level of traffic was projected in January 1985. A Notice of Proposed Rulemaking was published at 48 FR 19174; April 28, 1983. Comments were called for by July 27, 1983.

A number of Members of Congress were concerned that the reduced cap would cause significant disruption of service patterns to Washington. Legislative provisions were introduced that would have prohibited the FAA from implementing a final rule. After considerable debate, a compromise measure was added to the Department of Transportation and Related Agencies Appropriations Act, 1984, Pub. L. 98-78, 97 Stat. 453, August 15, 1983, section 314 of which provided:

The Congress intends and directs that the proposed rulemaking to adjust the annual passenger ceiling at Washington National Airport be held in abeyance for at least 60 days from date of enactment of this Act.

The Conference Report on that Act, H.R. Report No. 93-318 in further setting forth the Congressional intent, itself illustrates the conflicting demands placed on National Airport.

The conferees urge the Secretary to work with the air carriers and other affected interests to establish an appropriate mix and

number of slots in view of B-757 operations, hub concept requirements, commuter needs, and other considerations * * *

In particular, it is the sense of the conferees that while the 14.8 million passenger growth cap may well be appropriate, and that such a level would provide substantial growth without involving slot reductions below current operations, the Secretary should reconsider the means by which this level is calculated: especially whether certain connecting-flight passengers or short-runway, shuttle and commuter operations—which may place a lesser burden on ground and/or air facilities—might be appropriately exempted, or calculated on less than a one-for-one basis.

The conferees take note of the Senate report language urging the Secretary to take action to improve the availability of New York-Washington type shuttle operations out of Dulles and BWI, and it is the intent of the conferees that such action should not in any way divert, reduce, or restrict below current passenger levels shuttle operations between the New York Metropolitan Area Airports and Washington National Airport.

The Senate Report further mentioned:

The Committee finds that the proposed increased operations by commuter air carriers is not inconsistent with the goal of providing service to smaller communities which have lost, or are losing, air carrier service in the wake of deregulation. * * * Further, this aspect of the proposed rulemaking serves to offset the carriers' argument that as airline slots are reduced, the airlines might seek to maximize revenues generated by each flight by marketing a greater concentration of direct flights to the large metropolitan areas and an ever-decreasing number to medium and small communities.

The Secretary is urged, however, to take every prudent action available to her to help improve the availability of New York-Washington type shuttle operations out of Dulles and BWI, * * * so that peak capacity can be efficiently managed and so as to maintain an appropriate number of long- and medium-range routes out of National Airport. This is necessary because National Airport serves as a connecting hub between relatively nearby small cities and more distant large areas, and such through-traffic serves the traveling public well while placing minimal if any additional burdens on parking and other ground facilities. Further, given its responsibility to provide funding for Amtrak, the Committee believes it prudent to encourage ridership on Amtrak to Northeast Corridor destinations from downtown Washington.

In response to this direction, the Secretary appointed an Informal Task Force, consisting of officers of the Office of the Secretary of Transportation and the Federal Aviation Administration, to meet with interested groups and to develop amendments to the April proposal. The Task Force was chaired by the Deputy General Counsel, and

included the Assistant Secretary for Policy and International Affairs, the Assistant Secretary for Intergovernmental Affairs, the Special Assistant to the Secretary for Policy, the Deputy Federal Aviation Administrator, the Chief Counsel of the FAA, and the Director of the Metropolitan Washington Airports.

The Task Force first held informational meetings with the interested parties; it met with air carrier representatives on August 8, with commuter air carriers on August 9, and with local public officials and representatives of citizen's organizations on August 10 to hear their concerns. After internal deliberations, the Task Force developed an "Initial DOT Proposal" and presented it to the local officials and community groups on December 19 and to the carriers on December 20. They were asked to consider the proposals, submit comments or alternative proposals, and assemble once again to discuss the issue. The initial DOT proposal and written comments on it are included in the docket.

The Task Force has continued to meet and review the comments, and has revised the initial DOT proposal. The FAA is now requesting public comment on the proposal described below.

The Proposal

I. Annual Passenger Limitation

The FAA proposes two major changes to the passenger cap that would affect the number of passengers that may use National Airport and cause reductions in slots only when actual passenger counts reach the ceiling levels. First, the FAA is proposing that the passenger cap be reduced from 16 to 15.2 million. Second, air carrier slots would not be reduced until eight weeks after actual passenger counts had reached 15.2 million passengers in any twelve-month period. Further, in order to give the industry adequate time to plan for slot reductions, regardless of when the cap is reached, initial slot reductions would not occur before September 1984, or 90 days after adoption of a final rule in this rulemaking, whichever is later.

The original Notice in this rulemaking proposed to reduce the "cap" from 16 to 14.8 million. Many objections were made to this proposal. Community groups argued that the reductions should be greater. Air carriers argued that the Policy had been settled in 1981, and further reductions were not warranted. Further objections were made to the categories of passengers that are counted, and to the use of projections in determining when to reduce the slots. In

general, these were the objections that prompted Congressional action to delay the rulemaking.

The existing High Density Rule, 14 CFR 93.121 *et seq.*, allows air carriers at National Airport 37 "reservations" (generally called "slots") per hour over 15 hours per day, for a total 555. It further provides that, as passenger activity increases beyond 16 million over a twelve-month period, slots will be withdrawn from the air carriers and transferred to the commuter air carriers.

To bring about this reduction, the rule provides that each January the FAA will forecast passenger activity for the twelve-month period beginning the following April. If the forecast exceeds 16 million, the number of air carrier slots in each hour is reduced by the number necessary to assure that passenger activity does not exceed that level. The ATA and its member airlines expressed considerable concern about FAA forecasting for this purpose. They argued that forecasts are, at best, imprecise estimates of future activity, and that air carrier operations should not be reduced on the basis of projections of events that may or may not occur for 16 to 18 months.

A primary objective of the Metropolitan Washington Airports Policy is to prescribe roles for Washington National and Dulles International Airports that promote greater use of Dulles. As the FAA stated in the 1981 final rules and again in the April 1983 Notice in this rulemaking, fulfillment of this objective is directly related to the shifting of regional growth in passenger activity away from National. These documents further emphasized that accomplishment of the Airports Policy goals would be difficult if future passenger growth in the Washington area continues at National to the exclusion of the other area airports.

The Department has stated that shifting of passenger growth away from National Airport should be accomplished during the 1984-85 period. In order to maintain this schedule, the FAA proposes that the passenger ceiling be set at 15.2 million. This is a level that could be attained within the next six months.

Since the 14.8 million passenger ceiling was proposed, traffic growth at National Airport has been substantial. It now appears that passenger activity may exceed 14.8 million within a few months, compelling the withdrawal of slots relatively soon if the ceiling is set at that level. The Department has always intended in the Airports Policy to give air carriers adequate time to plan

for slot reductions, and for that reason proposes a level of 15.2 million, with the provision that slot reductions will not occur in any event before September 1984.

Another important purpose of the Policy is to reduce congestion at National Airport. For example, the passenger cap limits congestion in the terminal buildings, roadways and parking lots. The limitation on the number of flights in each hour is not sufficient in itself to accomplish this purpose since, with increased load factors and the introduction of larger aircraft, passenger activity continues to grow, and would in time exceed 16 million.

Finally, the cap also reduces the number of flights by larger turbojet aircraft, thereby reducing noise impacts on National's neighbors.

The task force considered several alternatives to the current system of counting passengers at National. The FAA now counts all passengers enplaned and deplaned at the Airport, including passengers that are changing planes, as well as those traveling to and from the Washington area. Some commenters argued that the through passengers do not increase congestion at National and should be exempt from the count. Through passengers do not require ground transportation, but they do pass through the terminal building and add to congestion within it.

More importantly, however, not counting through passengers would have other undesirable effects. For example, to retain the same impact on ground congestion as a rule counting through passengers, the passenger cap would have to be reduced from 15.2 by the number of through passengers carried today. Thereafter carriers would have an incentive to increase the number of through passengers carried on each flight to avoid reductions in slots. The Policy should encourage development of connection complexes at Dulles and BWI rather than at National.

The Department is, however, sympathetic to the concern raised by the air carriers about the use of FAA projections to effect slot reductions. The Department recognizes that these projections could be subject to dispute when they are issued. In order to avoid such controversy and to simplify the question of when slot reductions would take place, the Department proposes to base slot reductions on actual passenger counts rather than FAA projections.

II. Hourly Operations

The FAA proposes to maintain the current slot limitation of 555 per day between 7 a.m. and 10 p.m., but to allow

some deviations from the current hourly limit of 37. Carriers would be permitted to schedule up to 43 operations in any hour, as long as there are not more than 80 operations scheduled for any two consecutive hours. To accomplish this, slots would have to be coincidentally reduced in other hours. For the first six slots thus added there would have to be a total of six slots deleted from the 7 a.m., 8 p.m. and 9 a.m. hours, in order to reduce flights in these noise-sensitive hours. If the carriers are unable to agree on slot shifts to reach the 43 slot level in an hour, the Department proposes that the limit remain at 37.

A longstanding air carrier complaint about the High Density Rule at National is that it does not take into account air travelers' demand for service. Certain hours in the mornings and evenings are more desirable to travelers than midday hours, and planes departing or landing at those times are often full. The carriers have long sought the opportunity to shift operations from less desirable hours to the peaks.

The ATA in its submission to the Informal Task Force proposed that additional operations be allowed each day and some flexibility be allowed from one hour to another. This proposal included shifting slots not currently being used on weekends to Monday through Friday. The net effect of this aspect of the ATA proposal would have been to increase the daily air carrier limit, Monday through Friday, from the present 555 to 605 (concomitant reductions would result in Saturday and Sunday daily totals of 451 and 497 respectively). In addition, ATA proposed that the air carriers be allowed up to 43 operations in any hour from 0700 to 2100.

Increasing the number of allowable daily operations (while reducing weekend operations) would be inconsistent with the Metropolitan Washington Airports Policy objectives of reducing aircraft noise and congestion at National, and providing safe and efficient airport facilities. Therefore the FAA does not propose to increase daily limitations. Minimal fluctuations within 120-minute periods would not affect the safety or efficiency of the Airport. In this connection, even if increased operations are allowed, the agency's flow control program would be available to limit congestion and delays.

Some commenters were concerned that any increases in air carrier hourly limits would be unsafe. This is not the case. Safety is assured by the air traffic control system. If more airplanes are scheduled to operate at National (or any other airport) than the system can handle for a given period of time, the air

traffic system will delay operations until they can be accommodated, either by requiring aircraft to circle in the air or wait on the ground.

The FAA Air Traffic Service has determined that increases in the number of slots per hour at National can be accommodated without substantial regular delays if they are carefully limited. Thus we are proposing limited flexibility in the hourly distribution of air carrier slots.

III. "Use-or-Lose" Provisions

Another longstanding problem under the High Density Rule has been the ability of carriers to "pocket" slots, that is, not use slots allocated to them, or use them less frequently than every day. Slots at National are in very short supply, and the Department believes that the Airport should be used to its full potential under the rules.

The FAA therefore proposes that any slot not used five-sevenths or more of the days in any two consecutive months be withdrawn from the carrier to which it has been allocated and made available for carriers not serving the Airport (new entrants). Five-sevenths was chosen because many flights are customarily not operated on weekends, and it would not make sense to require carriers to operate uneconomical weekend service in order to retain slots. To prevent circumvention, a use-or-lose rule would also provide that slots could only be used by the carrier to which they have been allocated. This provision could, however, be superseded by other rulemaking on slot transfers. See NPRM No. 84-6, which was issued on June 1, 1984.

The FAA also recognizes that there may be special circumstances, such as service interruptions occasioned by a strike or factors outside the control of an air carrier, that may warrant exception from this rule. Comments are specifically requested on whether it is necessary to provide for such special cases, and the terms of any such provisions.

IV. New Entrants

For several years access to National by air carriers not previously operating there has been a very difficult problem for air carriers and the government alike. A fundamental precept of the Airline Deregulation Act of 1978 is to eliminate artificial barriers to competition and the formation of new airline companies. As a result, the Act spawned the creation of entirely new airlines by removing statutory and regulatory burdens that had made their

organization nearly impossible in the past.

Access to airports is of course vital to competition in the airline industry, no matter whether the carrier desiring to begin service at a particular airport is a new airline, or an existing airline seeking to serve a new market. As a condition of receiving federal aid, airports have been required by statute to assure that their facilities "will be available for public use on fair and reasonable terms and without unjust discrimination . . ." and that "there will be no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public." 49 U.S.C. 2210. In addition, the Department of Transportation has been uncompromising in its insistence on equal rights of access for all carriers at airports with restricted access, and has joined in lawsuits brought against airport authorities in New York and California.

At National the pressures of deregulation have been particularly intense, and have already led to the near collapse of the Airline Scheduling Committee established to allocate slots there. The Committee, operating under a grant of antitrust immunity from the Civil Aeronautics Board, consists of all air carriers that serve or want to serve National. Its rules provide that carriers are not entitled to any slot, and require unanimous agreement before a schedule of allocations can be submitted to the FAA.

The High Density Rule, in effect since 1969, has for some time at National limited the number of air carrier operations substantially below demand. All available slots have been used for many years. In 1978, when only 10 air carriers served National, there was already virtually no opportunity for any of the carriers to grow. The Scheduling Committee could do little more than agree to shifts in hours of slots for seasonal variations. Only when a carrier elected to reduce service at National could other carriers grow. But the high level of demand meant that flights out of National enjoyed relatively high load factors, and carriers were reluctant to give them up.

Under the Scheduling Committee's rules, new entrant carriers were guaranteed membership in the Committee. Since the Committee can only allocate slots by unanimous consent, new entrants were guaranteed at least minimal access. As a result, there has been a steady increase in the number of carriers serving National. Today 19 air carriers serve the Airport.

Because of the nature of demand for service at National, there is practically no limit to the number of carriers that may ultimately want to operate there. Most new carriers would like to operate flights at National. But because all slots are being used, new carriers can only begin service at National by obtaining slots from incumbent carriers. Over the past several years, new entrants have been able to obtain slots from the Scheduling Committee when incumbent carriers reduced slots to achieve a Committee resolution.

Under any administrative slot allocation system, incumbent carriers would be obliged to give up slots to other carriers, not as a result of successful competition, but simply in order to provide an opportunity for competition. Neither the government nor private groups, such as the Air Transport Association, has been able to develop an administrative slot allocation system that approximates a competitive market situation.

In the course of the Task Force deliberations, most of the air carriers serving National proposed, through the Air Transport Association, a different approach for dealing with the new entrant problem and slot allocation generally. They urged that the FAA permit slots to be transferred for any consideration by the carriers holding them. This proposal would both obviate the tedious Scheduling Committee process and permit new entrant to buy access to National. The FAA is addressing this proposal in the slot transfer NPRM issued June 1, 1984.

The FAA proposes in this Notice that incumbent air carriers not be required to relinquish slots for new entrant access at National. Air carriers not now serving National would receive slots only when the slots are abandoned by other carriers, are withdrawn for failure to meet the "use-or-lose" rule proposed above, or are obtained by one carrier from another under the procedures proposed in the slot transfer NPRM.

V. Air Carrier Slot Reductions

An important gap in the existing rules is a means of determining which airlines must relinquish slots when air carrier slots are reduced to meet the passenger cap. When the original rule was issued, the FAA anticipated that the Airline Scheduling Committee that is responsible for the allocation of hourly slots among carriers would continue to distribute slots through its usual procedures. Under the Scheduling Committee agreement, carriers are not entitled to slots, and each carrier theoretically does not have any slots

until unanimous agreement has been achieved on all allocations.

The Interim Operations Plan restrictions, imposed as a result of the air traffic controllers' strike, were lifted at National in the fall of 1982, and slot allocation once again became the responsibility of the Scheduling Committee. Since that time, the Committee has only once reached agreement.

Since August, it has been deadlocked and slot allocations have been frozen by FAA order. At least one member of the Committee has stated in open meetings that it is unwilling to agree to a settlement under which it would receive fewer slots than it now holds, insisting that it would relinquish only slots taken from it by the government. While such a statement does not mean the Committee could never reach agreement, and certainly cannot provide the basis for government action, it does illustrate a spirit in the group that does not facilitate compromise. Other carriers have in fact exhibited similar behavior, and resolution of slot reductions by the Committee appears unlikely in view of competitive pressures.

The Committee's inability to function makes a regulatory mechanism for withdrawing air carrier slots necessary. While Scheduling Committee action is not foreclosed, the FAA is proposing a random procedure that exposes carriers at National to a risk of slot loss proportional to the number of slots they hold. The slots that may be removed or reassigned in the future would be "tagged" and ranked shortly after a final rule is issued, so that carriers would know well in advance which slots they would lose when the passenger cap is reached. This procedure would give the carriers the opportunity to make long-range plans for the use of slots allocated to them at National. In addition, the Department proposes that slots would not be withdrawn from any carrier holding twelve or fewer slots. Comments on this proposal are specifically invited in light of the proposal in NPRM No. 84-6 to allow the transfer of slots for any consideration.

The procedure for slot reductions would operate as follows. A drawing of capsules would be conducted. Each capsule would contain only a carrier's name; there would be one capsule for each slot currently operated. Two hundred capsules would be drawn, each listed in rank order based on when it was drawn. The 120 slots subject to withdrawal would be arrayed on a board in four groups of 30 slots, each 30 slot group consisting of two slots for each of the fifteen hours between 7 a.m.

and 9:59 p.m. The two slots per hour would each be identified to a particular group of 30 and numbered in order to establish which pairs of slots would be reduced first. This would result in a total of 120 tagged slots, eight slots in each controlled hour.

Based upon the rank order established by the initial drawing, the first carrier would be required to tag two slots in any of the four 30-slot groupings. Next, the second carrier in rank order would be required to tag two slots from any of the four 30-slot groupings. This procedure would be followed until all 120 slots had been tagged. As soon as a carrier's total number of slots is reduced to twelve under this procedure, that carrier would not be required to tag additional slots even if its name remains in the carrier rank order and comes up again. Further in the event a carrier comes up in the rank order that does not hold slots in any of the hours for which slots have not yet been tagged, it will not be required to tag any further slots. Comments are specifically invited on whether more than 120 slots should be tagged for withdrawal initially.

Regardless of when the passenger cap is reached, slots would not be removed before 90 days after the issuance of a rule. When slots are withdrawn, they will be removed in the 30-slot groupings noted above. Comments are invited on whether more than 30 slots should be withdrawn at each session by creating larger groupings. Under no circumstances would another slot withdrawal occur within six months, regardless of when and if the cap is reached again. After the initial slot reduction, the Department will reconsider the appropriate number of slots to withdraw in the future when the passenger cap is reached. Carriers would be free to exchange tagged slots through the Scheduling Committee mechanism or any other approved method, but tagged slots would retain their numerical identity in the hands of another carrier.

Comments are also invited on an alternative method for slot reductions. Under this method, separate lotteries would be held for the 37 slots in each hour at the Airport. The slots would be identified with the carriers using them. The first two slots selected in the lottery would be the first two removed in each hour; the next two would be reduced next, etc.

VI. Disposition of Withdrawn Slots

Under existing regulations, slots withdrawn from air carriers to keep passenger levels within the cap are transferred to commuter air carriers. This has raised several concerns for

other groups interested in the Airports Policy. Air carriers complain that, since commuter passengers are counted in determining passenger levels, the more passengers commuters carry, the sooner the cap is reached and the sooner the commuters benefit from an increased number of slots. Community groups, while recognizing the substantial noise benefits provided by replacing large jet aircraft with the 56-seat commuter aircraft, question why withdrawn slots should not be retired.

In its "Initial DOT Proposal", the Task Force did not propose to change the slot transfer provision. Commenters are now invited, however, to consider an alternative proposal that would allocate half of the withdrawn slots to commuter air carriers and permanently "retire" the remaining fifteen slots. In a practical sense, such action would mean that the additional capacity would be available for unscheduled operations, chiefly general aviation aircraft under VFR conditions. Nevertheless, the permanent retirement of fifteen of the 30 withdrawn slots at each slot reduction would limit the growth of passenger activity at National.

In addition, slot retirement will reduce the congestion and delay problems that are experienced at National as well as providing some additional measure of noise relief for the local community. Finally, the Department anticipates that, as traffic activity expands at both Dull and BWI, commuter activity will follow that growth so that the slots being made available to commuters remaining at National under this proposal will be adequate to meet their service requirements.

The Department also invites comment on whether the maximum number of slots that would be allowed in an hour for air carriers and commuter operators under this notice (54, initially made up of 43 air carrier and 11 commuter slots) should remain the same or be reduced by one even after air carrier slot reductions are accomplished, although the distribution would change between air carriers and commuter operators.

Under existing regulations, slots would transfer from commuter air carriers to air carriers if passenger levels fall below the cap, an event considered most unlikely in any event. The FAA now proposes to delete this provision.

VII. Braniff Slots

On February 24, 1984, the FAA granted Braniff Airlines, Inc., an air carrier operating former Braniff Airways aircraft with certain former Braniff Airways employees, an exemption to the High Density Rule at National

Airport. 49 FR 7902 (March 2, 1984). Because of commitments made to Braniff Airways, Inc. and its creditors when that carrier was involved in reorganization proceedings, and in light of the subsequent breakdown of the Airline Scheduling Committee for National, which foreclosed resumption of Braniff service there without government action, the exemption was deemed in the public interest.

Braniff had requested eight slots; the exemption granted four, for the hours following noon, 1 p.m., 3 p.m. and 4 p.m., when overall operational demand at the Airport is not at its maximum. The exemption lasts for a year; before that year is over, the FAA anticipates that Braniff's slot requirements would be met within the daily limit of 555 slots either by the Scheduling Committee or a new slot allocation mechanism.

The FAA is now proposing that the four Braniff exemption slots be converted into ordinary slots through the slot tagging process described above, and that Braniff be granted an additional two slots when the first slot reduction takes place. To accomplish this conversion, the initial reduction to meet the cap would remove 24 instead of 30 slots. Six slots would be reallocated to Braniff and would not be made available to commuter air carriers. If, however, the alternative of permanently withdrawing 15 slots at each reduction is adopted, 9 slots would be permanently withdrawn at the first reduction, and 15 made available to commuters. Thereafter Braniff would hold slots on the same basis as any other carrier at National. Commenters not satisfied with this approach should propose alternative solutions that will permit Braniff to hold six slots within the slot limits established for National.

List of Subjects in 14 CFR Part 93

Air traffic control.

PART 93—[AMENDED]

In consideration of the above, the FAA proposes to amend Subpart K of Part 93 of the Federal Aviation Regulations (14 CFR Part 93) as follows:

1. By revising § 93.124 to read as follows:

§ 93.124 [Amended]

(a) The Metropolitan Washington Airports shall compile and publish monthly the number of passengers enplaning and deplaning at Washington National Airport for the previous 12 months.

(b) When the number of passengers in the monthly report prepared under paragraph (a) exceeds 15.2 million, the

hourly number of reservations allocated to air carriers except air taxis at Washington National Airport in accordance with § 93.123 shall be reduced by two per hour.

(c) Reductions shall take place eight weeks after a monthly report under paragraph (a) of this section shows a count of 15.2 million passengers, but not before September 12, 1984.

(d) Reservations shall be withdrawn from air carriers in accordance with a ranking established by lottery.

(e) Reductions shall not occur more than twice in any twelve consecutive months.

(f) Half of any reservations removed from air carriers except air taxis shall be added to the number of reservations allocated to scheduled air taxis.

2. By revising § 93.123(b)(5) to read as follows:

§ 93.123 [Amended]

* * *

(b) * * *

(5) The allocation of IFR reservations for air carriers except air taxis at Washington National Airport may be increased up to 43 per hour, provided however that they do not exceed 80 in two consecutive hours, and that there be corresponding decreases in other hours, the first six of which must be from the 7 a.m., 8 p.m. and 9 p.m. hours.

3. By amending § 93.123 to add paragraph (c)(3) to read as follows:

* * *

(c) * * *

(3) Reservations for which there are not at least 42 corresponding operations for any two month period shall be withdrawn from the carrier to which they are assigned and redistributed to carriers not serving the Airport.

4. By amending § 93.123 to add paragraph (c)(4) to read as follows:

* * *

(c) * * *

(4) Reservations may be used only by the carrier to which they have been allocated by an approved method.

Invitation for Comment

Interested persons are invited to submit such data, views, or arguments as they may desire on this proposed amendment. Communications should identify the docket number and be submitted in duplicate to Docket No. 21955; Notice No. 83-3A, AGC-204, Room 916, Office of the Chief Counsel, Federal Aviation Administration, Washington, D.C. 20591, or delivered in duplicate to Room 916, 800 Independence Avenue, SW., Washington, D.C. Comments delivered must be marked: Docket No. 21955. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

Commenters who want the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard bearing the following message: "Comments on Docket No. 21955." The post card will be dated, time stamped, and returned to the commenter.

(Secs. 103, 307 (a), (b), and (c), and 313(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1303, 1348 (a), (b) and (c) and 1354(a)); Sections 2 and 5 of the Act for the Administration of Washington National Airport, 54 Stat. 686, as amended by 61 Stat. 94; Section 4 of the Second Washington Airport Act, 64 Stat. 770; 49 U.S.C. 106)

Note.—For the reasons set forth in this notice and in earlier notices and regulatory evaluations concerning the Washington Airports Policy: (1) the FAA has determined that the notice does not involve a major proposal under Executive Order 12291; (2) is significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and I certify that under the criteria of the Regulatory Flexibility Act, this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

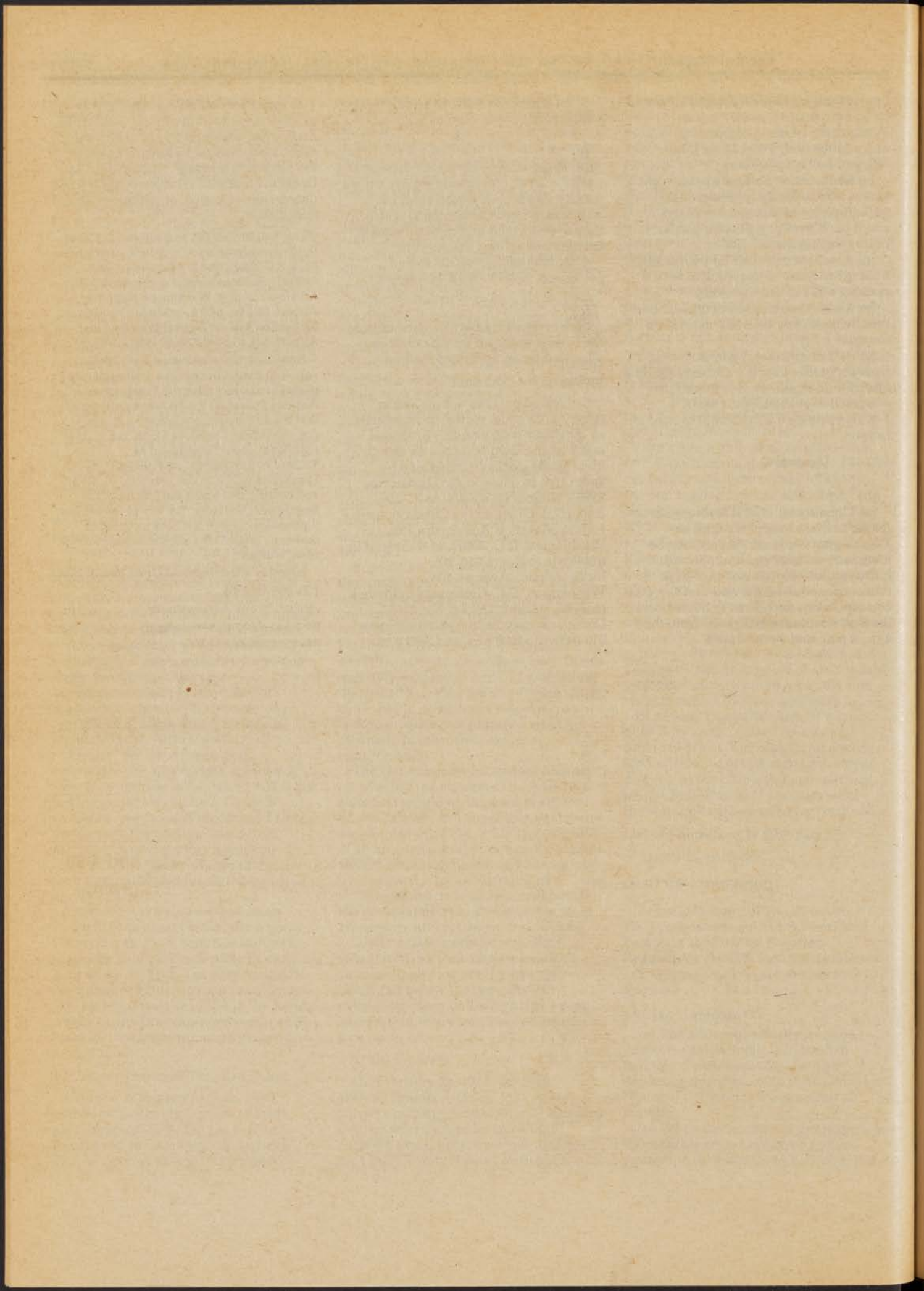
Issued in Washington, D.C., on June 8, 1984.

J. E. Murdock III,

Acting Deputy Administrator

[FR Doc. 84-15857 Filed 6-8-84; 4:56 pm]

BILLING CODE 4910-13-M



42 CFR Part 850 Federal Register

Thursday
June 14, 1984

Part III

Department of Housing and Urban Development

Office of the Secretary

24 CFR Parts 52, 207, 255, 811 and 850
Housing Development Grant Program;
Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 52, 207, 255, 811 and 850

[Docket No. R-84-1166; FR-1902]

Housing Development Grant Program

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule implements the Housing Development Grant Program authorized by section 17 of the United States Housing Act of 1937 (the 1937 Act) which was enacted into law in Section 301 of the Housing and Urban-Rural Recovery Act of 1983 (the 1983 Act), Pub. L. No. 98-181, 97 Stat. 1153. This rule establishes standards and procedures for submitting applications for projects in designated eligible areas and for projects which meet special housing needs or which advance a neighborhood preservation purpose; enumerates program requirements and threshold requirements that must be met for an application to be considered for selection; enumerates the project selection factors and priorities; explains procedures before execution of the grant agreement and drawdown of funds; sets out restrictions on the owners's management of the project; and explains how HUD will review program performance.

This interim rule implements section 17(j) of the United States Housing Act of 1937 by revising regulations governing the use of tax-exempt financing under section 11(b) of the United States Housing Act of 1937 to include projects constructed or substantially rehabilitated under the Housing Development Grant Program.

The rule also adds new provisions to 24 CFR Parts 207 and 255 to implement section 303 of the 1983 Act. Section 303 contains special provisions governing the use of section 223(f) mortgage insurance and coinsurance for existing multifamily projects in connection with properties to be rehabilitated under the new Housing Development Grant Program and the new Rental Rehabilitation Program established in 24 CFR Part 511.

This interim rule also revises HUD's intergovernmental review regulations to provide a 30-day review period for applications under this program.

DATE: Effective Date: August 7, 1984.

The collection of information requirements contained in Subparts A, B and C of this rule have been submitted to the Office of Management and Budget for review under section 3504(h) of the

Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). The collection of information requirements contained in Subparts D, E, and F of this rule will not be used until cleared by OMB. HUD will publish notices in the *Federal Register* indicating OMB approval of the collection of information requirements in this rule.

Comment Due Date: August 13, 1984.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication will be available for public inspection during regular business hours at the above address.

Please send any comments regarding the collection of information requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 10402, Attention: Desk Officer for HUD.

FOR FURTHER INFORMATION CONTACT:

Frank D. Brown, Acting Director, Housing Development Grants Division, Room 6128, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755-5720. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Section 301 of the Housing and Urban Rural Recovery Act of 1983 added a new section 17 to the United States Housing Act of 1937 establishing two new programs—the Rental Rehabilitation Program and the Housing Development Grant Program.

The Housing Development Grant Program, with which this rule is concerned, authorizes the Secretary to make grants to cities and urban counties and to States, acting on behalf of units of general local government, to be used to make loans, grants, interest reduction payments and other comparable forms of assistance, to support the new construction or substantial rehabilitation of residential rental housing. At least twenty percent of the units in a project assisted under this Program must be leased to, or made available for occupancy by, lower income families for a period of twenty years. The rent for these units cannot exceed 30 percent of the adjusted income of a family at 50 percent of median income for the area.

The grants may be made for projects located in areas determined by HUD in accordance with the statutory criteria to be experiencing a severe shortage of

decent rental housing opportunities for families or individuals without other reasonable and affordable housing alternatives in the private market, or in areas where HUD determines that a project involving assistance for other than moderate rehabilitation is necessary to meet a special housing need or to advance a particular neighborhood preservation purpose.

Overview of the Housing Development Grant Process

Section 850.31 describes the overall process for the submission and handling of applications for housing development grants. In brief, HUD will publish an Invitation for Applications (see § 850.33) which will set a submission deadline, provide information for obtaining application packages, and may contain additional program limitations such as maximum and minimum project size any overall special housing needs or neighborhood preservation purpose housing development grant limitations. HUD will review each application to determine: (1) That it is for a project to be located in a designated eligible area, that the project meets a special housing need or that it advances a neighborhood preservation purpose, and (2) that it meets the threshold requirements of § 850.37. HUD will then select, from applications meeting these two conditions, applications for preliminary funding approval based on their competitive ranking under the selection factors and priorities set out in § 850.39.

Following notification of approval, HUD will execute grant agreements with successful applicants and will work with grantees to complete the actions specified in § 850.63 that are required to allow drawdown of funds and the development of the approved projects. It is at the post-grant agreement execution stage that the grantee and owner must, among other matters, execute the owner-grantee agreement which obligates the owner to manage the project for 20 years in accordance with the project restrictions contained in § 850.151.

It should be noted that preliminary funding approval indicates the maximum grant amount. This amount may ultimately be decreased: (1) To assure compliance with the grant amount limits such as the requirement that the grant amount not exceed 50 percent of HUD's determination of the total development cost and that the grant amount not be more than the amount necessary to provide decent housing of modest design, or (2) if project costs or expenses are reduced or

the terms and conditions of financing are altered.

Eligible Applicants

An applicant for a housing development grant must be a city, urban county, or State acting on behalf, and with the concurrence, of a unit of general local government. The definitions of "city" and "urban county" were generated from the definitions for these entities in the Community Development Block Grant Program, as mandated by section 17(k)(3) of the 1937 Act.

The definition of "State" is the same as the definition in section 3(b)(7) of the 1937 Act, except the reference to the District of Columbia is deleted. The District of Columbia is a city under this Program and has no need for the "on behalf of" authority granted a State under this Program. The definition of "State" includes "the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and Indian tribes, bands, groups, and Nations, including Alaska Indians, Aleuts, and Eskimos, of the United States. These entities are cautioned, however, that under section 17(e)(3) of the 1937 Act, they must establish that they are acting on behalf, and with the concurrence, of a unit of general local government in order to apply for and receive a housing development grant. The Department is concerned that this requirement may be a bar to most of these entities' participation in this Program.

Although a consortium of units of general local government may not be an applicant or a grantee under this Program, it may still be in the interest of certain units of general local government to act in concert. The application could be filed by the jurisdiction in which the project is to be located, if it is a city or urban county, or by the State, acting on behalf of the unit of general local government. Financial resources from units of general local government within the consortium by be "pooled" and evidenced as firm commitments (and, later, legally binding commitments) in the same manner as commitments from other sources. Need for the housing may be "pooled" by using market area data, where appropriate, rather than data solely from the unit of general local government in which the project is to be located, both to establish severity and breadth of need in an application based on special need, and in the selection factor on housing shortage.

Application

The application submission requirements are contained in §§ 850.31(b) and 850.33, as supplemented by the Invitation for Applications. (HUD will provide applicants with an application package which will contain further information and guidance). Most of these requirements are self-explanatory and are intended to elicit information needed for HUD to make threshold and program selection determinations. The following discussion highlights certain of these requirements.

Section 850.33(b), in accordance with section 17(d)(3)(A) of the 1937 Act, requires submission of a rental development program description. In addition § 850.33(c) which carries out section 17(d)(3)(C) requires the applicant to submit a statement of the procedures and standards chosen and used by the applicant to select projects for submission. These statutory provisions clearly contemplate that an applicant may be considering developing more than one application under its rental development program. Nonetheless, § 850.31(b)(3) requires the applicant to submit a separate application for each project it seeks to have funded. This one project per application requirement has been adopted because, under section 17(d)(5) of the 1937 Act, HUD must select individual projects for funding, not overall rental development programs. An applicant may use the same rental development program description with each project application submitted under that program.

At the time of application, the applicant must submit documentation of a firm project commitment from each participating party in the project (§ 850.33(h)). This documentation must show that financial or other resources described in the application will be provided, contingent only upon execution of the grant agreement between HUD and the applicant. As a rule, a firm project commitment will take the form of a letter providing evidence of the commitment and the party's financial capability, specify the authority by which the commitment is made, its amount, and proposed use, and state a willingness to sign a legally binding commitment upon preliminary funding approval.

Designated Eligible Areas

Section 17(d)(2) of the 1937 Act requires the Department to publish minimum standards for determining areas that are experiencing a severe shortage of decent rental housing

opportunities for families and individuals without reasonable and affordable housing alternatives in the private market. This section is implemented in § 850.13 of this regulation.

The Department has established a point-scoring system for determining whether units of general local government are designated eligible areas. A unit of general local government can receive between zero and four points on each of four statutorily-based, objectively measurable conditions, namely, extent of poverty, extent of occupancy of physically inadequate housing by lower income families, extent of housing overcrowding experienced by lower income families, and level and duration of rental housing vacancies.

The point system is so structured that, for each of the conditions, a unit of general local government must be at least above the median for the respective condition to receive a point. A unit of general local government must score at least six out of the possible sixteen points to be a designated eligible area.

The Department could find no direct measure for the fifth statutory condition of "extent of lag between estimated need for and production of rental housing." The Department tested surrogate measures including changes in gross rent between 1970 and 1980 and changes in the vacancy rate between 1970 and 1980. The measures which were tested were found to be inadequate indicators of the statutory condition.

In order to implement this Program as expeditiously as possible and given the difficulty of extracting data needed to apply the selection factors within a limited time, the Department concentrated its efforts on cities, urban counties and towns and townships with municipal functions similar to cities, with populations over 2500.

The List of Designated Eligible Areas will be published as a Notice in the Federal Register.

Special Housing Need or Neighborhood Preservation Purpose Projects

Section 17(d)(2) of the 1937 Act also authorizes HUD to fund applications that are not located in designated eligible areas if HUD determines that a project involving other than moderate rehabilitation is necessary to meet special housing needs or to advance a particular neighborhood preservation purpose. Section 850.15(b) specifies the types of special housing needs that will be considered, namely, a need for

housing for a particular renter group or a need for housing based on a rapid change or other dislocation in the housing market. HUD will assess this on its severity, particularly in the project neighborhood, and the breadth of the need throughout the market area. In making a special need determination, HUD will also consider how responsive the proposed project is to the identified special need. For example, if the applicant has identified large families as a special renter group need, HUD will expect the proposed unit sizes, by bedroom numbers, to be appropriate to serve large families.

Section 850.15(c) details the conditions that must be met for a project to be determined to further a neighborhood preservation purpose. The applicant must satisfy HUD that the project is located in a neighborhood preservation area in which there are ongoing concentrated housing, physical development and public service activities being carried out in a coordinated manner under a locally developed strategy for neighborhood improvement, conservation or preservation and that the project furthers the goals of the strategy.

Section 850.15(d) sets out the moderate rehabilitation test that a special housing need or neighborhood preservation project must meet. This test is intended to determine whether the proposed occupancy of the lower income units in these types of projects can be served, for example, through the Rental Rehabilitation Program (24 CFR Part 511), or the Section 8 Moderate Rehabilitation Program (24 CFR Part 882, Subpart D).

Threshold Requirements

Section 850.37 identifies those requirements that must be met for an application to be considered in the selection process. Most of the requirements listed in § 850.37 implement statutory program requirements. Section 850.37(d) implements the statutory limitation that the grant amount may not exceed 50 percent of HUD's determination of the total costs associated with construction or substantial rehabilitation of the project. For purposes of this section, total costs does not include the cost of acquisition and certain other costs specified in this section. The working capital exclusion does not cover the amount to make a project operational (AMPO) for cooperative and nonprofit owned projects. The cost of acquisition may be included if the applicant demonstrates (1) for new construction projects, that the special nature of the project requires a larger grant amount,

or (2) for substantial rehabilitation projects; that both the special nature of the project and the cost of refinancing, justify including acquisition costs in the calculation.

Section 17(d)(1) of the 1937 Act provides that housing development grants may be made to support new construction or substantial rehabilitation of real property to be used *primarily* for residential rental purposes. Section 17(d)(4)(A), however, limits the use of grant assistance to the development of real property to be used for residential rental purposes *only*. The Department has interpreted these two provisions to permit commercial uses in projects provided it is self-supporting, i.e., the income to be derived from commercial space must be able to carry the debt service and operating expenses that would be attributable to that space if the project had been developed without the housing development grant. Section 850.37(e) sets out this requirement and permits up to 10 percent of the gross rentable space to be for commercial use (up to 20 percent if requested by the applicant and approved by HUD).

Section 17(d)(4)(F)(i) of the 1937 Act provides that the value of a project after rehabilitation or construction may not exceed the amount of a mortgage that could be insured for the project under section 207 of the National Housing Act. A mortgage insured under section 207 may not exceed: (1) 90 percent of the estimated value of the project after rehabilitation or construction, or (2) an amount based on the sum of the statutory per-unit mortgage limits specified in section 207(c)(3) (adjusted by a HUD-approved high cost factor of up to 240 percent) plus an allowance for costs not attributable to dwelling use. Since it would be illogical to attempt to apply the first of these section 207 limits as a constraint on project value (obviously, project value will always exceed 90 percent of project value), HUD interprets section 17(d)(4)(F)(i) to require only that project value not exceed the latter of the two mortgage limits. Accordingly, § 850.37(g) stipulates that the estimated value of a completed housing development grant project must be less than or equal to the amount of a mortgage that could hypothetically be insured for the project based on the sum of the section 207 statutory per-unit limits (adjusted by an appropriate supportable high cost factor) plus an appropriate allowance for costs not attributable to dwelling use. The application package to be provided to prospective applicants will contain more detailed guidance on this statutory

restriction on value, including information relating to supportable high cost factors and allowances for costs not attributable to dwelling use which HUD will use in applying the restriction.

Other threshold requirements include: There must be sufficient documentation to permit HUD to make the required assessments; the grant amount sought does not clearly exceed the amount needed to provide decent rental or cooperative housing of modest design which is affordable for families or individuals without other reasonable and affordable housing alternatives in the private market; the applicant does not have an unsatisfactory record in meeting assisted housing needs; the number of lower income units equals or exceeds 20 percent of the units; the project is financially feasible; the costs, terms and conditions of financing, the proposed mortgage interest rate, and the owner's proposed equity investment are reasonable; the project is consistent with any applicable Housing Assistance Plan; it does not have a negative effect on neighborhood development or cause undue relocation hardship; and the applicant and owner's certification and past performance concerning nondiscrimination and equal opportunity are acceptable.

Project Selection

The Department selects projects by considering the selection factors specified in § 850.39(b) and applying the statutory two-part priority described in § 850.39(c). This regulation provides a general description of the selection factors and the priority. The Invitation for Application (see § 850.31(a)) will provide specific information on the weight given to each of these selection factors and how the priority will be applied.

HUD will assess the relative merits of applications on the basis of the following ten selection factors:

1. Severity of shortage of decent, affordable rental housing. Section 17(d)(A) of the 1937 Act provides for HUD to consider the extent of shortage of decent rental housing opportunities in the area in which the project is located for families and individuals without other reasonable and affordable housing alternatives in the private market. Section 850.39(b)(1) implements this provision. For purposes of determining vacancy rates under this factor, HUD will use data on the rental housing vacancy rate in all census tracts and in all lower income census tracts in the unit of general local government (or where requested in the application and approved by HUD, in the market area).

It should be noted that while this measure refers, in part, to the lower income census tracts in the jurisdiction, the project may be located anywhere in the jurisdiction.

2. The amount of non-Federal public and private resources in relation to the housing development grant amount.

3. The effect of the project on neighborhood development and the degree to which displacement will be mitigated.

4. The demonstrated performance of the unit of general local government in meeting assisted housing needs and the applicant's capacity to undertake the project(s) in a timely manner. Where a State is the applicant, HUD may, as appropriate, consider the State's record in meeting assisted housing needs.

5. The efficient use of grant funds which measures the extent to which the housing development grant requested will provide the maximum number of units for the least cost to the Federal government. The ratios are adjusted to take into account repayments of grant amounts to the grantee and differences in unit size, types of tenants being served, financing alternatives, construction costs, and project types.

6. Rent affordability is assessed both on the effectiveness of the grantee's mechanism for assuring that rents on assisted units stay within the limits imposed by § 850.151(e) and on any provision of additional assistance to the project to permit very low-income households to pay less than the rent limits imposed by § 850.151(c).

7. The relative financial feasibility of the proposed projects.

8. The number of units in a project that are intended for occupancy for families, including large families with children.

9. The extent of minority or women representation in the ownership of the proposed project. Executive Order 12342, dated July 14, 1983, requires the Department to encourage its grant recipients to achieve a reasonable minority business participation in contracts let under the grant agreement. Executive Order 12138, dated May 18, 1979, requires the Department to take affirmative action in support of women's business enterprises in Departmental programs. Accordingly, HUD has included this factor as part of its effort, pursuant to these Executive Orders, to encourage minority and women-owned business participation in programs administered by the Department.

10. The extent to which the project will provide for fair housing and promote equal opportunity for minority and low-income persons. Because of the anticipated mixture of the market rate

and low-income units in projects assisted under this Program, projects assisted under this Program cannot be characterized as housing projects for lower income persons. Thus, HUD believes it would be counterproductive to the objectives of the Program to apply site and neighborhood standards applicable to 100% subsidized low-income projects. Compare 24 CFR 880.206 (Section 8 new construction), 881.206 (Section 8 substantial rehabilitation), 941.202 (public housing). *Shannon v. HUD*, 436 F. 2d 809 (3d Cir. 1970). In addition, because a project, in order to be eligible under this program must be in an area experiencing a severe shortage of rental housing, be designed to address special housing needs or be consistent with locally designed programs for neighborhood preservation, existing standards relating to the location of assisted housing projects in areas with concentrations of lower income and minority persons would be inappropriate. *Business Associations of University City v. Landrieu*, 660 F. 2d 867 (3d Cir. 1981). The Department believes, however, consistent with its responsibility to "affirmatively . . . further the purposes" of Title VIII, 42 U.S.C. 3608(d)(5), that it is appropriate to give special, additional consideration to projects that are located outside areas of minority concentration where the current pattern shows most assisted projects in minority areas, or in areas where there is no other assisted housing, or in areas undergoing revitalization through public or private investment and in which rental opportunities for lower income households are declining.

HUD will give priority in the selection process to applications for projects (1) in which more than 20 percent of the units will be lower income units and (2) that are located in areas where waiting lists for housing assistance are relatively long and where families holding certificates issued under the Section 8 Existing Housing Program and vouchers under section 8(o) of the 1937 Act require an excessive length of time to find units.

Other Program Requirements

Section 850.35 identifies the other program requirements applicable to the Housing Development Grant Program. In general, these requirements are based on other statutory or executive authority that apply by their own force to federally-assisted activities.

The federally crosscutting requirements include: Laws relating to nondiscrimination and equal opportunity in housing; Executive Orders on encouraging the use of

minority and women-owned business enterprises in connection with the Program; labor standards applicable to contracts for projects with 12 or more units; the applicability of certain OMB circulars; architectural barriers; conflict of interest; lead-based paint restrictions; intergovernmental review; use of debarred, suspended or ineligible contractors; and flood insurance, including mandatory purchase requirements. While HUD has endeavored to specify the major applicable Federal requirements, the list may not be complete and this does not affect enforceability of requirements that are omitted from the list.

Sections 850.35(d) (1) and (2) are based on specific provisions in section 17 of the 1937 Act. The former section sets out the prohibition against displacing very low-income households with households that are not very low-income. The latter section establishes HUD's displacement and relocation assistance policies. No tenant may be permanently displaced without having received advance written notice and appropriate advisory services. In addition, a lower income tenant must be given sufficient financial assistance to cover reasonable moving services and to obtain decent, safe, sanitary and affordable replacement housing. A lower income tenant also may not be required to relocate temporarily unless: Decent, safe and sanitary temporary housing is available; the tenant receives sufficient financial assistance to cover reasonable relocation expenses; and an appropriately sized unit will be available to the tenant in the project at an affordable cost.

Section 17(i)(2) of the 1937 Act makes the use of resources under this Program subject to the environmental requirements of section 104(f) of the Housing and Community Development Act of 1974. Section 17(i)(1) directs HUD to publish regulations concerning projects that involve properties on, or eligible for inclusion on, the National Register of Historic Places. HUD has published an interim rule revising 24 CFR Part 58 to implement sections 17(i) (1) and (2) at 49 FR 23610 (June 7, 1984), which are identified as a program requirement at § 850.35(e).

Post-Preliminary Approval Requirements, Grant Administration, and Program Enforcement

Subpart D of this rule identifies the actions to be taken following preliminary funding approval and the grantee's responsibilities for administering the grant. It is in this period that HUD and the grantee

execute the grant agreement (§ 850.61). In addition, the grantee must submit the various documents specified in § 850.63 including the legally binding commitments, owner-grantee agreement, security instruments, Affirmative Fair Housing Marketing Plan and the minority and women-owned business development plan which are all preconditions to drawdown of funds.

Section 850.63(f) also makes it clear that the environmental review requirements of 24 CFR Part 58 must be met before the grantee may spend any local funds or commit housing development grant funds. This is a statutory restriction imposed by section 104(f)(2) of the Housing and Community Development Act of 1974, as amended, and made applicable to the Housing Development Grant Program by section 17(i)(2) of the 1937 Act. Section 850.63(f) also refers the grantee to § 58.22 which specifies certain activities that are excepted from this prohibition. Grantees should be aware that even though they may be authorized to incur certain administrative costs before drawdown, these grantee administrative costs cannot be reimbursed from grant funds by reason of section 17(h) of the 1937 Act and § 850.17(b).

The remainder of Subpart D contains general grant administration provisions covering, among other matters, method of payments, use of program income, program audit requirements, retention of records and project close out.

With respect to program income, § 850.71 provides that program income, received by the grantee after project closeout and derived from the grantee's enforcement of the owner-grantee agreement, must be used under this Program or the Rental Rehabilitation Program (24 CFR Part 511). Program income, that is received by the grantee after project closeout and derived from other sources, is miscellaneous revenue of the grantee and is not subject to the requirements of this part or part 511 of this title. Program income that is received before project closeout must be used to reimburse costs incurred for project activities.

Subpart E specifies how HUD will review a grantee's performance and the corrective and remedial action HUD may take in light of grantee performance deficiencies.

Project Management

Section 17 of the 1937 Act imposes several restrictions on owners of projects constructed or substantially rehabilitated with housing development grants and under section 17(d)(7) imposes upon the grantee responsibility for assuring owner compliance. Section

17(d)(7)(B), indeed, requires that assistance provided to the owner shall constitute a debt and shall be secured by security instruments and specifics how the debt will be repaid to the grantee in the event of a violation.

Section 850.151 of this rule identifies the statutory restrictions imposed on the owner's management of the project and requires the grantee and owner to execute an owner-grantee agreement to carry out the requirements of this section.

The owner may not convert the project to a condominium or to a form of cooperative that is not eligible to receive a housing development grant for a 20-year period from the date on which the units in the project are available for occupancy (§ 850.151(b)). In addition, the owner, during this period, may not discriminate against prospective tenants on the basis of their receipt of, or eligibility for, housing assistance nor, except for an elderly housing project, on the basis that they have a minor child or children who will be living with them. It should be noted that this restriction applies to the leasing of all units in the project, not just the lower income units.

The owner must assure that the number of units, specified in the grant agreement (by unit size) as lower income units, are occupied by or are available for occupancy by lower income households, for a 20-year period, beginning when 50 percent of the units are first occupied (§ 850.151(d)). Section 850.151(f), which concerns recertification of tenant income, explains what the owner must do in the event a tenant ceases to qualify as a lower income household. If the owner does not need the unit occupied by such a tenant to meet the requirements of § 850.151(d), then the owner may continue to lease to this tenant and may renegotiate the rent at the expiration of the tenant's lease. If the unit is needed to stay in compliance with § 850.151(d), then the owner must notify the tenant that it must move after: (1) The lease expires or (2) six months from date of notice, whichever is later; the rent during the remainder of such a tenant's occupancy remains as established in accordance with § 850.151(e).

Section 850.151(e) sets out the restrictions on rent for lower income units in accordance with section 17(d)(8) of the 1937 Act which provides that rents in lower income units may not be more than 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families. This section also requires that the owner submit rent schedules to the

grantee for approval. HUD reads section 17(d)(8) as requiring the establishment of maximum rent schedules based on a concept of "flat rents" by unit size. "Flat rent" means that the rent is not a function of income or composition of the particular household renting the unit.

Maximum rents for lower income units under this section are formula-based and can be derived before the actual occupancy is known. HUD will supply through its Field Offices, Section 8 Very Low-Income Eligibility Limits by number of persons in a household and a standard adjustment to family income by unit size. The owner, using these data and an estimate of the monthly allowance for tenant-paid utilities and services, develops the rent schedule for the project and submits it to the grantee for approval. A rent schedule within the permissible maximum is deemed approved unless the grantee informs the owner, within 60 days after receiving the schedule, that it is disapproved.

This flat rent system may appear unusual to both prospective owners and tenants familiar with HUD's Section 8 Programs (24 CFR 880-886) in which the tenant's contribution to rent is a function of the tenant's income and composition. In those programs, however, the Federal subsidy is adjusted to compensate for variations in the tenant's contribution and thereby maintain a steady rent to the project. In the Housing Development Grant Program, the Federal subsidy is not a function of the tenant's rent.

Section 850.151 also specifies the owner's Affirmative Fair Housing Marketing Plan and equal opportunity requirements, and prohibits the use of local residency requirements.

Section 850.153 implements section 17(f) of the 1937 Act which preempts State and local rent control unless such rent control was enacted and in effect before November 30, 1983 and applies generally to rental housing projects not assisted under this Program.

Manufactured Home Parks

HUD is reserving authority to permit grantees to select projects involving manufactured home park rental communities. This issue will be considered in formulating final rules for the Housing Development Grant Program. Public comment is invited on the specific issues that need to be addressed in permitting Housing Development Grants to be utilized in developing manufactured home projects. For example, such comments should address the treatment of manufactured home parks where the occupants either own their manufactured home and rent the site on which the home is placed, or

where both the manufactured home and the site is rented.

Tax-Exempt Financing

This interim rule also amends 24 CFR Part 811, Subpart A, by adding a new § 811.118 to state the terms and conditions for obtaining the Department's approval of tax-exempt financing under section 17(j) of the 1937 Act.

The new section makes inapplicable a number of provisions that are applicable only where Section 8 assistance is provided or that the Department has determined to be inappropriate for other reasons: § 811.103—the requirement of Section 8 assistance, the percentage of units that are assisted and the role of the contract administrator; § 811.106—relating the term of the obligations to the Section 8 contract term; § 811.110—to conform to the policy of the Department of the Treasury, separate interim tax-exempt obligations are not permitted; § 811.111—the construction inspections required in the Section 8 program; § 811.112—the escrow of the permanent obligations is no longer applicable since separate tax-exempt interim financing is not permitted; § 811.113—the execution of the Section 8 contract and Section 8 cost certification are not applicable; and § 811.117—the Department does not intend to impose any controls on tax-exempt obligations that are issued under federal statutes other than section 17(j).

A State or local housing agency may be approved as the issuer or parent entity of the issuer of the obligations. The approval of section 17(j) obligations will be done in HUD's Central Office.

Conforming Revisions to FHA's Section 223(f) Full Insurance and Coinsurance Programs

This rule also adds to 24 CFR Parts 207 and 255 specific provisions applicable only to the new Part 850 Housing Development Grant Program and the new Part 511 Rental Rehabilitation Program. These program revisions were authorized by section 303 of the Housing and Urban-Rural Recovery Act of 1983, and are intended to permit the effective use of FHA's section 223(f) full insurance and coinsurance in conjunction with the Housing Development Grant and Rental Rehabilitation Programs. Public comments concerning these new provisions are invited and will be taken into account in developing a final rule.

Section 303(b) of the 1983 Act adds special provisions to section 223(f) of the National Housing Act (FHA insurance of existing multifamily properties). In the case of any purchase or refinancing under section 223(f) involving property

to be rehabilitated under the new Housing Development Grant or Rental Rehabilitation Programs, the Secretary may: (A) include rehabilitation or development costs of not to exceed \$20,000 per unit, except that the Secretary may increase this amount by not to exceed 25 percent for specific properties where cost levels so require; (B) permit subordinated liens securing up to the full amount of mortgage financing provided by State or local governments or their agencies; and (C) pay insurance benefits in cash unless the mortgagee submits a written request for debenture payment.

The rule revises 24 CFR 207.32a (section 223(f) full insurance) and 24 CFR 207.259 (method of payment of insurance benefits) to reflect these statutory changes. Specifically, paragraph (f) of § 207.32a is revised to include, as properties eligible for mortgage insurance under that section, properties that involve rehabilitation costs of up to \$20,000 per dwelling unit (up to \$25,000 where cost levels so require) in cases where the property is to be assisted under the new Part 511 Rental Rehabilitation Program or the Housing Development Grant Program authorized in this rule. This is an exception to the generally applicable per dwelling unit cost limit for properties insured under § 207.32a—\$6500, adjusted by any applicable high-cost factor.

Paragraph (i) of § 207.32a is revised to provide that, in the case of those properties with respect to which the cost of repairs, replacements, or improvements exceeds \$6,500 per dwelling unit (as adjusted), the labor standards and prevailing wage requirements contained in § 207.19(d) will apply. It should be noted in addition that section 17(i)(3) of the 1937 Act makes these requirements applicable to all projects with 12 or more units, regardless of per unit costs, under both the Part 511 Rental Rehabilitation Program and the Part 850 Housing Development Grant Program.

Paragraph (j) of § 207.32a, which relates to limitations on secondary financing, is revised to permit, in the case of a property to be rehabilitated under the new Part 511 or 850, subordinated liens securing up to the full amount of mortgage financing provided by State or local governments or agencies thereof, provided that the mortgagee is also contributing, out of its own resources, an amount equal to: (1) Where the purchase of a project is involved, at least 7½ percent of the Commissioner's estimate of the value of the project; or (2) where refinancing is involved, such higher percentage of the

Commissioner's estimate of the value of the project as the Commissioner may determine (not to exceed 22.5 percent of value). A mortgage contribution is expressly required in these cases since otherwise it is possible that 100 percent of the project will be financed through debt. The Department deems it essential that the mortgagee have a significant equity interest in the project and consequently a stake in its successful operation. The required equity contributions take into account the amounts that may not be financed through debt under the otherwise applicable secondary financing provisions found in § 207.32a(j).

Section 207.259(a)(2) is also revised in the rule to reflect the statutory provision that insurance benefits in connection with assisted projects be payable in cash, unless the mortgagee submits a written request for debenture payment.

Section 303(a) of the 1983 Act adds special provisions to section 244 of the National Housing Act (FHA coinsurance). Notwithstanding any other provision of section 244, in the case of a mortgage insured pursuant to section 223(f) secured by property that is to be rehabilitated under the new Housing Development Grant or Rental Rehabilitation Programs, coinsurance under section 244 may include provisions that: (A) insurance benefits shall be equal to the sum of (1) 90 percent of the mortgage on the date of institution of foreclosure proceedings (or on the date of acquisition of the property otherwise after default) and (2) 90 percent of interest arrears on the date benefits are paid; (B) the mortgagee shall remit to the Secretary, for credit to the General Insurance Fund, 90 percent of any proceeds of the property, including sale proceeds, net of the mortgagee's actual and reasonable costs related to the property and the enforcement of security; (C) insurance benefits will be paid in cash unless the mortgagee submits a written request for debenture payment; and (D) the underwriter of coinsurance may reinsure 10 percent of the mortgage amount with a private mortgage insurance company or with a State mortgage insurance agency.

The rule revises 24 CFR Part 255 (Coinsurance of existing multifamily properties) to reflect those statutory changes. Specifically, § 255.106 (Mortgage servicing and insurance of lender's risk) is revised to authorize reinsurance by a licensed mortgage guarantee insurer or a State mortgage insurance agency for 10 percent of the amount of a coinsured mortgage covering a property rehabilitated with

assistance under the new Part 511 or Part 850 Programs.

Section 255.203 (Processing and commitment) is revised to provide that, though generally the mortgage lender must perform all FHA processing (including the issuance of both conditional and firm commitments), if the lender is to be eligible for 90 percent coinsurance benefits under section 303(a), it must first obtain the approval of the Commissioner before the issuance of any commitment involving such benefits. The Commissioner will grant such approval only where the lender demonstrates to the Commissioner's satisfaction that no other feasible financing alternatives are available for the proposed project.

Paragraph (a) of § 255.210 (Mortgage lien and other obligations) is revised to permit the lender, where the benefits of 90 percent coinsurance under section 303(a) are being applied for, to accept subordinated liens securing up to the full amount of any mortgage financing provided by State or local governments (or agencies thereof) in connection with the rehabilitation of a property assisted under the new Part 511 or 850. This provision carries out the statutory provision that such subordinated liens be permitted in connection with 90 percent coinsurance. In addition to revising paragraph (a), the rule makes applicable to Part 255 Coinsurance the secondary financing changes made to the section 223(f) full insurance program (24 CFR 207.32a(j)(5)), including the new owner equity requirements.

Paragraph (b) of § 255.211 (Maximum mortgage amounts), describes capitalization and market value indicators of value that are to be considered by the lender in determining maximum mortgage amounts. The rule revises this description to state that, because of the presence of below-market rent units in projects rehabilitated with assistance under the new Part 850, the Commissioner will issue guidelines for the calculation of capitalization and market value where such properties are involved.

The rule adds a new § 255.225a prescribing the same labor standards and prevailing wage requirements for the Part 255 program as are added to the § 207.32a full insurance program.

Section 255.228(c) (Limitations on cost and nature of repairs, replacements, or improvements) is revised to include, as properties eligible for coinsurance under Part 255, properties that involve rehabilitation costs of up to \$20,000 per dwelling unit (up to \$25,000 where cost levels so require) in cases where the property is to be assisted under the new Part 511 or 850 programs. This is the

same amendment made by this rule to the section 223(f) full insurance program.

The rule also revises § 255.402(b) (Amount of mortgage insurance premium (MIP) to be collected from the mortgagor) to limit, in the case of a mortgage approved for coinsurance benefits under section 303(a), any premium in addition to HUD's required MIP that may be charged the mortgagor for the account of the lender or an insurer of the lender, to 0.10 percent per annum of the average outstanding principal balance of the insured mortgage. This amount is lower than the otherwise applicable maximum amount of 0.25 percent per annum for such additional premiums because of the lower coinsurance risk exposure in connection with 90 percent coinsurance.

Section 255.415(e) (Termination of coinsurance contract) is revised to provide that failure by the lender to file a claim within the 15-day period prescribed in § 255.427a(b) (described below) will result in termination of the coinsurance contract.

A new § 255.427a is added to Part 255 by this rule, entitled "Amount of payment for certain mortgages covering property to be rehabilitated with assistance under 24 CFR Part 511 or Part 850." This section implements the special coinsurance benefit provisions of section 303(a) of the 1983 Act.

Paragraph (a) of the new section provides that it applies to mortgages covering properties rehabilitated with assistance under Part 511 or Part 850 that the Commissioner has approved for coinsurance under the revised § 255.203, described above.

Paragraph (b) provides that insurance benefits under § 255.427a will be payable on the date of acquisition of marketable title to the property securing a defaulted mortgage. The benefits will equal the sum of: (1) 90 percent of the unpaid principal balance of the mortgage on the date of the institution of foreclosure proceedings or on the date of acquisition of the property otherwise after default; and (2) 90 percent of the interest arrears under the mortgage on the date insurance benefits are paid. To be eligible for payment, the lender must file with the Commissioner a claim for benefits no later than 15 days after acquisition of title.

Payment of benefits after acquisition of marketable title is provided for in the existing Part 255, and will provide an incentive for reasonably prompt action upon a defaulted mortgage on the part of the lender, taking into account the possibility of forbearance relief under § 255.414. The 15-day period for filing a claim is the same as that provided for

other coinsurance claims under § 255.424(b).

Paragraph (c) requires the lender, upon acquisition of title, to obtain two independent appraisals of the property, as currently provided in § 255.424(a).

Paragraph (d) requires a lender to remit to the Commissioner, for the credit of the General Insurance Fund:

(1) 90 percent of the net proceeds of the property after the lender sells the property or after the expiration of 12 months from the date of acquisition of title, whichever comes first; and

(2) Interest in an amount that is two percentage points above the rate of the current value of funds to the United States Treasury (set in conformity with the Treasury Fiscal Requirements Manual) on the amount required to be remitted to HUD from the date of payment of insurance benefits.

The 12-month limit on the period that a lender can hold a foreclosed property without selling it is used in the existing Part 255 program. Its use in connection with section 303(a)'s insurance benefits provision is all the more necessary, since under section 303(a), HUD must initially pay the gross amount of its insurance exposure and have its net exposure determined at a later point. As in the existing program, insurance benefits at the end of the 12-month period are calculated on the basis of the higher of the appraised values referred to above.

Assessment of interest on the amount to be remitted to HUD is new with these special insurance benefit provisions, and reflects the fact that (unlike the current Part 255 program) there will be time during which a coinsured lender will have free use of the gross insurance benefits paid by HUD before HUD's net exposure is determined. For purposes of determining the net proceeds of a property under this section, the items referred to in § 255.427 (items that are deducted in calculating regular coinsurance benefits) are added into the calculation and items referred to in § 255.426 (items that are included in calculating regular coinsurance benefits) are subtracted. This reflects the fact that the "netting process" occurs apart from payment of the gross amount of insurance benefits. Consistent with section 303(a), the 5 percent "deductible" referred to in § 255.247(a) will not be added on (since section 303(a) does not contain a "deductible" loss sharing feature) and the full amount (rather than two-thirds) of the cost of acquiring the property specified in § 255.426(d) will be subtracted. As with the existing Part 255 program, the lender must furnish information with respect to

the net proceeds of the property on a form approved by the Commissioner.

Paragraph (e) of this new section provides that any required remittance that is paid to the Commissioner more than 30 days after the sale of the property or the expiration of 12 months from the date of acquisition of title, as appropriate, (1) must include a late charge of four percent of the amount of the remittance due and (2) will be subject to interest from the appropriate due date at a rate that is two percentage points above the rate of the current value of funds to the United States Treasury (set in conformity with the Treasury Fiscal Requirements Manual). These provisions are based upon § 255.407 of the current Part 255.

Section 255.428(a) (Remedies in the event of a default by a lender-issuer under the GNMA mortgage-backed securities program) is revised with a conforming provision specifying that the Commissioner is authorized to pay to GNMA, upon request, up to 10 percent of the unpaid principal balance and interest arrears under the mortgage where the default relates to a mortgage for which insurance benefits are payable under the new § 255.427a. This provides protection to holders of GNMA securities backed by mortgages containing section 303(a)'s special features comparable to that provided other securities holders under Part 255.

Intergovernmental Review

This rule also amends § 52.8(a)(1) to provide a 30-day intergovernmental review comment period. Most of HUD's covered programs provide a 60-day comment period. The 30-day period, however, is applied to HUD's covered mortgage insurance programs, including those insurance programs that may be used in conjunction with this Program. A 30-day comment period is also used in the Urban Development Action Grant Program (24 CFR 570.450) which is very similar in structure to the Housing Development Grant Program.

Other Information

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, at the above address.

This rule constitutes a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation

issued by the President on February 17, 1981 (Executive Order 12291). This rule does not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions, nor does it significantly adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Analysis of the rule indicates that it would have an annual effect on the economy of \$100 million or more. However, the Director of the Office of Management and Budget, under section 6(a)(4) of Executive Order 12291, has waived the requirements of sections 3 and 4 of the Executive Order with respect to this rule. This waiver is based on the Director's determination that meeting the requirements of the Executive Order would delay unduly the issuance of the regulation and would frustrate implementation of the Housing Development Grant Program during the current fiscal year.

Under the provisions of section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, because the housing development grant amounts to be made available to any grantee are relatively small in relation to other sources of Federal funding for State and local government and in relation to private investment in rental housing. The regulation, in accordance with section 17(e)(3) of the 1937 Act, authorizes a State to apply for and receive, on behalf, and with the concurrence, of a unit of general local government, a housing development grant. When a State so acts, it must be the grantee and must assure compliance with program requirements, owner agreements, and other related requirements. These provisions should further minimize the economic impact on small units of general local government.

The subject matter of this rulemaking action relates to grants and is therefore exempt from the notice and public comment requirements of section 553 of the Administrative Procedure Act. As a matter of policy, the Department submits many rulemaking actions with such subject matter to public comment either before or after effectiveness of the action, notwithstanding the statutory exemption.

The Secretary has determined that notice and prior public procedure are impracticable and contrary to the public

interest and that good cause exists for making this rule effective as soon after publication as possible because the Congress, by authorizing the Program beginning with FY 1984, clearly intended that the Program be operational for FY 1984. This will not be possible if a strict notice and comment procedure is carried out before the effectiveness of the regulation. The interim regulation informs eligible jurisdictions of the scope of the Program that will be in effect for the current fiscal year, thereby permitting them to implement the Program so that funds may be obligated during FY 1984. Issuance of an interim rule provides the most expedient route for funding in FY 1984, while allowing adequate opportunity for public comment.

This rule was listed as Item H-26-84 at 49 FR 15930 in the Department's Semiannual Agenda of Regulations published on April 19, 1984 (49 FR 15902) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number for this rule are 14.127 and 14.174.

List of Subjects

24 CFR Part 52

Intergovernmental relations.

24 CFR Part 207

Mortgage insurance, Rental housing, Mobile home parks.

24 CFR Part 255

Mortgage insurance, Coinsurance of multifamily mortgages.

24 CFR Part 811

Public housing, Rent subsidies, New construction and substantial rehabilitation.

24 CFR Part 850

Grant programs: Housing and community development, Relocation assistance, Rental housing, Low and moderate income housing, Cooperatives.

PART 850—[AMENDED]

Accordingly, the Department amends Title 24 of the Code of Federal Regulations as follows:

1. In chapter VIII, a new Part 850 is added to read as follows:

PART 850—HOUSING DEVELOPMENT GRANTS

Subpart A—General Provisions

Sec.

850.1 Scope and applicability.

850.3 Definitions.

Subpart B—Eligibility and Use of Grant Funds

- 850.11 General.
- 850.13 Designated eligible area.
- 850.15 Special housing needs and neighborhood preservation projects.
- 850.17 Eligible and ineligible uses of grant funds.

Subpart C—Application Procedures and Program Requirements

- 850.31 Application submission, review and selection process—General.
- 850.33 Submission requirements.
- 850.35 Other program requirements.
- 850.37 Threshold requirements.
- 850.39 Selection of projects for preliminary funding approval.

Subpart D—Post Preliminary Approval Requirements and Grant Administration

- 850.61 Grant agreement and overall limit on grant amounts.
- 850.63 Conditions precedent to drawdown of funds.
- 850.65 Method of payment.
- 850.67 Cash withdrawals.
- 850.69 Financial management systems.
- 850.71 Program income.
- 850.73 Audit.
- 850.75 Reporting requirements.
- 850.77 Retention of records.
- 850.79 Project closeout.

Subpart E—Program Performance

- 850.101 Review of grantee's performance.
- 850.103 Corrective and remedial actions.
- 850.105 Reduction or termination of grant.
- 850.107 Claim for money.

Subpart F—Project Management

- 850.151 Project restrictions.
- 850.153 Rent control.
- 850.155 Securing owner's responsibilities.

Authority: Sec. 17, United States Housing Act of 1937 (42 U.S.C. 1437o); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General Provisions**§ 850.1 Scope and applicability.**

This part implements the Housing Development Grant Program contained in section 17 of the United States Housing Act of 1937. The Program authorizes the Secretary of Housing and Urban Development to make housing development grants to support the new construction or substantial rehabilitation of real property to be used primarily for residential rental purposes. Grants are made on a competitive basis to cities, urban counties, and States acting on behalf of units of general local government. Grants may be made for projects located in areas determined by the Secretary to be experiencing a severe shortage of decent rental housing opportunities for families and individuals without other reasonable and affordable housing alternatives in the private market, or in other areas where the Secretary determines that a

project involving assistance for other than moderate rehabilitation is necessary to meet a special housing need or to advance a particular neighborhood preservation purpose. Grantees may use housing development grants to provide grants, loans, interest reduction payments, or other comparable assistance to support new construction or substantial rehabilitation projects. At least 20 percent of the units in assisted projects must be occupied, or available for occupancy, by lower income households for a period of 20 years.

§ 850.3 Definitions.

"Applicant" means a city, urban county, or State acting on behalf of a unit of general local government located within the State that submits an application for a housing development grant under this part. A unit of general local government whose population is included in that of an urban county for purposes of section 102 of the Housing and Community Development Act of 1974 is eligible to participate in the Housing Development Grant Program as provided in this part, notwithstanding such inclusion.

"Chief executive officer" of a governmental entity means the elected official, or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the "chief executive officer" are: the elected mayor of a municipality, the elected county executive of a county, the chairman of a county commission or board in a county that has no elected county executive, the official designated under law by the governing body of the unit of general local government, and the Governor of a State.

"City" means a unit of general local government that is classified as a city for purposes of the Entitlement grant program under section 102(a)(5) of the Housing and Community Development Act of 1974.

"Firm project commitment" means a commitment made by a participating party to provide financial or other resources to carry out a project under this part. The commitment may be contingent upon the execution of a grant agreement between HUD and the applicant. In documenting a firm project commitment, a participating party must (1) provide evidence of the commitment and the party's financial capability; (2) specify the authority by which the commitment is made, its amount, and the proposed use of the financial or other resources to be provided; and (3) state a willingness to sign a legally binding commitment upon preliminary

funding approval of the housing development grant. Documentation of a firm project commitment by a public participating party will generally include a city or county council resolution or a letter from a Federal or State agency.

"Grantee" means an applicant that executes a housing development grant agreement with HUD.

"HUD" means the Department of Housing and Urban Development.

"Legally binding commitment" means a legally enforceable written obligation made by a participating party to provide financial or other resources to carry out the project in accordance with the terms and conditions of the grant agreement.

"Lower income household" means a family or individual which is a lower income family, as defined in 24 CFR 813.102.

"Lower income unit" means a dwelling unit that must be occupied, or available for occupancy, by a lower income household for the time specified in the grant agreement.

"Owner" means one or more individuals, corporations, partnerships, or other legal entities that hold (or will hold by a time specified by HUD) valid legal title to, or have (or will have by a time specified by HUD) a long-term leasehold interest in, the property on which a project is to be constructed or substantially rehabilitated with assistance under this part.

"Participating party" means any person, firm, corporation, or public or private entity that has agreed to provide financial or other resources to carry out a project under this part.

"Private project leveraging ratio" means the total amount of private financial or other resources for which one or more firm project commitments have been provided, divided by the amount of housing development grant sought for the proposed project. For purposes of calculating the amount of a commitment under this ratio, HUD will only consider new investments that are necessary to make a new, permanent capital improvement. For example, expenditures for land acquisition, new construction, or rehabilitation will be included in the calculation; working capital will not.

"Project" means one or more buildings containing similarly constructed units, the site(s) on which the building or buildings is located, and any functionally related facilities. Multiple buildings will constitute a project only if they are bound together as a result of proximate location, common ownership, and common financing.

"Project leveraging ratio" means the total amount of private and non-Federal

public financial or other resources for which one or more firm project commitments have been provided, divided by the amount of housing development grant funds sought for the project. For purposes of calculating the amount of a commitment under this ratio, HUD will only consider new investments that are necessary to make a new, permanent capital improvement. For example, expenditures for land acquisition, new construction, or rehabilitation will be included in the calculation; working capital will not.

"Project neighborhood" means the area, described by the applicant, in which the proposed project is to be located and that (a) has a population of at least 2,500 persons and (b) is distinguishable from other areas on the basis of one or more significant features, such as: (1) Natural or man-made boundaries; (2) a locally recognized name, formal or informal; (3) an identity as a residential subdivision; (4) an identity as an elementary school district; or (5) distinctive population, social, or real estate characteristics.

"State" means any State of the United States; the Commonwealth of Puerto Rico; the territories and possessions of the United States; the Trust Territory of the Pacific Islands; and Indian tribes, bands, groups, and Nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

"Substantial rehabilitation" means repairs, replacements and improvements: (a) The cost of which exceeds the greater of: (1) 15 percent of the property's value after completion of all repairs, replacements and improvements, or (2) \$6,500 per dwelling unit (increased by the appropriate supportable high-cost factor used in HUD multifamily mortgage insurance programs); or (b) that involve the replacement of more than one major building component. For purposes of this definition, the term "major building component" includes roof structures; ceiling, wall, or floor structures; foundations; plumbing systems; heating and air conditioning systems; or electrical systems.

"Unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State.

"Urban county" means a county that is classified as an urban county under section 102(a)(6) of the Housing and Community Development Act of 1974.

"Very low-income household" means a family or individual which is a very low-income family, as defined in 24 CFR 813.102.

Subpart B—Eligibility and Use of Grant Funds

§ 850.11 General.

HUD is authorized to make housing development grants for projects that are located in designated eligible areas, as described in § 850.13, or that are located outside those areas, in the circumstances described in § 850.15.

§ 850.13 Designated eligible area.

(a) *General.* A designated eligible area is a city, urban county, or other unit of general local government that has a population of 2,500 or more persons and is determined by HUD according to the statutory definition to be experiencing a severe shortage of decent rental housing opportunities for families and individuals without other reasonable and affordable housing alternatives in the private market. The specific minimum standards set out in paragraph (b) of this section are derived by using the best and most recent available data, based on objectively measurable conditions, and take into account (to the extent data are available) the following statutory conditions:

- (1) The extent of poverty;
- (2) The extent of occupancy of physically inadequate housing by lower income families;
- (3) The extent of housing overcrowding experienced by lower income families;
- (4) The level and duration of rental housing vacancies; and
- (5) The extent of the lag between the estimated need for and production of rental housing.

From time to time HUD will publish a Notice in the *Federal Register* listing those areas that have been determined to be eligible areas.

(b) *Minimum standards for designated eligible areas.* To be a designated eligible area a unit of general local government must score at least six out of a possible sixteen points under the conditions listed below. Because of varying data availability, different categories of places use somewhat different combinations of indicators that sum to 16 potential points.

(1) Extent of occupancy of physically inadequate housing by lower income families. This condition is the same for all categories of places and is measured on the percent of rental units that are in pre-1940 structures and are occupied by poverty households in 1980, based on U.S. Census data: Four points (12.20 percent of units or higher); three points (7.95 to less than 12.20 percent of units); two points (6.30 to less than 7.95 percent of units); and one point (4.55 to less than 6.30 percent of units).

(2) Extent of housing overcrowding experienced by lower income families.

(i) For places of 25,000 or more population and for urban counties, this condition is measured on the percent of occupied rental units with 1.0 or more persons per room (overcrowding) in 1980, based on U.S. Census data: four points (10.39 percent of units or higher); and two points (7.82 to less than 10.39 percent of units);

(ii) For places of 2,500 to 24,999 population, towns and townships in certain States and Puerto Rican municipios of 2,500 to 49,999, this condition is measured on the percent of total occupied units with 1.0 or more persons per room (overcrowding) in 1980, based on U.S. Census data: Four points (7.58 percent of units or higher); and two points (5.53 to less than 7.58 percent of units);

(3) Level and duration of rental housing vacancies. (i) For places of 25,000 or more population and for urban counties, this condition is measured as a composite of level and duration of rental housing vacancies based on the percent of rental units for rent that were vacant in 1980, and on the percent of rental units for rent that were vacant more than two months in 1980, based on U.S. Census data: Four points (less than 3.05 percent level and less than 0.82 percent duration); three points (less than 3.05 percent level and 0.82 to less than 1.34 percent duration; or 3.05 to less than 4.04 percent level and less than 0.82 percent duration); two points (less than 3.05 percent level and 1.34 to less than 1.75 percent duration; or 3.05 to less than 4.04 percent level and 0.82 to less than 1.34 percent duration; or 4.04 to less than 5.25 percent level and less than 0.82 percent duration); and one point (less than 3.05 percent level and 1.75 to 2.45 percent duration; or 3.05 to less than 4.04 percent level and 1.34 to less than 1.75 percent duration; or 4.04 to less than 5.25 percent level and 0.82 to less than 1.34 percent duration; or 5.25 to 6.34 percent level and less than 0.82 percent duration).

(ii) For places of 2,500 to 24,999 population, towns and townships in certain States and Puerto Rican municipios of 2,500 to 24,999 population, this condition is measured on the percent of rental units for rent that were vacant in 1980, based on U.S. Census data: Four points (less than 3.05 percent of units); and two points (3.05 to less than 4.04 percent of units).

(4) Extent of poverty. (i) For places of 2,500 or more population, this condition is measured on the percent of families in poverty, 1980, based on U.S. Census data: Four points (16.55 percent or higher); three points (12.35 to less than

16.55 percent); two points (10.05 to less than 12.35 percent); and one point (8.45 to less than 10.05 percent).

(ii) For urban counties, this condition is measured on the percent of persons in poverty, 1980, based on U.S. Census data: Four points (19.80 percent or higher); three points (15.64 to less than 19.80 percent); two points (13.36 to less than 15.64 percent); and one point (11.46 to less than 13.36 percent).

§ 850.15 Special housing needs and neighborhood preservation projects.

(a) *General.* A housing development grant may also be made for a project that is not located in a designated eligible area of HUD determines that (1) the project is necessary to meet a special housing need or to advance a particular neighborhood preservation purpose and (2) the proposed occupancy of the lower income units in the project (by number of bedrooms and household type) cannot be met through the moderate rehabilitation of housing stock located in the project neighborhood.

(b) *Special housing need.* A special housing need must address at least one of the following: (1) A special renter group need (e.g., large family housing); or (2) A special need resulting from a rapid change or other dislocation in the housing market that has occurred since the taking of the 1980 Census (e.g., changes or dislocations caused by a natural disaster or rapid population-growth) so long as the current vacancy rate in the jurisdiction does not exceed seven percent. In determining whether a special housing need exists, HUD will consider the severity and breadth of the need and the proposed project's responsiveness to it.

(c) *Neighborhood preservation purpose.* A proposed project intended to advance a neighborhood preservation purpose must be located in a neighborhood preservation area in which concentrated housing, physical development, and public service activities are being carried out in a coordinated manner pursuant to a locally developed strategy for neighborhood improvement, conservation, or preservation, and must further the goals of the strategy. The locally developed strategy must:

(1) Provide for a combination of physical improvements, necessary public facilities and services, housing programs, private investment and citizen self-help activities appropriate to the needs of the area;

(2) Coordinate public and private development efforts; and

(3) Provide sufficient resources to produce substantial long-term improvements in the area within a

reasonable period of time, taking into account the severity of the area's problems.

(d) *Moderate rehabilitation restriction determination.* The proposed occupancy of the lower income units in a special housing need or neighborhood preservation purpose project cannot be met through the moderate rehabilitation of housing stock located in the project neighborhood if:

(1) The unit of general local government made reasonable efforts to obtain assistance under each Federal program providing assistance for moderate rehabilitation of real property that could be used to meet the proposed occupancy of the lower income units in the project, but was unsuccessful in obtaining the assistance. (These programs include, for example, the Section 8 Moderate Rehabilitation Program under 24 CFR Part 882, Subpart D, and the Rental Rehabilitation under 24 CFR Part 511); or

(2) In the case of a unit of general local government that receives assistance under any such Federal program, the unit of government solicited for moderate rehabilitation projects in the project neighborhood to meet the proposed occupancy of the lower income units in the project under the program, but was unable to obtain any responses; or

(3) The project neighborhood does not meet the requirements for assistance under such Federal programs. (For example, the project neighborhood does not meet the neighborhood eligibility requirements for the Rental Rehabilitation Program under § 511.10(d) of this title. Because of differences between areas that qualify as a project neighborhood under this part and a neighborhood under § 511.10(d)(1), a determination under this section that the proposed occupancy of the lower income units in the project cannot be met through moderate rehabilitation on the basis of neighborhood ineligibility under the Program will be made only if no activities under that Program are being, or are anticipated to be, carried out in the project neighborhood.); or

(4) The project neighborhood lacks housing stock in size or design appropriate to the proposed occupancy of the lower income units in the project; or

(5) The housing stock in the project neighborhood that could be used to meet the proposed occupancy of the lower income units in the project is so deteriorated that the moderate rehabilitation of such stock is not feasible; or

(6) The applicant proposes any other reasonable justification, and HUD

accepts the justification, as to why the proposed occupancy of the lower income units in the project cannot be met through the moderate rehabilitation of housing stock located in the project neighborhood.

§ 850.17 Eligible and ineligible uses of grant funds.

(a) Housing development grant funds may be used to provide grants or loans to defray project costs including acquisition, demolition, relocation, site improvements, construction costs, and related soft costs; to make interest reduction payments; or for other comparable activities approved by HUD to support the new construction or substantial rehabilitation of real property to be used primarily for non-transient residential rental purposes. Residential rental purposes include cooperative housing or mutual housing that has a resale structure that enables the cooperative to maintain affordability for lower income households.

(b) Housing development grant funds may not be used for administrative costs incurred by an applicant or grantee in carrying out its responsibilities under the Housing Development Grant Program. These administrative costs include, but are not limited to, staff and consultant salaries and operating expenses of the applicant or grantee.

(c) Housing development grant funds may not be used to construct or substantially rehabilitate a project that: (1) Is currently assisted (or is anticipated to be assisted) under any other Federal housing assistance program (except assistance under the section 8 Existing Housing Program under 24 CFR Part 882, Subparts A and B) or under the Urban Development Grant Program (24 CFR 570.450), (2) was assisted under section 305 or 313 of the National Housing Act, (3) was formerly owned by HUD. Housing development grant funds may be used in connection with projects financed with tax-exempted obligations.

Subpart C—Application Procedures and Program Requirements

§ 850.31 Application submission, review and selection process—General.

(a) *Invitation for Applications.* HUD will publish an Invitation for Applications in the Federal Register that will:

(1) Give the location for obtaining application packages providing specific application requirements and guidance;

(2) Specify the deadline and place for submitting completed applications; and

(3) Provide other appropriate program information and requirements, including

any minimum or maximum project size and any overall special housing needs or neighborhood preservation purpose housing development grant limitations.

(b) *Applications.* (1) The applicant's chief executive officer or other officer approved by HUD must sign and submit the application, as described in § 850.33.

(2) The application must contain the documentation required in § 850.33 (including assurance of compliance with the other program requirements listed in § 850.35) and any other information specifically requested in the application package. The applicant must use the HUD-prescribed forms and format, and contain sufficient detail to enable HUD to make the threshold and selection determinations in §§ 850.37 and 850.39, respectively.

(3) An applicant must submit a separate application for each project.

(c) *HUD review and selection.* HUD will first review applications received to determine whether they are acceptable under the threshold requirements of § 850.37. Only acceptable applications will be eligible for competitive ranking and possible selection under § 850.39.

(d) *Notification to applicants.* HUD will notify all applicants of the results of the review and selection upon completion of the selection process.

(e) *Grant amounts.* In the case of selected applications, the notification in paragraph (d) of this section will indicate:

(1) The preliminary grant funding amount, which will constitute a reservation of funds;

(2) That preliminary grant amounts will not be increased, but are subject to decrease if (i) further project planning or development reveals that the grant amount must be reduced to comply with the grant amount limitations under § 850.37(d) or (ii) necessary to comply with the grant limitation described in § 850.61(b); and

(3) Other conditions and requirements necessary to reach execution of a grant agreement between HUD and the applicant.

(f) *Modification of applications.* The substance of an application may not be modified until the selection process is completed. Thereafter, minor modifications in selected projects may be made, but changes of site, total number of units, unit size (number of bedrooms), building type, or number of lower income units are not permitted.

§ 850.33 Submission requirements.

An application must contain the following:

(a) *Standard form.* Standard Form 424, prescribed by OMB Circular No. A-102.

(b) *Program description.* A description of the applicant's proposed rental development program, consisting of a general description of the projects that the applicant proposes to undertake for the fiscal year with housing development grants, including a specification of the applicant's anticipated schedule for carrying out these projects. The applicant may submit the same program description for each project application submitted under the program.

(c) *Applicant project selection.* A statement of the procedures and standards used by the applicant to select the project that is the subject of the application. The statement must describe how the procedures and standards took into account the extent to which: (1) The proposals reviewed represented the efficient use of housing development grant amounts, (2) the housing units involved would be adequately maintained and operated with rents maintained at the levels proposed, and (3) the proposals would involve participation by minority and women's business enterprises.

(d) *Project neighborhood.* A description of the project neighborhood.

(e) *Project location.* (1) An indication of whether the project is in a designated eligible area (as provided in § 850.13), or is intended to meet a special housing need or to advance a particular neighborhood preservation purpose (as provided in § 850.15). If the project is intended to meet a special housing need, the application must specify the type of need and contain an analysis of its severity and breadth and the proposed project's responsiveness to it, in accordance with the requirements of § 850.15(b). If the project is intended to advance a particular neighborhood preservation purpose, the application must describe the neighborhood preservation area, the activities being carried out in the area, the locally developed strategy for the area, and how the proposed project furthers the goals of the strategy (as described in § 850.15(c)).

(2) Such information as HUD may require concerning the site of the proposed project to permit HUD to apply the selection criterion contained in § 850.39(b)(10), including, as appropriate to the project:

(i) A description of the project neighborhood demographics;

(ii) Data on the extent of public or private investment in the project neighborhood; and

(iii) A list of assisted housing projects located in the project neighborhood, together with the race/ethnicity of the tenant households in each such project.

(f) *Project description.* Specific information on the proposed project, including a description of:

(1) The proposed new construction or substantial rehabilitation;

(2) The site and any proposed demolition and site improvements;

(3) The proposed occupancy of the project;

(4) The total units by size (number of bedrooms) including the number of lower income units by size;

(5) The owner's control of the site; and

(6) The percentage of gross floor area intended for commercial use. If more than 10 percent is specified, a justification must be included for the higher percentage, as provided in § 850.37(e).

(g) *Project costs and financing.* Specific information on project costs and financing, including:

(1) The amount and use of the housing development grant requested. If the amount of the grant requested is more than 50 percent of total project costs excluding acquisition cost, information must be provided on the special nature of the project, and, if applicable, on refinancing costs (as provided in § 850.37(d));

(2) The total project costs;

(3) The projected rents and expenses for each unit size and type, including proposed lower income units;

(4) The anticipated terms and conditions of financing;

(5) The source of financial or other resources, including the specific identity and role of all participating parties, for all project costs and any other resources needed to support continued project operation at the proposed rent and expense levels;

(6) Where HUD mortgage insurance is not involved, an appraisal performed by a qualified appraiser selected by the owner of the estimated value of the project after construction or substantial rehabilitation; and

(7) The amount (if any) of the housing development grant amounts to be repaid to the applicant and the repayment schedule.

(h) *Project feasibility.* An analysis of project feasibility, including documentation of firm project commitments (as provided in § 850.3) for all financial and other resources referred to in paragraph (g)(5) of this section. If the project anticipates HUD mortgage insurance, a conditional or firm commitment from HUD must be included.

(i) *Vacancy rate.* Such information as HUD may require on the rental housing vacancy rate in all lower income census tracts in the unit of general local

government (or where requested and approved by HUD, in the market area).

(j) *Rent mechanism.* A description of the mechanism that the applicant will use to assure that rents for lower income units meet the requirements of § 850.151(e) and a description of any assistance mechanism that will be used to further assist very low-income households.

(k) *Displacement and relocation.* A description of any anticipated permanent displacement and temporary relocation of residents, including information on potential displaces by household type, income levels, and minority group classification; the applicant's assessment of the effect of the proposed project on mitigating displacement; and evidence of compliance with the restriction on displacement contained in § 850.35(d)(1).

(l) *Assisted housing performance and capacity.* The performance of the applicant in meeting its assisted housing needs and information concerning its capacity to ensure that the project will be commenced and completed in a timely manner. The record of such performance and capacity may include, but not be limited to, meeting Housing Assistance Plan goals and administering federally assisted housing.

(m) *Environmental assessment finding.* The applicant's environmental assessment finding in accordance with § 58.41 of this title.

(n) *Neighborhood development.* The applicant's assessment of the effect of the proposed project on neighborhood development.

(o) *Minority and women's business enterprise.* A description of minority and women representation in the ownership of the project, as provided in § 850.39(b)(9).

(p) *Tenant waiting periods.* Such information as HUD may require concerning the length of the waiting list by family size for housing assistance and the length of time families holding certificates issued under the Section 8 Existing Housing Program (24 CFR Part 882, Subparts A and B) and vouchers under Section 8(o) of the United States Housing Act of 1937 require to find a dwelling unit of the type proposed.

(q) *Owner certifications.* Certification by the owner that it will comply with the requirements of § 850.35(a) (nondiscrimination and equal opportunity), § 850.35(b) (minority and women's business enterprise opportunity), § 850.35(c) (affirmative fair housing marketing), § 850.151 (project restrictions), § 850.35(m) (flood insurance), and any other requirements of this part, as applicable.

(r) *Applicant certifications.*

Certifications providing assurance that:

(1) The submission of the application is authorized under State and local law (as applicable), and the applicant possesses the legal authority to apply for the grant and to carry out the responsibilities of a grantee under this part.

(2) The applicant developed its rental development program after consultation with the public.

(3) If a State is the applicant, it is applying for assistance on behalf, and with the concurrence, of a specified unit of general local government. Evidence of concurrence by the unit of government must accompany this certification. Evidence may consist of a letter signed by the chief executive officer of the unit of government.

(4) If the project is not located in a designated eligible area, the proposed occupancy of the lower income units in the project cannot be met through the moderate rehabilitation of housing stock located in the project neighborhood (including an explanation of the basis for this conclusion), as provided in § 850.15(d).

(5) The applicant's chief executive officer or legally designated representative:

(i) Consents to assume the status of a responsible Federal official for environmental review, decisionmaking, and action under section 104(f) of the Housing and Community Development Act of 1974, and the other authorities listed in 24 CFR 58.5, insofar as the provisions of such Act or other authorities apply to the Housing Development Grant Program; and

(ii) Is authorized and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such official.

(6) The applicant will comply with the requirements of this part.

(7) The application is consistent with any applicable Housing Assistance Plan.

(8) The project will be constructed or substantially rehabilitated in accordance with applicable State and local building codes, or in the absence of these codes, with a nationally recognized model building code.

(s) *Other information.* Such other information as may be specified in the HUD-prescribed application form or Invitation for Applications.

§ 850.35 Other program requirements.

The applicant (or grantee) shall assure that the following additional program requirements are met:

(a) *Nondiscrimination and Equal Opportunity.* (1) The requirements of Title VIII of the Civil Rights Act of 1964, 42 U.S.C. 3601-19 (Pub. L. 90-284) and implementing regulations; Executive Order 11063 and implementing regulations at 24 CFR Part 107; and Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) and implementing regulations issued at 24 CFR Part 1; (2) the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794; (3) the requirements of Executive Order 11246 and the regulations issued under the Order at 41 CFR Chapter 60; and (4) the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended.

(b) *Minority and women's business enterprise opportunity.* Consistent with HUD's responsibilities under Executive Orders 11625, 12432 and 12138, the grantee and project owner shall prepare, implement and maintain a minority and women-owned business development plan which shall contain specific and measurable goals and an affirmative strategy to promote awareness and participation by such businesses in the contracting and procurement activities generated by the project. The plan must remain in effect throughout the construction period.

(c) *Affirmative fair housing marketing.* The grantee must assure that the owner implements the requirements of 24 CFR Part 200, Subpart M, and implementing regulations at 24 CFR Part 108. The grantee shall provide HUD with its evaluation of the owner's implementation of the affirmative fair housing marketing plan, upon completion of occupancy.

(d) *Relocation.* (1) Restriction on displacement of very low-income households. Housing development grants may be used to assist a project only if the construction or rehabilitation of the project will not cause the involuntary displacement of very low-income households by households that are not very low-income households.

(2) Displacement and relocation not subject to the Uniform Act. (i) *General.* The following requirements apply to projects that are assisted under this part and involve temporary relocation or permanent displacement that is not subject to the Uniform Act, as provided in paragraph (d)(3) of this section. References to "tenant" in this paragraph (d)(2) apply only to lawful residential families or individuals (not owner-

occupants or businesses) that are temporarily relocated or permanently displaced by the project after submission of a housing development grant application to HUD. Such references do not apply to any tenant that occupies a unit after submission of the application if the tenant received advance notice of the pending application and of the possibility that relocation or displacement might occur, or whose tenancy is terminated for breach of the terms of the lease.

(ii) *Tenant Assistance Policy.* The applicant (grantee) must have a written tenant assistance policy that must include:

(A) A statement of nondiscrimination in providing information, counseling, referrals and other relocation assistance to tenants temporarily relocated or permanently displaced by the project, and

(B) Practices and methods of administration that will not result in the involuntary displacement of persons because of their particular race, color, religion, national origin, sex, age or handicap status.

(iii) *Permanent displacement.* (A) A tenant, regardless of income, may not be required to move permanently as a result of the rehabilitation or construction of a project under this part, unless the tenant has received adequate advance written notice and appropriate advisory services, including information and counseling sufficient to acquaint the tenant with opportunities to select replacement dwellings from a full range of neighborhoods within the housing market, his or her individual rights under the Federal Fair Housing law, and how to search for suitable replacement housing.

(B) A lower income tenant must be given financial assistance sufficient, as determined by the applicant (grantee), to obtain decent, safe, sanitary and affordable replacement housing. For purposes of this paragraph, replacement housing is considered affordable if the monthly rent payable to the landlord and estimated average monthly cost of tenant-paid utilities does not exceed an amount equivalent to the Total Tenant Payment that would apply to the tenant under 24 CFR 813.107(a).

(iv) *Temporary relocation.* A lower income tenant may not be required to relocate temporarily as a result of the rehabilitation or construction of a project under this part, unless: (A) Decent, safe and, sanitary temporary housing is available for occupancy by the tenant; (B) the tenant will receive financial assistance sufficient, as determined by the applicant (grantee), to cover reasonable expenses incurred in

connection with the temporary relocation, including moving costs to and from the temporary housing and any increase in monthly housing costs (i.e., rent and utility costs), and (C) a unit of appropriate size will be available for occupancy by the tenant in the rehabilitated or newly constructed project at an affordable cost (i.e., the monthly rent and the estimated average monthly cost of tenant-paid utilities will not exceed an amount equivalent to the total Tenant Payment that would apply to the tenant under 24 CFR 813.107(a)).

(3) *Applicability of the Uniform Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and HUD implementing regulations at 24 CFR Part 42 (Uniform Relocation Assistance and Real Property Acquisition) apply to the acquisition of real property by any State agency (as defined at 24 CFR 42.85) for a project assisted under this part and to any displacement that results from such acquisition. HUD will monitor compliance with the Uniform Act.

(i) Any acquisition of real property by an applicant (grantee) and any displacement resulting from the acquisition will be considered to be for an activity assisted under the Housing Development Grant Program and to be subject to the regulations at 24 CFR Part 42 if the acquisition or displacement occurs on or after the date of the submission of the housing development grant application. However, if the applicant (grantee) determines that any acquisition or displacement was not carried out for an assisted activity, and the responsible HUD Field Office concurs in that determination, the acquisition or displacement will not be subject to Part 42. The applicant's (grantee's) request for HUD concurrence shall include its certification that at the time of the acquisition, it did not intend to use the property for an assisted activity and appropriate documentation to establish that fact.

(ii) The applicant (grantee) or HUD may determine that an acquisition and any resulting displacement before submission of a housing development grant application were carried out for an assisted activity and are subject to Part 42. In the absence of such a determination by the applicant (grantee) or HUD, any such acquisition and displacement occurring before submission of an application shall not be subject to Part 42. The applicant (grantee) may at any time request HUD to determine whether the acquisition and displacement are considered to be for an assisted activity. The request shall be submitted to the responsible

HUD Field Office and shall include appropriate background documentation.

(e) *Environment and historic preservation.* Section 104(f) of the Housing and Community Development Act of 1974, 24 CFR Part 58, that prescribes procedures for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4361), and the additional laws and authorities listed at § 58.5.

(f) *Labor standards.* All laborers and mechanics (except laborers and mechanics employed by a State or local government acting as the principal contractor on the project) employed in the construction or substantial rehabilitation of a project that contains twelve or more dwelling units and is assisted under the Housing Development Grant Program shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), and contracts involving their employment shall be subject to the provisions, as applicable, of the Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. 327-333). Grantees, participating parties, contractors and subcontractors shall comply with regulations issued under these Acts and with other Federal laws and regulations pertaining to labor standards, as applicable.

(g) *OMB circulars.* The policies, guidelines, and requirements of OMB Circular Nos. A-102, Revised, and A-122, as they relate to the acceptance and use of housing development grant amounts under this part.

(h) *Architectural barriers.* The requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157).

(i) *Lead-based paint.* The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4826) and implementing regulations at 24 CFR Part 35.

(j) *Intergovernmental review.* The provisions of Executive Order 12372 and implementing regulations at 24 CFR Part 52.

(k) *Conflicts of interest.* No person: (i) Who is an employee, agent, consultant, officer, or elected or appointed official of the unit of general local government (and the State, where the State is an applicant) (or of any designated public agencies) that receives housing development grant amounts and who exercises or has exercised any functions or responsibilities with respect to assisted development activities or (ii) who is in a position to participate in a

decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. HUD may grant an exception to this exclusion on a case-by-case basis when it determines that such an exception will serve to further the purposes of the Housing Development Grant Program. An exception may be considered only after the unit of general local government or the State, as appropriate, has provided a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made and an opinion of the entity's attorney that the interest for which the exception is sought would not violate State or local law. In determining whether to grant a requested exception, HUD shall consider the cumulative effect of the following factors, where applicable:

(1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the Housing Development Grant Program or the project that would otherwise not be available;

(2) Whether an opportunity was provided for open competitive bidding or negotiation;

(3) Whether the person affected is a member of a group or class intended to be the beneficiaries of the development activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(4) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process, with respect to the specific development activity in question;

(5) Whether the interest or benefit was present before the affected person was in a position as described in this paragraph;

(6) Whether undue hardship will result to the unit of general local government or the State, as appropriate, or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(7) Any other relevant consideration.

(l) *Use of debarred, suspended, or ineligible contractors.* The provisions of 24 CFR Part 24 relating to the employment, engagement of services, awarding of contracts, or funding of any

contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

(m) *Flood insurance.* No site proposed for a project to be assisted under this part may be located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless the community in which the area is situated is participating in the National Flood Insurance Program and the regulations thereunder (44 CFR Parts 59-79) or less than a year has passed since FEMA notification regarding such hazards, and the applicant (grantee) will assure that flood insurance on the structure is obtained in compliance with section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 *et seq.*).

§ 850.37 Threshold requirements.

An application will not be considered in the selection process unless:

(a) *Timely submission.* The application is received by HUD on or before the deadline specified in the Invitation for Applications.

(b) *Acceptability.* The application contains documentation required by § 850.33 sufficient in HUD's determination to permit HUD to make the assessments required by this section and § 850.39, and to otherwise find the application acceptable.

(c) *Project eligibility.* HUD determines, after review of the information required by § 850.33 and any other available information, that: (1) The project is in a designated eligible area (as described in § 850.13); or if the project is located outside such an area, the project meets the requirements of § 850.15; and (2) the project is within the jurisdiction of the unit of general local government.

(d) *Percentage limit on grant amount.* The housing development grant sought does not exceed 50 percent of HUD's determination of the total costs associated with the construction or substantial rehabilitation of the project. For purposes of this paragraph, total costs will not include working capital or similar contingency items, or the cost of acquisition, debt service or operating deficit reserves, sponsors' profit and risk allowances, or relocation costs in excess of an amount that HUD determines to be reasonable. Acquisition costs may be included in this calculation if the applicant documents in the application and HUD determines that: (1) For new construction projects, the special nature of the project, or (2) for substantial rehabilitation projects, the special nature and refinancing costs of the project, justify including acquisition

costs in the calculation. In making this determination, HUD will consider the public purposes of the Program as set forth in § 850.39 (b) and (c).

(e) *Nonresidential use.* Not more than ten percent of the gross floor area in the project is for commercial use. A higher percentage, up to 20 percent, may be requested in the application and approved by HUD. The grant assistance shall be used to support only the residential rental portion of the project. The commercial space must be self-supporting.

(f) *Overall grant limit.* HUD determines, after review of the information contained in the application and any other available information, that the housing development grant sought is not clearly in excess of the amount that will provide decent rental or cooperative housing of modest design that is affordable for families and individuals without other reasonable and affordable housing alternatives in the private market, including an amount necessary to assist lower income units in the project.

(g) *Project value.* The estimated value of the project after construction or substantial rehabilitation does not exceed the amount of a mortgage that could be insured for the project under Part 207 of this title based on the sum of the statutory per-unit limits (adjusted by the appropriate supportable local high-cost factor) and an allowance determined by HUD for costs not attributable to dwelling use (including commercial use).

(h) *Record in meeting assisted housing needs.* The applicant does not have an unsatisfactory record in meeting its assisted housing needs. The record of such performance may include, but not be limited to, meeting its goals in its Housing Assistance Plan and administering federally assisted housing.

(i) *Timely project start and completion.* The applicant has the capacity to assure that the project will be started within 24 months of notice of HUD preliminary funding approval and will be completed in a timely manner.

(j) *Lower income units.* The number of lower income units specified in the application equals or exceeds 20 percent of the total units in the project.

(k) *Project feasibility and terms and conditions of financing.* (1) The project is financially feasible. No project will be considered financially feasible unless the application contains at least a firm project commitment for all financial and other resources (other than the proposed housing development grant) needed to complete the project. A firm project

commitment for permanent financing from a State housing finance agency will be considered adequate demonstration of financial feasibility under this paragraph.

(2) HUD determines that the project costs, the terms and conditions of financing (including the proposed mortgage interest rate), and the owner's proposed equity investment are reasonable.

(l) *HAP consistency.* The project is consistent with any applicable local Housing Assistance Plan approved by HUD.

(m) *Neighborhood development and displacement.* The project is determined not to have a negative effect on neighborhood development or cause undue relocation hardship.

(n) *Nondiscrimination and equal opportunity.* The applicant's certification concerning nondiscrimination and equal opportunity is approved and HUD considers the past efforts of the unit of general local government (and the State, where the State is an applicant) and the owner to be satisfactory in implementing the civil rights and equal opportunity provisions of this and other HUD programs in which they have participated.

§ 850.39 Selection of projects for preliminary funding approval.

(a) *General.* HUD will select projects for preliminary funding approval on the basis of the selection factors described in paragraph (b) of this section and the priority to be given under paragraph (c) of this section. Specific information on the weight given to each selection factor and how the priority will be applied will be provided in the Invitation for Applications (see § 850.31(a)).

(b) *Selection factors.* (1) Shortage of decent, affordable rental housing. HUD will consider two separate elements under this factor. More favorable consideration will be given to those projects that are located in areas with the lower vacancy rates in all census tracts, and in all lower income census tracts, in the unit of general local government (or where requested in the application and approved by HUD, in the market area).

(2) *Leveraging ratios.* HUD will consider two separate elements under this factor. More favorable consideration will be given to projects with higher project leveraging ratios and higher private project leveraging ratios.

(3) *Neighborhood development and mitigation of displacement.* HUD will consider two separate elements under this factor. More favorable consideration will be given to those

projects that have the more favorable effect on neighborhood development and that cause little or no displacement or that provide effective mitigation of displacement.

(4) *Demonstrated performance and capacity.* HUD will consider the record of performance by the unit of general local government in meeting its assisted housing needs and the applicant's capacity to commence and carry out the project in a timely manner. More favorable consideration will be given to the better records of performance in meeting annual and three-year Housing Assistance Plan goals and administering individual programs of federally assisted housing. Where a State is the applicant on behalf of a unit of general local government, HUD may consider the record of performance of the State in meeting assisted housing needs in addition to, or in lieu of, the record of the unit of general local government as may appear appropriate in the circumstances.

(5) *Efficient use of grant funds.* HUD will consider the extent to which the housing development grant requested will provide the maximum number of units for the least cost to the Federal government. More favorable consideration will be given to projects with the better performance in achieving this result. HUD will develop these ratios to account for the repayment of grant amounts to the grantee and for differences in unit size (number of bedrooms), types of tenants being served, financing alternatives, construction costs, and project types.

(6) *Rent affordability.* HUD will consider two elements under this factor. More favorable consideration will be given to projects that provide a more effective mechanism for assuring that rents for lower income units meet the requirements of § 850.151(e) and that provide the greater amount of assistance, if any, to make and maintain rents for very low-income households below the maximum permissible rents for lower income units.

(7) *Financial feasibility.* More favorable consideration will be given to those projects that provide the better documentation of project feasibility, considering the relative strength of firm project commitments, the depth and adequacy of underwriting evidenced, and the long-term viability of the project, taking into account the requirements of this part.

(8) *Family housing.* HUD will consider two elements under this factor. More favorable consideration will be given to projects that provide the greater number of project units for families and for large families with children.

(9) *Minority and women's business enterprise.* More favorable consideration will be given to projects with the higher percentage of minority or women representation in the ownership of the project. In the case of a partnership owner, in the case of a general partner in a limited partnership, or in the case of a corporate owner, more favorable consideration will be given to those projects where control of the partnership, the general partner, or corporate owner, as applicable, is vested in, and exercised by, minority persons and/or women.

(10) *Promoting nondiscrimination and equal opportunity.* HUD will take into account the present pattern of assisted housing location and occupancy. More favorable consideration will be given to projects that are located: (i) Outside areas of minority concentration where the current pattern shows most assisted projects in minority areas, or (ii) in areas where there is no other assisted housing, or (iii) in areas undergoing revitalization through public or private investment and in which rental opportunities for lower income households are declining.

(c) HUD will give a priority to applications involving projects:

(1) In which more than 20 percent of the units are to be lower income units; and

(2) That are located in areas where the waiting lists for housing assistance are relatively long and where families holding certificates issued under the Section 8 Existing Housing Program (24 CFR Part 882, Subparts A and B) and vouchers under section 8(o) of the United States Housing Act of 1937 require an excessive length of time to find housing.

Subpart D—Post Preliminary Approval Requirements and Grant Administration

§ 850.61 Grant agreement and overall limit on grant amounts.

(a) *Grant agreement.* After preliminary funding approval, HUD and the applicant will sign a legally binding grant agreement incorporating the regulations contained in this part, and specifying the terms and conditions under which housing development grant funds will be provided to develop the approved project. Among other matters, the grant agreement will: (1) Specify that the amount of the housing development grant is subject to reduction (as provided in paragraph (b) of this section or otherwise) if project costs or expenses are reduced or the terms and conditions of financing are altered; and (2) include a project development schedule that specifies that construction

or substantial rehabilitation must begin not later than 24 months after notice of preliminary funding approval. Failure to meet this schedule will result in remedial action under Subpart E.

(b) *Overall limit on grant amounts.* The amount of a housing development grant under this part may not exceed that which will provide decent rental or cooperative housing of modest design that is affordable for families and individuals without other reasonable and affordable housing alternatives in the private market, including an amount necessary to assist lower income units in the project.

§ 850.63 Conditions precedent to drawdown of funds.

The drawdown of funds under the grant agreement is conditioned upon approval by HUD of the legally binding commitments, the owner-grantee agreement, security instruments, the Affirmative Fair Housing Marketing Plan for the project, grantee compliance with environmental review procedures for release of funds, and compliance with other terms and conditions of the grant agreement; and submission of the plan and affirmative strategy for minority and women-owned business participation, as provided in § 850.35(b).

(a) *Legally binding commitments.* The grantee must submit for approval to HUD the legally binding commitments from participating parties identified in the grant agreement. The grantee must also submit an opinion of counsel that the commitments are legally binding under State and local law and conform to the grant agreement executed by HUD and the grantee.

(b) *Owner-grantee agreement.* The grantee must submit for approval by HUD the owner-grantee agreement specified in § 850.151 and any other agreement between the owner and the grantee with respect to the project. The grantee must also submit an opinion of counsel that any such agreement is legally binding under State and local law and conforms to the grant agreement executed by HUD and the grantee.

(c) *Security instruments.* The grantee must submit for approval by HUD copies of the mortgages and other security instruments securing repayment of the public and private financing and of the mortgages or other security instruments securing repayment of the housing development grant in the event the owner breaches the obligations specified in § 850.151 of this part.

(d) *Affirmative Fair Housing Marketing Plan.* For any project with five or more units, the grantee must submit an Affirmative Fair Housing

Marketing Plan (Form HUD-935.2) prepared by the owner in accordance with § 850.35(c).

(e) *Release of funds under HUD Environmental Review Procedures.* The grantee must comply with the provisions of Part 58 of this title concerning the release of funds for projects requiring environmental review. Except as provided in § 58.22 of this title, a grantee may not spend any local funds or commit housing development grant funds until the environmental requirements have been met. However, such costs (even though otherwise eligible) will not be reimbursed if the legally binding commitments are not approved.

§ 850.65 Method of payment.

(a) *Advance payments.* Payments will be made by electronic funds transfer whenever possible, letter of credit, or other means, pursuant to grant agreements as required by the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 *et seq.*) and in compliance with the Intergovernmental Cooperative Act (42 U.S.C. 4201 *et seq.*). Advance payments will be made by electronic funds transfer or letter of credit to a grantee that has demonstrated to HUD, initially through certification in a form prescribed by HUD and subsequently through performance, its willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds to it and its disbursement of such funds.

(b) *Reimbursement.* A grantee that does not meet the condition in paragraph (a) of this section will receive grant payments by U.S. Treasury check on a reimbursement basis.

§ 850.67 Cash withdrawals.

The timing and amount of cash withdrawals from the U.S. Treasury by the grantee shall in accordance with U.S. Department of Treasury regulations on withdrawal of cash from the Treasury for advances under Federal programs (31 CFR Part 205), as incorporated in HUD Handbook 1900.27 Rev., Letter of Credit Procedures—Treasury Financial Communications System. To the maximum extent practicable, program income must be disbursed before additional draws from grant funds are made. Unless otherwise provided in the grant agreement, grant funds under this part may not be drawn down at a rate in excess of that contained in the approved project leveraging ratio for the project.

§ 850.69 Financial management systems.

Each grantee is required to maintain a financial management system that complies with Attachment G of OMB Circular No. A-102, "Standards for Grantee Financial Management Systems."

§ 850.71 Program income.

Unless otherwise provided in the grant agreement, program income received by the grantee before completion of all construction or rehabilitation activities funded with Housing Development Grant amounts must be used to reimburse costs incurred for project activities. This income must be used instead of any draw from grant amounts to the extent adequate to reimburse costs so incurred. Program income received after the completion of all construction or rehabilitation activities is available for use by the grantee to support the new construction, rehabilitation, or operation of real property to be used primarily for low or moderate income residential rental purposes (including cooperative and mutual housing). Amounts recovered by a grantee due to breach of an owner's obligations under § 850.155 must be used under (and in accordance with the requirements of) the Housing Development Grant Program or the Rental Rehabilitation Program, at the grantee's option. Except for amounts recovered by the grantee due to such breach of owner obligations, all other program income recovered by the grantee will be considered miscellaneous revenue, the use of which is not governed by the provisions of this part (other than this section).

§ 850.73 Audit.

(a) *Access to records.* The Secretary of HUD, the Inspector General of HUD, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to all books, accounts, records, reports, files, and other papers or property of grantees or owners pertaining to funds provided under this part for the purpose of making surveys, audits, examinations, excerpts and transcripts.

(b) *Grantee audits.* The grantee's financial management system must provide for audits to be made by the grantee or at its direction, in accordance with audit guidelines prescribed by HUD. The grantee must provide for audits in accordance with 24 CFR Part 44. Audit reports will be used in conjunction with the performance review procedures of § 850.101.

(c) *Additional audits.* HUD may undertake such further or additional

audits as it finds necessary or appropriate.

§ 850.75 Reporting requirements.

(a) *General.* Grantees will submit such reports, including litigation reports, as HUD may require.

(b) *Progress reports.* Beginning on the date that HUD announces the applicant's preliminary funding approval, the applicant must submit semiannual progress reports, as specified by HUD. Reports will be required until the project closeout is completed. They must contain such information as HUD may prescribe, including information concerning the project's construction schedule, construction and project costs, and project occupancy. Failure to file these reports may result in remedial action under Subpart E, and will be considered in the selection of future projects submitted by the applicant.

(c) *Relocation and acquisition reports.* Grantees will report at least annually on a form prescribed by HUD on the numbers of persons and businesses relocated, numbers remaining in the relocation workload, and a general breakdown of relocation costs and on real property acquired.

(d) *Equal opportunity reports.* Grantees shall submit such reports as HUD may prescribe to demonstrate conformance with the requirements of paragraphs (a), (b), and (c) of § 850.35.

§ 850.77 Retention of records.

(a) *General.* Grantees must retain financial records, supporting documents, statistical records, the environmental review records required by 24 CFR 58.11, and all other records pertinent to the housing development grant for a period of three years from the date of the submission of the last progress report under § 850.75(b), except that: (1) Records that are the subject of audit findings must be retained until the audit findings have been resolved, if that date is later; and (2) an annual record of project occupancy must be maintained by the grantee for the duration of the owner-grantee agreement described in Subpart F, and each annual record must be retained for three years, available to HUD on request.

(b) *Nondiscrimination and equal opportunity records.* Records maintained by the owner pertaining to the race, color, creed, sex, or national origin of tenants and applicants for tenancy in assisted projects shall be retained by the owner for a period of at least 25 months following the date the record was made.

§ 850.79 Project closeout.

(a) *Initiation of closeout.* HUD will advise the grantee to initiate closeout procedures when HUD determines, in consultation with the grantee, that there are no impediments to closeout and that the following criteria have been met or will be shortly.

(1)(i) All costs to be paid with grant funds have been incurred, with exception of any unsettled third-party claims against the grantee. For purposes of this section, costs are incurred when goods and services are received or contract work is performed, whether or not an invoice has been received.

(ii) With respect to activities (such as rental assistance payments) that are carried out by means of loan accounts, subsidy payment accounts, or similar mechanisms, closeout may be initiated once the full amount of the funds for these activities have been drawn down by the grantee and have begun to be used for the purposes described in the grant agreement.

(2) The last required progress report under § 850.75(b) has been submitted and, to the extent determined necessary by HUD for purposes of the closeout, has been updated. The failure of a grantee to submit or update a report as required will not preclude HUD from effecting a grant closeout when this action is determined to be in the Federal interest. The failure or refusal by a grantee to comply with this requirement will be considered in the selection of future applications from the grantee.

(3) Other responsibilities of the grantee with respect to the grant amounts under the grant agreement and applicable law and regulations appear to have been carried out satisfactorily, and there is no further Federal interest in keeping the grant agreement open for the purpose of securing performance by parties to legally binding commitments.

(b) *Final audit.* Upon notification from HUD to initiate closeout procedures, the grantee must arrange for a final audit of its grant accounts and records in accordance with § 850.73 and other HUD audit requirements. A final review of the grantee's compliance with the grant agreement and applicable law and regulations will be made during the final audit.

(c) *Certificate of completion and final cost.* Upon resolution of any findings of the final audit, the grantee must prepare a certification of completion and final cost, in the manner prescribed by HUD, and submit it to the responsible HUD Field Office.

(d) *Refund of excess grant funds.* The grantee must refund to HUD any cash advanced in excess of the final grant

amount, as shown on the certificate of completion approved by HUD.

(e) *Termination of grant for mutual convenience.* Grant assistance provided under this part may be cancelled, in whole or in part, by HUD or the grantee, before completion of the approved project, if both parties agree that the continuation of the project is infeasible or would not produce beneficial results commensurate with the further expenditure of funds. HUD will determine whether an environmental review of the cancellation is required, and if so, who will perform it. The two parties will agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The grantee must not incur new obligations for the terminated portion after the effective date, and cancel as many outstanding obligations as possible. HUD will allow full credit to the grantee for the non-cancellable obligations properly incurred by the grantee in carrying out the project before the grant was terminated. The closeout policies and procedures contained in this section will apply in all such cases, except where the grant is cancelled in its entirety. In this event, only the provisions of paragraphs (c) and (d) of this section apply.

(f) *Termination for cause.* If the Secretary terminates the grantee's entire grant, or the remaining balance, under the authority of § 850.105 of this part, only the provisions of paragraphs (c) and (d) of this section apply.

(g) Nothing in this section shall preclude enforcement by the Federal government of grant agreement provisions, civil rights statutes, or other provisions of law that apply to the Housing Development Grant Program.

Subpart E—Program Performance

§ 850.101 Review of grantee's performance.

(a) *General.* HUD will monitor a grantee's performance to determine whether the grantee is complying and has complied with the requirements of the grant agreement.

(b) *Performance review.* (1) HUD will rely primarily on information obtained from the grantee's records and reports, findings from on-site monitoring, and audit reports. Where applicable, HUD may also consider relevant information pertaining to a grantee's performance gained from other sources, including litigation and citizen complaints.

(2) If HUD determined that the grantee has not met the requirements of the grant agreement, the grantee will be

given notice of this determination and an opportunity to demonstrate, within the time prescribed by HUD and on the basis of substantial facts and data, that it has done so.

(3) If the grantee fails to demonstrate to HUD's satisfaction that it has met the requirements of the grant agreement, HUD will take appropriate corrective or remedial action in accordance with this subpart.

§ 850.103 Corrective and remedial actions.

In formulating appropriate corrective or remedial actions for performance deficiencies, HUD will take one or more actions designed to prevent a continuation of the deficiency; mitigate, to the extent possible, its adverse effects or consequences; and prevent its recurrence. In addition to the following actions, HUD will, as appropriate, take the actions specified in § 850.105 and § 850.107:

- (a) Direct the grantee to submit progress schedules for completing approved activities;
- (b) Issue a letter of warning advising the grantee of the deficiency, establishing a date for corrective actions, and putting the grantee on notice that more serious actions will be taken if the deficiency is not corrected or is repeated;
- (c) Inform the grantee that a certification of compliance is no longer acceptable, and that additional information or assurances are required;
- (d) Direct the grantee to establish and follow a management plan that assigns responsibilities for carrying out remedial actions;
- (e) Direct the grantee to suspend, discontinue, or not incur costs for the affected activity;
- (f) Direct the grantee to reimburse the grantee's program account or letter of credit in any amounts improperly expended;
- (g) Change the method of payment from advance payment basis to a reimbursement basis; or
- (h) Direct the grantee to cancel the development grant project before expending funds.

§ 850.105 Reduction or termination of grant.

When HUD determines that a grantee has failed to meet one or more of the requirements of the grant agreement, HUD may reduce or recapture the housing development grant, including amounts already obligated, or take other appropriate action. For purposes of this paragraph, "other appropriate action" means any remedial action legally available, including (without limitation) affirmative litigation, such as suits for

declaratory judgment, specific performance, temporary or permanent injunctions and any other available remedies.

§ 850.107 Claim for money.

When HUD makes a final determination that it has a judicially enforceable claim for money against the grantee in a situation where the housing development grant amount has been disbursed to the grantee for ineligible uses of funds under this part, HUD will follow the procedures described in the Federal Claims Collection Standards (4 CFR Parts 101-105) in order to: (a) demand in writing that the grantee reimburse HUD in the amount of the ineligible costs, using funds from non-federally derived sources and (b) initiate affirmative litigation to recover the amount of the ineligible use of funds if necessary for collection. HUD's final determination to seek recovery under this section of grant amounts expended for ineligible uses of funds shall continue a claim within the meaning of 31 U.S.C. 3711, *et seq.*, and interest shall be charged on delinquent claims as required by the Federal Claims Collection Standards. Amounts recovered under this section shall be deposited in the United States Treasury's miscellaneous receipts account.

Subpart F—Project Management

§ 850.151 Project restrictions.

(a) *Owner-grantee agreement.* The grantee and the owner must enter into an agreement that requires the owner (including its successors in interest) to carry out the requirements of this section and of the grant agreement, as appropriate. The grantee-owner agreement must require the grantee to monitor (where required) and to take appropriate legal action to enforce compliance with the owner's responsibilities thereunder. The owner's compliance with its obligations under this section must be secured by a mortgage or other security instrument meeting the requirements of § 850.155. Nothing in this section shall preclude enforcement by the Federal government of grant agreement provisions, civil rights statutes, or other provisions of law that apply to the Housing Development Grant Program.

(b) *Restriction on conversion.* The owner shall not convert the units in the project to condominium ownership or to a form of cooperative ownership that is not eligible to receive a housing development grant, during the 20-year period from the date on which the units

in the project are available for occupancy.

(c) *Tenant selection.* The owner shall not, during the 20-year period from the date on which the units in the project are available for occupancy, discriminate against prospective tenants on the basis of their receipt of, or eligibility for, housing assistance under any Federal, State, or local housing assistance program or, except for an elderly housing project, on the basis that they have a minor child or children who will be living with them.

(d) *Restriction on leasing assisted units.* The owner shall assure that the percentage of lower income units specified in the grant agreement is occupied, or is available for occupancy, by lower income households during the period beginning on the date on which the units in the project are available for occupancy through 20 years from the date on which 50 percent of the units are occupied. The owner may lease a lower income unit only to a tenant that is a lower income household at the time of its initial occupancy. An owner may continue to lease a lower income unit to a tenant that ceases to qualify as a lower income household only as provided in paragraph (f) of this section.

(e) *Lower income unit rent.* (1) Section 17(d)(8)(A) of the United States Housing Act of 1937 prohibits the rents for lower income units from exceeding "30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families." This paragraph describes how these maximum rent determinations are made.

(2) The maximum rents that may be charged for lower income units are based on the size of the unit by number of bedrooms, and are calculated in accordance with the following procedure. For each unit size, HUD will provide the Section 8 very low-income limits. HUD will also provide income adjustments for each unit size, consistent with 24 CFR Part 813. An adjusted income amount for each unit size is calculated by the owner or grantee by subtracting the income adjustment from the Section 8 limit. The adjusted income amount is multiplied by 30 percent and divided by 12 to obtain the maximum monthly gross rent for each lower income unit. A monthly allowance for the utilities and services (excluding telephone) to be paid by the tenant is subtracted from the maximum monthly gross rent to obtain the maximum monthly rent that may be charged for lower income units.

Information to be provided by HUD will be available from the responsible HUD Field Office.

(3) The initial monthly allowance for utilities and services to be paid by the tenant must be approved by HUD. Subsequent calculations of this allowance must be approved by the grantee in connection with its review and approval of rent schedules under paragraph (e)(4) of this section. The maximum monthly rent must be recalculated annually, and may change as changes in the Section 8 very low-income limit, the income adjustments, or the monthly allowance for utilities and services warrant.

(4) The grantee must review and approve any schedule of rents proposed by the owner for lower income units. Any schedule submitted by an owner within the permissible maximum will be deemed approved, unless the grantee informs the owner, within 60 days after receiving the schedule, that it is disapproved.

(5) Any increase in rents for lower income units is subject to the provisions of outstanding leases, in any event, the owner must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rents.

(f) *Reexamination of tenant income and composition.* (1) The owner shall reexamine the income of each tenant household living in lower income units at least once a year.

(2) If this reexamination indicates that the tenant no longer qualifies as a lower income household, the owner must take one of the following actions, as appropriate: (i) If the unit occupied by the tenant must be leased to a lower income household to maintain the percentage of lower income units specified in the grant agreement, the owner must notify the tenant that it must move when the current lease expires or six months after the date of the notification, whichever is later; (ii) If the owner can meet this percentage without the unit occupied by the tenant (for example, by designating another comparable unit as a lower income unit), the owner may continue to lease to that tenant, but is free to renegotiate the rent at the expiration of the current lease.

(g) *Affirmative fair housing marketing.* Marketing must be done in accordance with the HUD-approved Affirmative Fair Housing Marketing Plan, Form HUD-935.2, and all fair housing and equal opportunity requirements. The purpose of the Plan and the requirements is to provide for affirmative marketing through the provision of information regarding the

availability of units in projects assisted. Affirmative marketing steps consist of good faith efforts to provide information and otherwise attract eligible persons from all racial, ethnic and gender groups in the housing market area to the available housing.

(h) *Management and maintenance functions.* The owner must perform all management and maintenance functions in compliance with equal opportunity requirements. These functions include selection of tenants, reexamination of family income, evictions and other terminations of tenancy, and all ordinary and extraordinary maintenance and repairs, including replacement of capital items.

(i) *Residency preferences.* Local residency requirements are prohibited. Local residency preferences may be applied in selecting tenants only to the extent that they are not inconsistent with affirmative fair housing marketing objectives and the owner's HUD-approved AFHM Plan. With respect to any residency preference, persons expected to reside in the community as a result of current or planned employment will be treated as residents.

§ 850.153 Rent control.

A project constructed or substantially rehabilitated with a housing development grant is not subject to State or local rent control unless the rent control requirements or agreements (a) (1) were entered into under a State law or local ordinance of general applicability that was enacted and in effect in the jurisdiction before November 30, 1983 and (2) apply generally to rental housing projects not assisted under the Housing Development Grant Program, or (b) are imposed under this subpart. State and local rent controls expressly preempted by this section include, but are not limited to, rent laws or ordinances, rent regulating agreements, rent regulations, occupancy agreements, or financial penalties for failure to achieve certain occupancy or rent projections.

§ 850.155 Securing owner's responsibilities.

Assistance provided under this part shall constitute a debt of the owner (including its successors in interest) to the grantee, and shall be secured by a mortgage or other security instrument. The debt shall be repayable in the event of a substantive, uncorrected violation by an owner of the obligations contained in paragraphs (b), (c), (d) and (e) of § 850.151. The instruments securing this debt shall provide for repayment to the grantee in an amount equal to the total amount of housing

development grant assistance outstanding, plus interest which is determined by the Secretary by adding two percent to the average yield on outstanding marketable long-term obligations of the United States during the month preceding the date on which assistance was made available. The amount to be repaid shall be reduced by 10 percent for each full year in excess of 10 years that intervened between the beginning of the term of the owner-grantee agreement and the violation.

PART 52—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROGRAMS AND ACTIVITIES

2. In Part 52, § 52.8(a) (1) and (2) is revised to read as follows:

§ 52.8 How does the Secretary provide states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) * * *

(1) At least 30 days from the date established by the Secretary to comment on proposed Federal financial assistance under: (i) A covered mortgage insurance program, (ii) the Urban Development Action Grant Program, or (iii) the Housing Development Grant Program.

(2) At least 60 days from the date established by the Secretary to comment on proposed Federal financial assistance other than under a program covered by paragraph (a)(1).

PART 811—TAX EXEMPTION OF OBLIGATIONS OF PUBLIC HOUSING AGENCIES AND RELATED AMENDMENTS

3. In Part 811, a new § 811.118 is added to read as follows:

§ 811.118 Tax-exempt financing under Section 17(j) of the Act for housing development grant projects.

(a) This section states the terms and conditions under which HUD will approve tax-exempt financing under Section 17(j) of the Act for projects receiving housing development grants under 24 CFR Part 850.

(b) Full compliance with Part 811, Subpart A, is required, except for §§ 811.103, 811.106, 811.108(b)(1), 811.110, 811.111, 811.112, 811.113 and, 811.117, and except as applicable provisions are modified herein.

(c) A State or local housing agency that has the legal authority to issue tax-exempt obligations to finance housing may be approved as the financing

agency or as the parent entity of the agency or instrumentality that issues the obligations.

(d) The project to be financed must receive a housing development grant under 24 CFR Part 850.

(e) The aggregate term of the obligations shall be reasonably related to the term of the mortgage.

(f) For non-FHA-insured projects, the amount of the development cost, cost of issuance including discount, and capitalized interest during construction shall not exceed the amount approved under 24 CFR Part 850.

(g) The Assistant Secretary for Housing—FHA Commissioner shall issue the notification that the obligations constitute obligations in accordance with Section 17(j) and meet the requirements of, and have the benefits associated with, an obligation described in Section 11(b).

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

4. In § 207.32a, paragraphs (f)(2), (i) and (j) the introductory text of (j)(1), the introductory text of (j)(2), (j)(3), the introductory text of (j)(4), and (j)(5) are revised to read as follows:

§ 207.32a Eligibility of mortgages on existing projects.

(f)(1) * * *

(2) A property is eligible for mortgage insurance under this section if—

(i) The cost of repairs, replacements, and improvements does not exceed the greater of:

(A) 15 percent of the property's value after completion of all repairs, replacements, and improvements, or

(B) \$6,500 (adjusted by any applicable high-cost area factor) per dwelling unit (or in the case of any purchase or refinancing involving property to be rehabilitated under Part 511 or Part 850 of this title, \$20,000 per dwelling unit, except that the Commissioner may increase this amount by not to exceed 25 percent for specific properties where the Commissioner determines that cost levels so require), and

(ii) No more than one major building component is being replaced.

(i) *Labor standards and prevailing wage requirements.* Except in the case of properties eligible under this section where the cost of repairs, replacements, and improvements exceeds \$6,500 per dwelling unit (adjusted by any applicable high-cost area factor), the requirements of § 207.19(d), (1), (4), and (5) shall not apply to mortgages insured

under commitments issued in accordance with this section.

(j) *Secondary financing.* (1) Except as provided in paragraph (j)(5) of this section, when a loan is made to finance the purchase of an existing multifamily housing project, the mortgagor may not have any additional obligations in connection with the transaction that exceed the lesser of:

(i) * * *

(ii) * * *

(2) Except as provided in paragraph (j)(5) of this section, when a loan is made to refinance an existing multifamily housing project, the mortgagor may not have any additional obligations in connection with the transaction that exceed the lesser of:

(i) * * *

(ii) * * *

(3) The additional obligations, if any, provided for in paragraphs (j) (1), (2), and (5) of this section shall be represented by promissory notes on a form approved by the Commissioner. Such notes shall not be due and payable until the maturity date of the mortgage to be insured under this section, but may be prepaid from surplus cash as that term is defined in § 207.19(b) and in accordance with the conditions prescribed in the Regulatory Agreement between the mortgagor and the Commissioner.

(4) For those projects that meet the eligibility requirements contained in paragraph (k) or paragraph (l) of this section, but do not meet the requirements of paragraph (j)(5) of this section, any additional obligations on the project in connection with the insured transaction shall be in an amount approved by the Commissioner and represented by such credit and security instruments as are approved by the Commissioner. In the case of projects that meet the eligibility requirements contained in paragraph (l) of this section, but do not meet the requirements of paragraph (j)(5) of this section, the additional obligations shall in no event exceed:

(5) In the case of any purchase of refinancing involving property to be rehabilitated under Part 511 or Part 850 of this title, additional obligations in connection with the transaction may include subordinated liens securing up to the full amount of mortgage financing provided by State or local governments or agencies thereof, where the Commissioner determines that the mortgagor is also contributing, out of its own resources (as defined by the Commissioner), an amount equal to the following: (i) in the case of a purchase,

at least 7½ percent of the Commissioner's estimate of the value of the project or (ii) in the case of a refinancing, such higher percentage of the Commissioner's estimate of the value of the project as the Commissioner may determine:

5. In § 207.259, paragraph (a)(2) is revised to read as follows:

§ 207.259 Insurance benefits.

(a) * * *

(1) * * *

(2) Section 223(f) of the Act and at the time of the insurance endorsement, (i) the mortgage met the special eligibility requirements contained in § 207.32a(k) or (ii) the mortgage covered a property to be rehabilitated under Part 511 or Part 850 of this title, such claim shall be paid in cash, unless the mortgagee files a written request, with the application, for payment in debentures. A claim paid in cash on a mortgage insured under section 223(e) shall be paid from the Special Risk Insurance Fund. If the mortgagee files an application for payment in debentures on a claim on a mortgage insured under section 223(e) or 223(f), the claim shall be paid by issuing debentures and by paying any balance in cash.

6. In § 255.106, paragraph (b) is revised to read as follows:

§ 255.106 Mortgage servicing and insurance of lender's risk.

(b) The lender may obtain insurance (1) from a licensed mortgage guarantee insurer for (i) 50 percent of its coinsurance risk under this part, (ii) 100 percent of such coinsurance risk, or (iii) that portion of such coinsurance risk which equals the maximum amount which the mortgage guarantee insurer is authorized to insure, or (2) from a licensed mortgage guarantee insurer or a State mortgage insurance agency for 10 percent of the amount of a mortgage approved for coinsurance under this part as provided in § 255.203 with respect to a property to be rehabilitated with assistance under Part 511 or Part 850 of this title. The insurance benefits payable by the Commissioner under each of these options shall be calculated under § 255.425 or § 255.427a, as applicable. Any such insurance policy shall name the Commissioner as contingent beneficiary in the event that default by the lender results in payment by the Commissioner to GNMA of any amount contractually owed by the lender to investors in GNMA securities backed by mortgages insured under this part.

7. Section 255.203 is revised to read as follows:

§ 255.203 Processing and commitment.

(a) The lender shall, as agent for the Secretary, perform all of the processing, including the issuance of both conditional and firm commitments, and make all of the determinations of the eligibility of a mortgage for coinsurance under this part. However, to be eligible for the coinsurance benefits set forth in § 255.427a, the lender must obtain the approval of the Commissioner before issuance of any commitment under this part. The Commissioner will grant such approval only where the lender demonstrates to the Commissioner's satisfaction that no other feasible financing alternatives are available for the proposed project.

(b) The firm commitment to insure upon completion shall be effective for 90 days. The term of the commitment may be extended or may be amended in such a manner as the lender may prescribe from time to time. An expired commitment may be reopened if a request for reopening is received by the lender from the mortgagor within 90 days of the expiration of the commitment.

8. In § 255.210, paragraphs (a), (e), and (f) are revised as follows:

§ 255.210 Mortgage lien and other obligations.

A mortgagor shall certify at endorsement of the loan for insurance and the lender shall determine that:

(a) The property covered by the mortgage is free and clear of all liens other than the insured mortgage and such other liens as may be approved by the lender, in accordance with standards established by the Commissioner. The lender may approve subordinated liens securing up to the full amount of mortgage financing provided by State or local governments (or agencies thereof) in connection with the rehabilitation of a property assisted under Part 511 or Part 850 of this title, in accordance with standards established by the Commissioner. Liens other than the insured mortgage which may be approved (other than liens of taxes and assessments of the State or subdivisions of the State not yet due and payable, or ground rents) may not have under applicable law a priority equal or superior to the insured mortgage.

(e)(1) For projects that meet the eligibility requirements of § 207.32a(1) of this Chapter, the provisions of § 207.32a(j)(4) shall apply.

(2) For projects to be rehabilitated with assistance under Part 511 or Part

850 of this title, the provisions of § 207.32a(j)(5) shall apply.

(f) The additional obligations, if any, provided for in paragraphs (c), (d), and (e)(2) of this section shall be represented by promissory notes on forms approved by the Commissioner. These notes will not be due and payable until the maturity date of the mortgage to be insured pursuant to this part, but may be prepaid from surplus cash and in accordance with the conditions prescribed in the regulatory agreement between the lender and the mortgagor.

9. In § 255.211, paragraph (b)(2) is revised to read as follows:

§ 255.211 Maximum mortgage amounts.

(b) * * *

(2) Capitalization will use net income which results from market rents estimated by comparison with unsubsidized projects, capitalized at rates extracted from market transactions of comparable properties. Market value by direct sales comparison will be estimated by comparison of the subject property with competing properties recently sold, using at least two units of comparison. Because of the presence of units with below-market rents in projects rehabilitated with assistance under Part 850, the Commissioner will issue guidelines for the calculation of capitalization and market value under this paragraph (b)(2) where such properties are involved. The total estimated replacement cost of the project (before depreciation) provides only an upper limit. The final estimate of value must lie between that indicated by capitalization and that indicated by direct sales comparison, but in no event shall the final estimate of value exceed the total estimated replacement cost of the project.

10. A new § 255.225a is added to read as follows:

§ 255.225a Labor standards and prevailing wage requirements.

In the case of properties eligible under this part where the cost of repairs, replacements, and improvements exceeds \$6,500 per dwelling unit (adjusted by an applicable high-cost area factor), the requirements of § 207.19(d) (1), (4), and (5) shall apply to mortgages insured under commitments issued in accordance with this part.

11. In § 255.228, paragraph (c)(1) is revised to read as follows:

§ 255.228 Development of property.

(c) * * *

(1) A property is eligible for mortgage insurance under this part if—

(i) The cost of repairs, replacements, and improvements does not exceed the greater of:

(A) 15 percent of the property's value after completion of all repairs, replacements, and improvements, or

(B) \$6,500 (adjusted by any applicable high-cost area factor) per dwelling unit (or in the case of any purchase or refinancing involving property to be rehabilitated under Part 511 or Part 850 of this title, \$20,000 per dwelling unit, except that the Commissioner may increase this amount by not to exceed 25 percent for specific properties where the Commissioner determines that cost level so require); and

(ii) No more than one major building component is being replaced.

(2) * * *

12. Paragraph (b) of § 255.402 is revised to read as follows:

§ 255.402 Amount of MIP to be collected from the mortgagor.

* * *

(b) In addition to the MIP required in the preceding paragraph, beginning not earlier than 12 months after the date of the first payment to the principal, the lender may charge the mortgagor, subject to standards established by the Commissioner, an additional annual premium, for the account of the lender or an insurer of the lender, in an amount not in excess of 0.25 percent (0.10 percent in the case of a mortgage approved for coinsurance benefits under § 255.427a) per annum of the average outstanding principal balance of the mortgage, without taking into account delinquent payments or prepayments.

13. In § 255.415, paragraph (e) is revised to read as follows:

§ 255.415 Termination of coinsurance contract.

* * *

(e) The lender fails to file a claim within the period prescribed in § 255.424(b) or § 255.427a(b), as appropriate; or

* * *

14. A new § 255.427a is added, to read as follows:

§ 255.427a Amount of payment for certain mortgages covering property rehabilitated with assistance under 24 CFR Part 511 or Part 850.

(a) The provisions of this section apply to mortgages that cover properties rehabilitated with assistance under Part 511 or Part 850 of this title and that the Commissioner has approved for the

benefits of coinsurance, as provided in § 255.203.

(b) Insurance benefits under this section shall be payable on the date of acquisition of marketable title to the property securing a defaulted mortgage, in accordance with § 255.420. The benefits shall equal the sum of (1) 90 percent of the unpaid principal balance of the mortgage on the date of the institution of foreclosure proceedings or on the date of acquisition of the property otherwise after default and (2) 90 percent of the interest arrears under the mortgage on the date insurance benefits under this section are paid. To be eligible for payment, the lender must file with the Commissioner a claim for benefits under this section no later than 15 days after acquisition of title.

(c) Upon acquisition of title, the lender must obtain two appraisals of the property, as provided in § 255.424(a).

(d) The lender shall remit to the Commissioner, for the credit of the General Insurance Fund:

(1) 90 percent of the net proceeds of the property determined in accordance with this paragraph after the lender sells the property or after the expiration of 12 months from the date of acquisition of title, whichever comes first. For purposes of this paragraph, the net proceeds of the property will be determined by adding the items referred to in § 255.427 (except that (A) the item referred to § 255.427(a) will not be added and (B) references in § 255.427(f)

to amounts to be deducted and appraisals under § 255.424(a) will mean amounts to be added and appraisals under paragraph (c) of this section, respectively), and by subtracting the items referred to in § 255.426 (except that the full amount of the costs specified in § 255.426(d) will be subtracted). The lender must furnish information with respect to the net proceeds of the property under this paragraph on a form approved by the Commissioner; and

(2) Interest on the amount required to be remitted under paragraph (d)(1) of this section from the date of payment of insurance benefits under this section, at a rate that is two percentage points above the rate of the current value of funds to the United States Treasury (set in conformity with the Treasury Fiscal Requirements Manual).

(e) Any remittance required under this section that is paid to the Commissioner more than 30 days after the sale of the property or the expiration of 12 months from the date of acquisition of title, as appropriate, (i) must include a late charge of four percent of the amount of the remittance due and (ii) will be subject to interest from the appropriate due date at a rate that is two percentage points above the rate of the current value of funds to the United States Treasury (set in conformity with the Treasury Fiscal Requirements Manual).

15. In § 255.428, paragraph (a) is revised to read as follows:

§ 255.428 Remedies in the event of a default by a lender-issuer under the GNMA mortgage backed securities program.

(a) If, after payment by the Commissioner of a coinsurance claim, the lender-issuer fails to pay the full amount, or any part thereof, which is contractually owed to an investor which holds Government National Mortgage Association (GNMA) securities backed by coinsured mortgages, the Commissioner shall pay such amount to GNMA upon request, which amount shall not exceed (1) 15 percent, or 27.75 percent, whichever is appropriate, of the amount computed pursuant to § 255.425(a), plus the amount referenced in § 255.427(a) of this part or (2) in the case of mortgages for which insurance benefits are payable under § 255.427a, 10 percent of the unpaid principal balance and 10 percent of the interest arrears under the mortgage determined under paragraph (b) of that section. The Commissioner shall make such payments in cash. After such payment by the Commissioner, the lender-issuer shall have no claim against the Commissioner for any such funds.

Authority: Sec. 7(d), Department of Housing and Urban Development Act, as amended (42 U.S.C. 3535(d)).

Dated: June 8, 1984.

Samuel R. Pierce, Jr.,
Secretary.

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June 14, 1984

Part IV

**Environmental
Protection Agency**

40 CFR Part 747

**Triethanolamine Salt of a Substituted
Organic Acid Restrictions on Use in
Metalworking Fluids; Immediately
Effective Proposed Rule**

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 747**

[OPTS-61009; TSH-FRL 2569-6]

**Triethanolamine Salt of a Substituted
Organic Acid Restrictions on Use in
Metalworking Fluids****AGENCY:** Environmental Protection
Agency (EPA).**ACTION:** Immediately Effective Proposed
Rule.

SUMMARY: EPA is proposing a rule under section 6(a) of the Toxic Substances Control Act (TSCA), which is effective immediately under section 5(f)(2) of TSCA. The proposed rule will remain in effect until EPA promulgates a final rule. The rule applies to the new chemical substance which was the subject of premanufacture notice (PMN) P-84-310, submitted under section 5(a) of TSCA. The rule prohibits the addition of any nitrosating agent, such as nitrites, to the chemical substance known generically as triethanolamine salt of a substituted organic acid when it is or could be used in metalworking fluids. The rule also requires distributors of the substance to notify customers of the restrictions of the rule through letters sent prior to shipment of the substance and to notify machine shop workers of the health hazard through labels on metalworking fluids containing the substance. EPA believes that the unrestricted distribution of the substance in commerce and its unrestricted processing and use in combination with nitrosating agents will present an unreasonable risk of injury to human health before a final rule can be promulgated under section 6 of TSCA to protect against this risk.

DATES: This rule is effective June 14, 1984. Written comments and requests for a public hearing must be submitted by August 13, 1984. A public hearing will be held, only if requested, beginning on August 27, 1984.

ADDRESS: Comments should be sent in triplicate to: Document Control Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

Comments must include the docket control number OPTS-61009. Non-confidential versions of comments received on this proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays, in Rm. E-107 at the address given above.

Requests for a public hearing must be submitted to the above address and should reference the docket control number OPTS-61009. The time and location of the public hearing, if requested, will be announced in the future. Any person wishing information on the time and location of the hearing should contact the TSCA Assistance Office at the address and telephone number under "FOR FURTHER INFORMATION CONTACT" below.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-798), 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. Authority**

Section 5(f)(2) of TSCA authorizes the Administrator to issue a proposed rule under section 6(a) of TSCA to apply to a chemical substance which is the subject of a premanufacture notice. Such a rule may be issued if the Administrator finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of the substance presents or will present an unreasonable risk of injury to health or the environment before a final rule promulgated under section 6 can protect against such risk. The section 6(a) rule may, among other things, require that a chemical substance be marked with or accompanied by clear and adequate warnings and instructions with respect to its use, distribution in commerce, or disposal as prescribed by the Agency; the Agency may also restrict the processing and use of the chemical substance. Pursuant to section 5(f)(2), a rule thus proposed under section 6(a) is immediately effective upon its publication in the Federal Register.

Substances covered by a proposed section 6(a) rule immediately effective upon publication pursuant to section 5(f)(2) are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707. Substances covered by such a proposed rule are also subject to TSCA section 13 import certification requirements at 19 CFR 12.118 through 12.127, and 127.8 (48 FR 84734, August 1, 1983). EPA regulations discussing TSCA's import requirements appear at 40 CFR Part 707, published in the Federal Register of December 13, 1983 (48 FR 55462).

II. Regulatory Background**A. Test Marketing Exemption T-83-81**

Section 5(h)(1) of TSCA authorizes EPA to exempt persons from PMN requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities. The Agency may rescind approval of an exemption, or modify the exemption, should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

On August 29, 1983, a test marketing exemption application was received by the Agency and subsequently designated T-83-81. The submitter identity, chemical identity, and use of the T-83-81 substance are identical to the submitter identity, chemical identity, and use of the substance regulated by this proposed rule. EPA announced receipt of the application in the Federal Register of September 9, 1983 (48 FR 40781).

The risk assessment performed on the T-83-81 substance identified it to be a moderate eye and skin irritant based on test data in the application. However, manufacturing workers were expected to wear appropriate protective equipment, including rubber gloves, aprons and safety glasses. Releases to the environment were expected to be insignificant. No other significant health or environmental effect concerns were identified. EPA therefore determined that test marketing of the T-83-81 substance as a corrosion inhibitor in aqueous systems, under the conditions set out in the application for a time period not to exceed one year, would not present any unreasonable risk of injury to health or the environment.

EPA announced its approval of the exemption under these terms in the Federal Register of October 20, 1983 (48 FR 48710). Two additional restrictions were imposed. First, if the substance were shipped, the applicant was directed to maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and to make these records available to EPA upon request. Second, the bill of lading accompanying each shipment was required to state that use

of the substance was restricted to that approved in the exemption.

On January 23, 1984, review of PMNs P-83-1005 and P-83-1062 for two new chemical substances identified generically as triethanolamine salt of tricarboxylic acid, and tricarboxylic acid, respectively, culminated in EPA proposing a rule under section 6(a) of TSCA, effective immediately under section 5(f)(2), regulating those substances when they are or could be used as, or in, water-based metalworking fluids. The proposed rule, published in the *Federal Register* of January 23, 1984 (49 FR 2762), was promulgated to protect against carcinogenic risks which would result if nitrites were added to the P-83-1005 substance when used as a metalworking fluid additive.

As discussed in detail in Units II, C and III of this Preamble, the T-83-81 substance presents health risks virtually identical to those which prompted EPA to regulate P-83-1005 and P-83-1062. The information compiled as a result of review of P-83-1005 and P-83-1062 thus cast significant doubt on EPA's finding that the test marketing activities for T-83-81 would not present any unreasonable risk to health or the environment. EPA therefore modified the exemption for T-83-81 to incorporate by reference the substantive requirements of the January 23, 1984, proposed rule. Notice of this modification was published in the *Federal Register* of March 1, 1984 (49 FR 7653).

B. PMN Background

On December 30, 1983, a PMN was received by the Agency for the T-83-81 substance and subsequently designated P-84-310. The specific identity of the substance, generically identified as a triethanolamine salt of a substituted organic acid, was claimed confidential. EPA announced receipt of this PMN in the *Federal Register* of January 13, 1984 (49 FR 1787). The original 90-day review period would have expired on March 28, 1984. The submitter suspended the review period for 64 days on March 23, 1984, and for 14 additional days of May 26, 1984, to provide EPA time to develop this proposed rule. The review period now expires on June 14, 1984.

The notice submitter claimed the company name and the specific chemical identity as confidential business information. The notice submitter specified that the substance will be imported for use as a corrosion inhibitor for aqueous systems. It may be used in metalworking fluid systems or in hydraulic fluids.

Because the specific chemical identity of the substance is confidential, it will be referred to by its generic name or PMN number in this preamble and the proposed rule.

In the PMN, the notice submitter included test data on the substance which is summarized below.

Test	Result
Acute oral—rat	LD ₅₀ > 4.75 g/kg.
Intraperitoneal—mouse	700 mg/kg < LD ₅₀ < 2000 mg/kg.
Inhalation—rat	No deaths after 7 hour exposure to saturated vapor.
Skin and eye—rabbit	Irritation and swelling, with irritation vesication of eye and discharge from conjunctivae.

C. Related Rulemaking Activity

EPA proposed a rule virtually identical to this proposed rule under section 6(a) of TSCA, made immediately effective under section 5(f) of TSCA, which was published in the *Federal Register* of January 23, 1984 (49 FR 2762). That rulemaking involves two new chemical substances, one of which (P-83-1005, identified generically as triethanolamine salt of tricarboxylic acid) is similar to P-83-310 and can also be used as a corrosion inhibitor in aqueous metalworking fluids. The other (P-83-1062, identified generically as tricarboxylic acid) is used as an intermediate to produce P-83-1005. The risks presented by the unrestricted processing, distribution in commerce, and use of P-83-1005 are virtually identical to those presented by P-84-310, and EPA is proposing the same regulatory approach to deal with those risks. Consequently, the discussion in this preamble, and the structure of this rule, are nearly identical to those for P-83-1005 and P-83-1062. EPA is considering consolidating the two rules if both are adopted as final in similar form. Persons interested in this rulemaking may also be interested in the related rulemaking activity. EPA will consider comments on both rules in reaching final decisions on either rule.

The Agency is also considering proposing a rule under sections 6(a) and 8(a) of TSCA imposing reporting and/or recordkeeping requirements on manufacturers, importers, processors, and/or distributors of P-83-1005, P-83-1062, and P-84-310. Comments on the immediately effective proposed rule for P-84-310 may include discussion of possible approaches to reporting and recordkeeping for P-83-1005, P-83-1062, and P-84-310.

III. Reasons for Proposing the Rule

Metalworking fluids containing P-84-310 generally would not require addition

of nitrosating agents, such as nitrites, to perform effectively. Based on the use patterns of similar substances, however, EPA believes that such addition of nitrosating agents could occur in practice. The Agency has determined that nitrosating agents combined with P-84-310 will nitrosate the triethanolamine to form N-nitrosodiethanolamine (NDELA), which has been shown to be carcinogenic in animals.

The Agency believes that occupational exposures to NDELA due to the use of metalworking fluids containing P-84-310 together with nitrosating agents will subject workers to carcinogenic risks. NDELA is expected to be formed and to be absorbed via all routes (lungs, gastrointestinal tract, and skin). The Agency has therefore concluded that the unrestricted processing, distribution in commerce, and use of P-84-310 will present an unreasonable risk of injury to health before a final rule could be promulgated under section 6 of TSCA to protect against the risk.

EPA also believes that processing and use restrictions, and appropriate warnings and instructions to notify processors and users of the risks of combining P-84-310 with nitrosating agents, will protect persons from any unreasonable risk resulting from exposure to NDELA. In the absence of nitrosating agents, NDELA is not expected to be formed in metalworking fluids containing P-84-310. Detailed technical information supporting the discussion which follows is contained in the Technical Support Document available in the record of this rulemaking.

A. Formation of NDELA

Like P-84-310, nitrites are corrosion inhibitors. EPA has received information that corrosion inhibitors, including nitrites, are frequently added to water based metalworking fluids to extend the useful lifetimes of the fluids (Ref. 7), and to impart some specific corrosion inhibiting properties. The Agency has information that the addition of nitrites to metalworking fluids routinely occurs, both by formulators (processors) and users (Ref. 7).

The formation of N-nitrosamines in commercial metalworking fluids is well established (Refs. 8). The addition of nitrites to an aqueous metalworking fluid generates direct nitrosating agents, such as nitrous acid (HONO) or dinitrogen trioxide (N₂O₃), which may directly transform (nitrosate) secondary, tertiary, and certain primary amines to N-nitrosamines (Refs. 29 and 31). The

Agency has concluded that, under conditions of use in metalworking fluids, the triethanolamine (a tertiary amine) contained in P-84-310 will be nitrosated by the nitrosating agents derived from nitrites to form NDELA. This conclusion is supported by the work of Lijinsky et al. (Ref. 19) demonstrating that triethanolamine can be dealkylated and nitrosated to form NDELA.

If P-84-310 is used without nitrites, as intended by the PMN submitter, there is expected to be no risk from nitrosamine formation. However, EPA believes that some processors and users could economically use P-84-310 as a co-corrosion inhibitor in metalworking fluids which contain nitrites (Ref. 7). Likewise, EPA believes that metalworking fluid formulations containing P-84-310 may subsequently have nitrites added to them because it is a common industry practice to add corrosion inhibitors, including nitrites, to existing metalworking fluids (Ref. 7). EPA is not aware of any reason that these practices might not occur.

EPA has been unable to determine the exact amounts of NDELA which will form if metalworking fluid formulations containing P-84-310 are used in conjunction with nitrosating agents. However, it is clear that, over time and during use, significant quantities of NDELA could be formed, limited only by the amounts of P-84-310 and nitrites available. A substantial number of people involved in metalworking practices may be exposed to varying levels of NDELA for significant periods of time, thereby experiencing potentially increasing risks.

B. Absorption of NDELA

Edwards et al. (Ref. 6) demonstrated the absorption of NDELA through the skin of humans wearing an NDELA-contaminated facial cosmetic by measuring NDELA in the urine of exposed humans. In addition, Bronaugh et al. (Ref. 2) showed that NDELA can penetrate isolated human epidermis *in vitro*. Two other studies have shown absorption of NDELA through the skin of several different animal species. Marzulli et al. (Ref. 21) showed dermal absorption using monkeys and pigs and Lijinsky et al. (Ref. 20) achieved similar results using rats. There are no data regarding the absorption of NDELA following inhalation exposure. However, EPA believes it is reasonable to conclude that the absorption of NDELA by this route will be at least equivalent to that observed following the dermal administration of NDELA as a solution in metalworking fluids.

The Agency has concluded that the NDELA to which workers may be

exposed via the inhalation route (due to the volatilization of the substance from metalworking fluids or to the formation of mists of NDELA-containing fluids generated during metalworking operations) will also be absorbed via the lungs (metalworking operations) will also be absorbed via the lungs and the gut.

C. Adverse Health Effects of NDELA—Laboratory Data

Laboratory data indicate that among the nitrosamines, NDELA is one of the most potent carcinogens in animals. NDELA has been shown to elicit nasal carcinomas and tracheal papillary tumors when administered to hamsters by subcutaneous injection (Ref. 12). In addition, hepatocellular carcinomas were induced in rats following oral administration of NDELA (Ref. 4). A more recent and comprehensive study by Preussman et al. (Ref. 28) has confirmed the positive findings of Druckery et al. (Ref. 4). EPA has concluded that NDELA is carcinogenic in animals and, for regulatory purposes under TSCA, is presumed to be carcinogenic in humans.

D. Use Practices

Because of general concerns about the formation of N-nitrosamines during use of metalworking fluids, EPA has been studying metalworking industry practices for some time. EPA has concluded that processors of metalworking fluid concentrates (i.e., persons who formulate the concentrates) routinely add corrosion inhibitors, for example nitrites, to such concentrates to impart corrosion inhibiting properties to the fluid (Ref. 7). Typically, these corrosion inhibitors are added to concentrates in ranges of 1 to 10 percent (Ref. 7). Such use of nitrites has a long history in metalworking and in the formulation of metalworking fluid concentrates.

In machine shops and other metalworking operations, corrosion inhibitors, including nitrites, are routinely available and used by the workers to impart corrosion inhibiting properties. EPA's analysis has shown that workers commonly add corrosion inhibitors, such as nitrites, to metalworking fluids during metalworking operations, particularly to restore the corrosion inhibiting properties of a fluid that has been used for some time (Ref. 7). Historical use of nitrites in metalworking fluids has made the addition of nitrite during metalworking operations a common practice.

P-84-310 is a corrosion inhibitor which the PMN submitter claims offers

advantages such as the following: Good water solubility, low foaming tendency, low hard water sensitivity, and synergistic corrosion inhibition in combination with other corrosion inhibitors. The PMN submitter states that the substance is intended to be used without nitrites and the lack of nitrites will not have any adverse effects on performance. However, the PMN submitter has no information available to lead it to believe that the addition of nitrites would adversely affect the performance of P-84-310.

EPA believes that there are two possible scenarios where P-84-310 could be used in the presence of nitrites.

First, the good performance provided by P-84-310 could lead a formulator to replace an existing specialty corrosion inhibitor with P-84-310 to improve performance (Ref. 7). Thus P-84-310 could be used in combination with a nitrite/triethanolamine blend.

Secondly, P-84-310 could come into contact with nitrites at the user sites. It is a common industry practice to add corrosion inhibitors to metalworking fluids to improve or maintain corrosion inhibition properties during use (Ref. 22 and 32). Potassium or sodium nitrites may be among the corrosion inhibitors added in such a manner (Ref. 7).

Accordingly, processors and users could add nitrites to metalworking fluids containing P-84-310 during formulation or use in accordance with normal industry practices.

E. Potential Worker Exposures

EPA examined the possible exposure of workers to P-84-310 contained in metalworking fluids and to NDELA in fluids containing P-84-310 and nitrites. The Agency determined that potential dermal and respiratory exposure of machine shop workers to NDELA is expected to be significant.

1. *Exposure during processing.* The PMN submitter has indicated that when P-84-310 is used as an additive in the preparation of metalworking fluid concentrates, the concentration of P-84-310 in the metalworking fluid concentrate will be less than 10 percent. P-84-310 will be processed into metalworking fluid concentrates at industrial sites. EPA estimates 4 workers may be exposed for 2 hours per day for up to 250 days per year per site. The imported P-84-310 will contain no nitrites. Thus, exposures to P-84-310 alone are not of concern.

Typical metalworking fluid concentrates to which P-84-310 might be added usually contain 1 to 10 percent of corrosion inhibitor (Ref. 7). Since nitrites are commonly used for this purpose, it is

probable that some metalworking fluid concentrates to which P-84-310 would be added may also contain nitrites. In time, NDELA would be formed in these concentrates. However, processing workers who formulate and package metalworking fluid concentrates containing both nitrites and P-84-310 are not expected to be exposed to NDELA because the concentrates are likely to be packaged before NDELA could form to any significant extent.

2. Exposure during use. Metalworking fluid concentrates containing P-84-310 would primarily be used in machine shops. The major exposure to NDELA would occur during metalworking operations. The concentrate containing less than 10 percent of P-84-310 will be diluted with water to less than 5 percent for use in machine shops. Addition of corrosion inhibitors, including nitrites, to such water-based metalworking fluids is a common practice in machine shops. Neither the Agency nor the PMN submitter knows of any reason why nitrites could not be added to a fluid containing P-84-310. The Agency has concluded that as many as 100,000 workers could be exposed to metalworking fluids containing P-84-310 and nitrosating agents, such as nitrites, at the maximum projected import volume (Ref. 38).

Workers' hands and arms are routinely exposed to metalworking fluids in machine shops. This exposure results from handling machined parts coated with the fluids during metalworking operations, contact with contaminated equipment, maintenance, and clean-up operations. Workers are not expected to avoid contact with the metalworking fluids because the fluids are non-irritating to the skin (aside from allergic dermatitis which may develop over prolonged periods of exposure), and the workers are generally not aware of the hazards associated with these fluids. In addition, gloves decrease the dexterity needed when handling machined parts and are, therefore, not worn. Thus the Agency believes that workers could be dermally exposed each workday to potentially significant levels of the NDELA formed in metalworking fluids containing both P-84-310 and nitrosating agents.

Workers could also be exposed to NDELA generated in metalworking fluids via inhalation of mists generated during machining operations (Ref. 16). Workers using metalworking fluids containing P-84-310 and nitrosating agents could also be exposed to smaller amounts of NDELA from inhalation of NDELA vapors. The workers in machine shops do not routinely wear respirator

that would protect against such exposure to NDELA.

F. Carcinogenic Risk in Humans

Because NDELA, a known carcinogen, will form if nitrosating agents are added to metalworking fluids containing P-84-310, workers in machine shops will be exposed to potentially significant amounts of NDELA in such metalworking fluids through dermal contact with the fluids and inhalation of fluid mists and NDELA vapors. Because NDELA is absorbed in significant amounts through the skin, lungs, and gastrointestinal tract, EPA has concluded that machine shop workers may experience a significant risk of cancer from using such metalworking fluids.

G. Economic and Health Benefit Considerations

1. Substitutes for nitrites and P-84-310. The submitter states that P-84-310 may function as a corrosion inhibitor in metalworking fluids, by itself or with other corrosion inhibitors such as nitrites. EPA believes that there are numerous potential substitutes for nitrites that could be used in metalworking fluids containing P-84-310 without presenting any risk from formation of nitrosamines. These substitutes generally fall into the following groups:

- a. Tall oil, fatty acids, alkanolamine reaction products.
- b. Borates and boron/nitrogen compounds.
- c. Petroleum sulfonates.
- d. Carboxylates.

EPA believes that substances in the groups listed above, as well as nitrites, could serve as substitutes for P-84-310 if necessary (Ref. 7).

Chemical substances within these groups are commercially available and currently in use in metalworking fluids. They could provide all the properties of nitrites and some, if not all, of the property advantages of P-84-310. The prices of substitutes are generally competitive with the prices of nitrites (Ref. 7). Since the PMN submitter considers price information about P-84-310 confidential, EPA is not discussing the relative pricing of P-84-310 and its substitutes.

2. Cost of controls. EPA is proposing that processors and users of metalworking fluids which contain P-84-310 be prohibited from adding nitrosating agents, including nitrites, to such fluids. EPA is also proposing that distributors of P-84-310, or any product containing P-84-310, who distribute the substance in commerce in such a

manner that it could be used in metalworking fluids notify customers through a letter of the requirements of the rule and confirm receipt of the letter in writing. EPA is also proposing that distributors of P-84-310 in metalworking fluids label containers of those fluids.

EPA has concluded that there is little, if any, cost associated with prohibiting the addition of nitrosating agents to metalworking fluids containing P-84-310 (Ref. 7). P-84-310 is intended to be marketed as a corrosion inhibitor. If used alone in a metalworking fluid without the addition of nitrosating agents, P-84-310 should provide the needed corrosion inhibition without any change in performance. If additional corrosion inhibitors are desired in the metalworking fluid, substitutes for nitrosating agents are readily available, though possibly at somewhat greater cost.

EPA has concluded that the present value of the cost of notifying customers through labels and/or letters in accordance with the rule will be \$300 to \$1,050 per distributor and between \$230 and \$600 per processor of the metalworking fluids over a 10-year life cycle of the substance.

EPA does not believe that such letters and labels will make the substances or resulting products any less competitive than other corrosion inhibitors or metalworking fluids. Indeed they may attract buyers interested in avoiding use of nitrites (Ref. 7).

3. Health benefits. The controls proposed in this rule would minimize any risk to machine shop workers of cancer resulting from exposure to NDELA formed in metalworking fluids containing P-84-310. Needless to say, those benefits cannot be quantified, but they should be significant.

4. Economic impacts. EPA selected an approach for regulating P-84-310 which is the least burdensome method of providing the health benefits of minimizing, if not eliminating, the risk associated with use of P-84-310 in combination with nitrites. Other alternatives available to EPA, such as banning P-84-310 or requiring exposure controls, may provide the same health benefits, but probably would keep P-84-310 from being introduced into the market. Taking no regulatory action would not provide these health benefits.

Introduction of P-84-310 into the market as a corrosion inhibitor for metal working fluids may present benefits to the PMN submitter and society. P-84-310 may present property benefits over some existing products now on the market. EPA's selected approach is expected to provide almost all of the

benefits of allowing the substance on the market.

EPA realizes that there could be some adverse impact on the marketability of the substance resulting from this rulemaking. EPA believes that most of this impact would result from the loss of market to those who would use the substance in combination with nitrites. EPA believes this form of loss of market would be slight and is a desirable outcome of this rulemaking. Some unintended loss in market may also result due to the existence of this regulation.

As discussed above, the cost of complying with the section 5(f)(2) rule is not expected to be significant. Most of the impact on the marketability of the substance is not expected to result from these compliance costs.

Other methods of regulating the substance, such as a ban or exposure controls, would impose significant costs on the PMN submitter and others. While taking no regulatory action would impose no costs, the health benefits of reduced risk would be lost.

H. The Section 5(f) Finding*

Section 5(f)(1) of TSCA authorizes EPA to take action with respect to a new chemical substance which is the subject of a PMN. The Agency can take such action if it "has a reasonable basis to conclude" that the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance, or any combination of such activities "presents or will present an unreasonable risk of injury to health or the environment before a rule promulgated under section 6 can protect against such risk." There are two components to this finding, as follows:

1. *Unreasonable risk.* TSCA does not specifically define the term "unreasonable risk." However, the legislative history makes clear that a determination of whether a risk is unreasonable requires a balancing of the probability and severity of harm from the substance against the costs of the regulatory action to society. Congress recognized that the implementation of the unreasonable risk standard "will of necessity vary depending on the specific regulatory authority which the Administrator seeks to exercise" (Ref. 17).

With respect to a new chemical substance that is the subject of a PMN, EPA will have less complete information and experience upon which to base a regulatory action than for a chemical substance which has been in commerce for some time. This is particularly true with respect to information on exposure and release of P-84-310 which, because

the substance has been in only limited use for test marketing, has not been measured. However, it is clear that Congress intended EPA to exercise authority under section 5(f) of TSCA for new substances which will pose unreasonable risks.

In this instance, EPA has concluded that NDELA will form when P-84-310 is used in the presence of nitrosating agents. Since the substance has been distributed in commerce only for limited use under a test marketing exemption and has not been tested, EPA is unable to quantify exactly how much NDELA will form in such fluids. Different amounts of P-84-310 may be used in different formulations of metalworking fluids, and different types and amounts of nitrites or other nitrosating agents may be added to such fluids. Time and conditions of storage and use are also variables in determining the amount of NDELA that might be formed in a specific metalworking fluid.

EPA has a strong basis for concluding that NDELA poses a carcinogenic hazard and that if it gets onto workers' skin, into their lungs, or into their gastrointestinal tracts, it will be absorbed and, with chronic exposure, will very likely cause cancer.

The extent to which workers will be exposed to NDELA as a result of the introduction of P-84-310 is unknown because the substance has been distributed in commerce only for use under the test marketing exemption and exposure has not been monitored. However, EPA has based its exposure analysis on knowledge of the use of metalworking fluids of this type, and the types and quantity of exposure which result.

In light of the potentially significant risk of cancer to workers using metalworking fluids containing P-84-310 and nitrosating agents and the low cost of the regulatory controls chosen, EPA has concluded, in accordance with section 5(f)(1) of TSCA, that processing, distribution in commerce, and use of P-84-310 without processing and use restrictions and nitification requirements will present an unreasonable risk of injury to human health.

Because little specific data is available, EPA's exposure analysis is based on general knowledge of exposure to similar substances in metalworking fluids. Thus, EPA's risk findings are, to a certain degree, speculative. However, EPA believes that even if exposure to NDELA in metalworking fluids containing P-84-310 and nitrosating agents such as nitrites were low, such exposure would still lead to a risk to the health of machine shop workers which

is unreasonable in light of the extremely low cost of eliminating that risk entirely.

2. *Need for expedited action.* Action under section 5(f) of TSCA also requires a finding that the unreasonable risk will occur before a rule promulgated under section 6 of TSCA can protect against the risk. Unless it is clear that, because of special circumstances, the exposures of concern will not occur for an interval during which EPA could conduct an ordinary section 6 rulemaking, EPA is authorized to determine that immediate control is necessary to protect against the risk.

In this instance, in accordance with section 5(f)(1), EPA has concluded that the risk of exposure to NDELA and the resulting risk of cancer in machine shop workers would begin as soon as these workers are exposed to metalworking fluids containing P-84-310 and nitrosating agents such as nitrites. EPA has concluded that processors who formulate metalworking fluid concentrations may add nitrites or other nitrosating agents to formulations containing P-84-310 once distribution of the substance begins. In addition, based on routine workplace practices in metalworking operations, in particular in machine shops, EPA has concluded that, even if the formulated metalworking fluid concentrates containing P-84-310 are not sold with nitrites, workers are likely to add corrosion inhibiting agents, such as nitrites, to those fluids during use in the workplace. Thus, the risk of NDELA formation and exposure to workers will begin immediately.

A typical section 6 rulemaking could take at least a year, and probably more, to complete. Thus, unless section 5(f) authority is invoked, machine shop workers would be at risk from exposure for a considerable length of time.

Even though cancer results from chronic exposure, EPA believes it is appropriate to use the authority of section 5(f) to deal with such a risk. Congress intended that EPA pay special attention to risks of cancer and make every effort to insure such risks are not unreasonable.

IV. Alternatives Considered

A. TSCA Alternatives

EPA considered other possible approaches to ensuring the protection of human health. The Agency chose not to take action under section 5(e) of TSCA because sufficient information is available on the carcinogenic hazards of NDELA without further testing. Sufficient information exists also to show NDELA will form in the presence

of triethanolamine and nitrites in metalworking fluids and that workers in machine shop are exposed to metalworking fluids. Section 5(e) orders are regulatory actions taken pending development of the necessary information. In this case, the Agency believes there is sufficient information to make a section 5(f) finding. In addition, promulgation of a proposed rule under section 6(a) of TSCA made immediately effective under section 5(f) is consistent with the similar treatment accorded to the two similar new chemical substances identified generically as triethanolamine salt of tricarboxylic acid (P-83-1005), and tricarboxylic acid (P-83-1062). These substances are regulated under an immediately effective proposed rule published in the Federal Register of January 23, 1984 (49 FR 2762).

The Agency also considered issuing an immediately effective significant new use rule (SNUR) for P-84-310. However, the SNUR would not reach the end users where exposure occurs. Moreover, like section 5(e) actions, SNURs are more appropriate to situations where additional information is necessary for the Agency to assess risk. The necessary information is available to the Agency now for this substance.

A third alternative would be to promulgate a section 6(a) rule without using section 5(f)(2) authority to make the section 6(a) rule effective upon proposal. EPA chose not to proceed with such a section 6(a) rule because the agency has determined that P-84-310 will present an unreasonable risk of injury to human health, and that action is necessary now to protect against this risk of injury before a section 6 rule can be promulgated. Action under section 5(f) will protect against this risk.

A fourth alternative would be to regulate P-84-310 as part of a larger, generic effort now under development to regulate the addition of nitrites and other nitrosating agents to metalworking fluids containing amines under section 6. The Agency chose not to pursue this alternative because it is the policy of EPA that each new chemical substance be evaluated independently for the risk that substance may present to human health and the environment. EPA has not chosen this alternative because EPA has determined that sufficient information currently exists to lead to a reasoned determination that this substance combined with nitrites will present an unreasonable risk of injury to human health before such a section 6 rule could protect against the risk.

A fifth alternative would be to rely on the submitter of P-84-310 to label voluntarily or otherwise notify

customers recommending against the use of P-84-310 with nitrosating agents. However, such a label or notification would reach processors only, and there is no reason to believe that processors would label the resulting formulations or that users would not add nitrites during end use. Such an alternative is not enforceable and, in view of the risk of cancer to machine shop workers, the Agency chose to take action under section 5(f).

A sixth option would be to issue a Chemical Advisory to warn about the risks of nitrosamine formation associated with the addition of nitrites to amine-based metalworking fluids. The Agency has decided to issue a Chemical Advisory in addition to the proposed rule and expects to issue the advisory in the near future. Because a Chemical Advisory is only informative, it would not substitute for the affirmative requirements which would be imposed by the section 5(f) rule given the known health risks which the new substance presents.

B. Non-TSCA Alternatives

In response to the first section 5(f) action for the chemical substances identified as P-83-1005 and P-83-1062, comments questioned whether the Agency should have referred these substances under section 9(a) of TSCA to the Occupational Safety and Health Administration (OSHA) for action under the Occupational Safety and Health Act (OSHAct). EPA considered such an action for those substances and for P-84-310 but decided that TSCA was the more appropriate authority to effectively deal with the risks posed by these substances.

Section 9(a) of TSCA provides that, if the Administrator of EPA in his or her discretion determines that an unreasonable risk may be prevented or reduced to a sufficient extent by action taken under a Federal law not administered by EPA, the Administrator must submit a report to the Agency administering that other law describing the risk. If the other Agency responds by declaring that the activities described do not present an unreasonable risk or initiates action to protect against the risk, EPA is precluded from acting against the risk under TSCA.

In this instance EPA determined that, while the risks of concern occur in the workplace, action by OSHA under the OSHA Act would not prevent or reduce the risks to a sufficient extent. First, OSHA has no special authority to anticipate the risks of new chemical substances; TSCA section 5 does. Section 5(f) of TSCA allows EPA to act when an unreasonable risk would occur

before a rule can be promulgated under section 6 of TSCA to control the risk. Such an action can be taken for any unreasonable risk where delayed action under section 6 would allow the risk to occur, and the action can be taken before any manufacture or import of the substance occurs and before the hazards occur. No additional finding as to the severity of the risk is necessary for action under section 5(f). Section 6(c) of the OSHAct, on the other hand, provides for emergency temporary standards only when the Secretary of Labor finds that employees "are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards." The level of risk necessary to qualify as "grave danger" under this standard is certainly higher than the unreasonable risk finding made for P-83-1005, P-83-1062, and P-84-310. Therefore, it is unlikely OSHA would be able to control the risk of these substances immediately. Rather, rulemaking would be required which could take months or years to complete, during which the risks would occur.

Second, while OSHA can set standards under the OSHAct, it has not asserted or used authority to prohibit use of one chemical substance with another as is done by this proposed rule. OSHA probably would deal only with the risks of NDELA once it is formed, not prevent its formation as EPA can under this approach.

Third, OSHA can establish standards only in a case of "significant risk" and must consider controls that are feasible and economically achievable. OSHA might not be able to make the necessary findings for these substances and thus could not regulate them sufficiently. EPA's economic analysis shows that engineering controls or personal protective equipment might not be feasible in machine shops and might be prohibitively expensive. Such conclusions might prevent action by OSHA. OSHA would likely have a difficult time establishing a standard for these substances which would prevent or reduce the identified risks to a sufficient extent, whereas EPA can eliminate the risks entirely at a lower cost.

In reaching the decision to act under section 5(f), EPA considered two additional factors. First, the costs of EPA's regulatory approach are likely to be lower and less burdensome than workplace controls likely to be adopted under the OSHAct. Therefore, action under TSCA is consistent with section 2 of TSCA. Second, EPA believes that Congress intended that EPA act directly

to address the risks of new chemical substances immediately, before the substances are manufactured or distributed in commerce, to avoid preventable risks entirely. Retaining jurisdiction to act under section 5(f) is consistent with this intent.

V. Regulatory Investigation of Metalworking Fluids

The Agency's actions on P-84-310, P-83-1005, and P-83-1062 reflect its concern about the potential human health risk posed by exposure to nitrosamines in metalworking fluids in general. The Agency is conducting a regulatory investigation into any unreasonable risks to human health posed by nitrosamines in synthetic and semi-synthetic metalworking fluids. This investigation may culminate in the promulgation of a rule under section 6 of TSCA addressing nitrosamine-related health risks posed by existing metalworking fluids. Such a rule could render this proposed rule, and the proposed rule for P-83-1005 and P-83-1062, redundant or obsolete. If so, EPA may in the future incorporate these rules into the generic section 6 rule or revoke them entirely.

Refer to unit V of the preamble of the Federal Register notice of January 23, 1984 (49 FR 2762) for P-83-1005 and P-83-1062 for further information on the general investigation of metalworking fluids.

At this time, the Agency estimates that the regulatory investigation of metalworking fluids will be concluded by the end of the current calendar year. Should the Agency decide to proceed with rulemaking, or a formal referral, this action addressing nitrosamine-related health risks posed by existing metalworking fluids will be published during the summer of 1985. In the interim, the Agency expects to issue a chemical advisory to warn manufacturers and users of the problems, associated with these chemical substances. Such an advisory is scheduled for release during the summer of 1984.

In the section 5(f) regulatory action on P-83-1005 and P-83-1062, the Agency specifically solicited information from the public about exposure to nitrosamines, substitutes for nitrites, and economics and benefits of regulatory options. In addition to the above, the Agency solicits information in the following two areas:

1. *Corrosion inhibitor packages.* EPA is interested in information concerning the composition of corrosion inhibitor packages which are added to metalworking fluids in use, and the

utilization of nitrite substitutes in such packages.

2. *Addition of nitrites to metalworking fluids.* EPA is interested in obtaining information on the extent to which nitrites are added to synthetic and semi-synthetic metalworking fluids during use to enhance their corrosion-inhibition properties. EPA is also interested in whether nitrites are added as a component of corrosion inhibitor packages or alone, and how frequently metalworking fluids are supplemented in this manner.

VI. Exemptions to the Rule

Persons who process, distribute in commerce, or use P-84-310 would not be subject to the restrictions of this proposed rule if:

1. They manufacture, import, process, distribute in commerce, and use the substance in small quantities solely for research and development in accordance with TSCA section 5(h)(3).
2. They manufacture, import, process, distribute in commerce, and use the substance only as an impurity.
3. They import, process, distribute in commerce, or use the substance only as part of an article.

EPA has designated these three exemptions because in these three situations the substance is unlikely to present a risk.

4. They process or distribute the substance in commerce solely for export from the United States and, when distributing in commerce, label it in accordance with section 12(a)(1)(B) of TSCA.

EPA has included an exemption for P-84-310 when it is processed or distributed in commerce solely for export. As discussed above in Unit III. F.1. of this preamble, EPA is not concerned about worker exposure to NDELA during processing of P-84-310 with nitrosating agents because of the length of time required for NDELA to form. Rather, EPA has placed restrictions on adding nitrosating agents to P-84-310 during processing to protect workers who will use metalworking fluids containing P-84-310. Similarly, the restrictions on distribution of P-84-310 in commerce, i.e., notification letters and labels on containers of metalworking fluids, are designed to inform processors, users, and other distributors of the restrictions of the rule—again to protect workers who will use metalworking fluids containing P-84-310. Section 12(a) of TSCA exempts substances processed or distributed in commerce solely for export from regulation under section 6 unless EPA finds that the activities will present an unreasonable risk of injury to health or

the environment in the United States. In this case, if the use of P-84-310 will occur outside the United States, there is no unreasonable risk in the United States.

The proposed rule defines "process or distribute in commerce solely for export" in a similar fashion to the definition of "manufacture solely for export" used in the PMN rule (40 CFR 720.3(s)). All processing must be performed at sites under the control of the processor, distribution in commerce is limited to purposes of export, and the substance may not be used by the processor or distributor other than in small quantities solely for research and development. However, such exempt exports remain subject to export notification under section 12(b) of TSCA.

VII. Procedures for Informing Persons of the Existence of This Rule

The final rule will be published in the Federal Register and codified in the Code of Federal Regulations (CFR).

EPA intends to publish information concerning the final rule, as for this immediately effective proposed rule, in the TSCA Chemicals-in-Progress Bulletin, published by the TSCA Assistance Office of EPA's Office of Toxic Substances (OTS). EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of the final rule through footnotes to the chemical identity of the chemical substance subject to the rule. The footnotes would refer to an Inventory Appendix which would give a Federal Register or CFR citation for the final rule.

Determining whether a chemical substance is subject to the rule is more difficult when the identity of the chemical substance is confidential. In this case, the chemical identity of P-84-310 was claimed confidential in the PMN. EPA is proposing to keep the specific identity of the substance confidential in the final rule. The substance would be referred to by a generic chemical name and PMN number. On the printed version of the Inventory, there would be a footnote indicating that the chemical substance masked by the generic name is subject to the rule.

Any person proposing to manufacture or import a chemical substance within the generic name of P-84-310 for the first time would ask EPA whether its chemical substance is on the Inventory. To make such a request, the person would have to show EPA that the person has a *bona fide* intent to manufacture or import the substance in question. Under

either 40 CFR 710.7(g)(2) of the Inventory Reporting Rules or 40 CFR 720.25(b)(2) of the Premanufacture Notification Rules, which were published in the *Federal Register* of May 13, 1983 (48 FR 21722), EPA would evaluate the inquiry and would answer the inquiry by either informing the requester that the substance is on the Inventory or informing the requester that sufficient information has not been furnished to show a *bona fide* intent to manufacture or import the substance in question. In the first case, EPA is proposing to tell the manufacturer or importer, as well, whether the substance is subject to this rule.

This procedure would allow manufacturers and importers to determine whether they are subject to the rule while protecting confidential business information from unnecessary disclosure.

The existing *bona fide* procedure can be used only by manufacturers and importers. EPA believes that, since manufacturers and importers who distribute the substance will be required to notify customers about the rule, processors, distributors, and users buying the substance will be aware, through the letters and labels that the substance is subject to this rule and will not need to use a *bona fide* procedure.

Because EPA is not proposing a separate *bona fide* procedure for processors, distributors, and users to determine whether the substances they process, distribute, and use are subject to this rule, EPA is proposing to hold processors, distributors, and users liable for violations of the rule only if they are also manufacturers or importers of the substance or if they have received the letters and labels specified in the rule. Thus compliance by processors, distributors, and users will be dependent upon the notification and labeling requirements of the rule which will flow initially from manufacturers and importers.

VIII. The Section 5(f) Rulemaking Process

Under section 5(f)(2) of TSCA, after making the appropriate statutory findings discussed in Unit III. H of this preamble, EPA may issue a proposed rule under section 6(a). Such a proposed rule is effective upon publication in the *Federal Register*. The rulemaking procedures that would apply to an ordinary section 6(a) rule apply to a section 6(a) rule effective upon publication under section 5(f) except that section 5(f)(2) incorporates the provisions of section 6(d)(2)(B) of TSCA. EPA will thus follow its general section 6 rulemaking procedures in 40 CFR Part

750 subject to specific section 6(d)(2)(B) requirements.

Section 6(d)(2)(B) of TSCA provides that EPA must give interested persons prompt notice of the action, provide a reasonable opportunity for a hearing in accordance with section 6(c)(2) and (3), and either promulgate the rule as proposed, or with modifications, or revoke it. However, unlike an ordinary section 6(c) rulemaking in which EPA would schedule the hearing after allowing written comment, section 6(d)(2)(B) provides that, if a person requests a hearing, EPA must begin the hearing within five days of the request, unless EPA and the person making the request agree upon a later date. Section 6(d)(2)(B) further provides that EPA must promulgate a final rule, or revoke the proposed rule, within 10 days of the conclusion of the hearing.

For this rulemaking, EPA has established the following schedule: To provide a reasonable opportunity for comment by all interested persons, EPA will accept written comments for 60 days from the date of publication of this *Federal Register* notice. A legislative hearing is scheduled to begin 14 days after the end of the 60-day comment period. The hearing will be held only if EPA receives a formal request from an interested person by the end of the 60-day comment period. If a hearing is requested, interested persons will be given an opportunity to present information. Fourteen days after the conclusion of the initial hearing, EPA will hold a cross-examination hearing, but only if an opportunity for cross-examination is requested by an interested person within 7 days of the time the full transcript of the initial hearing becomes available and EPA grants the request. Within 14 days of the close of the initial hearing, or within 14 days of the close of the cross-examination hearing if such a hearing is held, reply comments may be submitted. After that 14-day period, the hearing is officially concluded, and EPA will promulgate the final rule or revoke it within 10 days.

EPA requests that all interested persons adhere to this schedule to allow all persons an adequate opportunity to comment and participate. However, if a person comes in at any time during the 60-day period and requests an immediate hearing, EPA is required to begin the hearing within 5 days of the request. If so, EPA will be forced to cut short the written comment period and proceed with the hearing. EPA will give as much notice as possible of any such hearing request and any change in the rulemaking schedule.

IX. The Rule

A. Proposed Rule Language

This proposed rule is structured as follows: The chemical substance is described in paragraph (a). Paragraph (b) contains applicable definitions. Paragraphs (c) and (d) contain processing and use prohibitions and warning and instructions requirements. Paragraph (e) sets forth the procedures for determining whether a substance is subject to the rule and discusses processor, distributor, and user liability. Paragraph (f) sets out activities that are exempt from the rule. Paragraph (g) describes enforcement provisions applicable to the rule.

EPA invites comments on all aspects of the proposed rule language.

B. Discussion of Provisions

The proposed rule applies to P-84-310. EPA has decided to require that letters be sent to customers receiving the substance and that labels be used on metalworking fluids containing the substance because processors, distributors, and users are unlikely to become aware of the processing and use restrictions in this rule when they buy the substance or products containing the substance unless they receive adequate notice of the rule provisions. Absent such notice, EPA believes unintentional noncompliance with the processing and use restrictions would be widespread, and the rule would be difficult to enforce. Accordingly, a letter and label will make them aware of this rule and its requirements.

For purposes of notifying distributors and processors of P-84-310 before it is formulated into metalworking fluids, EPA is proposing that distributors (beginning with manufacturers and importers) send to each customer, and confirm receipt in writing prior to the first shipment of the product containing P-84-310, a notice letter alerting the customer to the rule and explaining its provisions. The written confirmation of receipt may consist of the return receipt from a letter sent by certified mail, registered mail, or overnight express, a copy of the notification letter itself signed by the recipient and returned to the distributor, or any other written memorial confirming receipt of the letter. EPA is not, by specifying that the confirmation of receipt shall be in writing, requiring any new information to be generated by distributors or recipients of the new chemical substance.

EPA concluded that this approach would be much more effective in achieving compliance with the rule than

requiring labels on each container of the shipment because management at a formulator (processor) or distributor site would be responsible for the decision to formulate metalworking fluids or further distribute products. Workers likely to read a label would have no control over those operations.

On the other hand, in the machine shop use situation, EPA wants to ensure that both the management and the individual workers who may add nitrites to a metalworking fluid as part of a standard operating procedure are aware of the restrictions of the rule. Accordingly, EPA is proposing that distributors (including processors) send to the users' management a notice letter, and confirm receipt in writing prior to the first shipment of the product containing P-84-310. The distributors must also label individual containers of metalworking fluids containing P-84-310 to protect and inform users.

Although the proposed rule requires that one notice letter be sent prior to the first shipment of P-84-310, the Agency is considering requiring more frequent use of the letters. Additional letters could be required either upon the lapse of a specified period of time after the first shipment or with each shipment. For example, discrete shipments of P-84-310 might be ordered by a company and used on different production lines over time such that the contents of the notice letter might be communicated by management only to the workers on the first production line, and not to subsequent users. Such a finding would support the use of the letters with each shipment. A finding that worker turnover could lead to P-84-310 being used by workers who have not received adequate warning of the possible health risks from management would support the use of additional letters upon the lapse of a specified period of time after the first shipment. The Agency solicits comments on these alternative approaches.

The rule also requires any person who distributes in commerce a metalworking fluid containing P-84-310 to affix a label to each container. The label must contain a warning statement consisting of the following language:

WARNING! Do Not Add Nitrites to This Metalworking Fluid under Penalty of Federal Law. Addition of nitrites leads to formation of a substance known to cause cancer. This product is designed to be used without nitrites.

While modifying the test marketing exemption T-83-81 to incorporate by reference the substantive requirements of the January 23, 1984, proposed rule governing P-83-1005 and P-83-1062 (49

FR 2762), EPA contacted a distributor of the T-83-81 substance and apprised it in advance of the modification to insure that the new requirements would be followed.

Upon reviewing the label language, the distributor expressed concern that the warning statement may not be broad enough to insure that workers using P-84-310 are protected. The distributor suggested that the express prohibition in the label against adding "nitrites" to metalworking fluids containing P-84-310 be expanded to cover "nitrites or any substance suspected of containing nitrites". The distributor also expressed concern that residual quantities of nitrites may remain on metalworking equipment even after the old nitrite-containing fluids are drained off. These residual nitrites could combine with the triethanolamine component of P-84-310 to form NDELA, thereby endangering the health of workers. The distributor requested permission to add the following second paragraph to the warning statement:

Do not add this metalworking fluid to any system known or suspected to have contained nitrites until the entire system has been cleaned in accordance with the manufacturer's recommended changeover procedures.

EPA permitted the distributor, in conducting the activities authorized in the test marketing exemption, to add the supplementary language to the warning statement in the label for the following reason: T-83-81 incorporates by reference the substantive provisions of 40 CFR 747.200(d) (2) (49 FR 2772). These provisions require the warning label to "include" the provided statement. The term "include" implies that the provided statement is the minimum language satisfying the labeling requirement. Under this interpretation of that proposed rule, distributors of P-83-1005 and T-83-81 would be permitted to add additional warning statements to the label which are consistent with the mandatory language.

EPA has tentatively concluded that this labeling approach is not a desirable one and should not be continued. A concise and conspicuous warning statement is necessary to insure that the label will be read and understood by the ordinary individual under customary conditions of purchase and use. The proposed rule for P-84-310 therefore requires that the label "contain" a warning statement which "shall consist only" of the provided language. The effect of this language is to prohibit supplementation or modification of the required warning statement.

Once the PMN submitter and any distributor under the test marketing exemption have used up the quantities of T-83-81 manufactured and distributed under the terms of the exemption, they too must comply with the terms of this proposed rule, including the limited label language prescribed, for any distribution, processing, and use of P-84-310. Of course, a distributor may place additional labels on shipments of P-84-310 to comply with other Federal, State, or local requirements.

Distributors of P-84-310 remain free to supplement the notification letters to management as long as the full text of the provided language is included in the letter and the supplemental language is fully consistent with the mandatory language. However, as the inclusion of an inconsistent statement in the letter could subject the distributor to liability in a subsequent TSCA enforcement action, it is suggested that distributors consult with EPA prior to adding additional language to the letter.

EPA solicits public comment on whether to incorporate the above additional language into the notification letters to be specified in the final rules for P-83-1005, P-83-1062, and P-84-310. This language, if so incorporated, would be mandatory in all notification letters under these rules. Comments may include discussion of whether it is necessary to clean out systems which have, in the past, used nitrites prior to introducing metalworking formulations containing P-83-1005 and P-84-310.

The PMN submitter indicated in the PMN that P-84-310 can also be used in hydraulic fluids. In that use, addition of nitrites is unlikely, and EPA has no concern for such use of P-84-310. However, it is possible that P-84-310 will be marketed in forms in which it could be used either in metalworking fluids or in hydraulic fluids. For this reason, EPA is proposing that the processing restrictions and letter notification requirements apply when P-84-310 is processed or distributed in commerce in any form in which it could become a component of a metalworking fluid regardless of whether that use is intended by the processor or distributor.

C. Immediately Effective Provisions

All the provisions of the proposed rule, promulgated under the authority of section 6(a) of TSCA, are in effect as of this publication in the Federal Register and will remain in effect until EPA promulgates the final rule as provided by section 5(f) of TSCA.

X. Enforcement

It is unlawful for any person to fail or refuse to comply with any rule promulgated under section 6 of TSCA. Distribution in commerce of the chemical substance without letter notification and labeling, as required by the rule, is a violation of section 15. Processing and use of P-84-310 in violation of the rule is a violation of section 15.

Section 15 of TSCA also makes it unlawful for any person to:

1. Use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was processed or distributed in commerce in violation of this rule.
2. Fail or refuse to permit entry or inspection as required by section 11 of TSCA.
3. Fail or refuse to permit access to or copying of records, as required by section 11 of TSCA.

Violations may be subject to both criminal and civil liability. Under the penalty provisions of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to \$25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of the rule could lead to the imposition of criminal penalties of up to \$25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA such as seeking an injunction to restrain violations of the rule and seizing chemical substances processed or distributed in violation of the rule.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies.

XI. Confidential Business Information**A. Public Comments**

1. Any person who submits comments claimed as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2.

2. EPA requests that any party submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

B. Disclosure of Specific Chemical Identity

The specific chemical identity of the new chemical substance that is the subject of this proposed rule was claimed confidential in the PMN. While EPA has authority under section 14(a)(4) of TSCA to disclose information relevant in a proceeding under TSCA notwithstanding its confidentiality, EPA has determined initially that disclosure of the specific identity of P-84-310 is not necessary to conduct this rulemaking proceeding or to comply with the rule.

The generic name which the PMN submitter has authorized EPA to use in this rulemaking reveals the relevant aspects of the molecule in question, in particular the triethanolamine component of P-84-310. EPA believes that interested parties will thus have an adequate opportunity to comment on all aspects of the proposed rule.

XII. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS-61009). The record includes the basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

A. Categories of Information

1. The PMN for this substance.
2. The Federal Register notice of receipt of the PMN.
3. The Economic Analysis of this proposed rule.
4. The Technical Support Document (Risk Assessment).
5. OMB Comments on the proposed rule, if any, and EPA's response.
6. The proposed rule, published in the *Federal Register* of January 23, 1984 (49 FR 2762), for the new chemical substances identified generically as triethanolamine salt of tricarboxylic acid, and tricarboxylic acid.

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(29) Rappe, C., and Zingmark, P. A. "Formation of N-nitrosamines in cutting fluids". In: "Environmental aspects of N-nitroso compounds". Walker E. A., Castegnaro, M., Grieco, L., and Lyle, R. E., eds. IARC Scientific Pub. 19. Lyon: IARC. pp. 213-217. 1978.

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(31) Saavedra, J. "Deamination of primary aminoalkanoles. Formation of Substituted N-nitroso-1,3-oxazolidines and N-nitroso-1,3-tetrahydro-oxazines". J. Org. Chem. 46:2610-2614. 1981.

(32) Springborn, Springborn Group. Draft Report on Corrosion Inhibitors for Metalworking Fluids. Done for Ron Evans, Regulatory Impacts Branch, Office of Toxic Substances. EPA Contract 68-01-6601 Work Assignment 2-4, Subtask 1. November 1983.

(33) U.S. Department of Labor. Occupational Outlook Handbook 1980-81. Washington, DC: Bureau of Labor Statistics (Bulletin 2075). 1980.

(34) Versar. Exposure assessment for lubricant additives, revised draft report. EPA Contract No. 68-01-6271. Washington, DC: U.S. Environmental Protection Agency. 1982.

(35) Wagner. Metal-working fluids: health and toxic effects. Paper presented at the Society of Manufacturing Engineers Modern Metal-Working Fluids Clinic, Chicago, Illinois. 1981.

(36) Wong, K. F. Initial Review Engineering Report for P-84-310. Document Control Number: 50-841-3216. U.S. Environmental

Protection Agency, Office of Toxic Substances, Washington, D.C. 1984a.

(37) Wong, K. F. Detailed Engineering Review for P-84-310. Document Control Number: 50-841-3537. U.S. Environmental Protection Agency, Office of Toxic Substances, Washington, D.C. 1984b.

(38) Wong, K. F. "Exposure to N-Nitrosodiethanol amine in Machine Shops". U.S. Environmental Protection Agency, Office of Toxic Substances, Washington, D.C. January 15, 1984 c.

A public version of this record from which confidential business information is deleted is available to the public from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays, in the OTS Public Information Office, Rm. E-107, 401 M St., SW, Washington, D.C.

EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between this notice and designation of the complete record.

XIII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must determine whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "Major Rule" because it will not have an effect on the economy of \$100 million or more, and will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this rule, EPA believes that the cost will be low.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Any comments from OMB to EPA and any response to these comments are available for public inspection in the record for this rulemaking.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not have a significant impact on a substantial number of small entities. Even though many machine shops may be small businesses, EPA has concluded that there is little, if any, cost associated with prohibiting the addition of nitrosating agents to metalworking fluids containing P-84-310. EPA does not believe that the required letters and labels will make the substances or resulting products any less competitive than other corrosion inhibitors or letters and labels will make the substances or resulting products any less competitive than other corrosion inhibitors or metalworking fluids, and may attract

buyers interested in avoiding nitrites. The cost of complying with the section 5(f) rule is not expected to be significant.

C. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the information collection provisions of a proposed rule must be submitted to OMB for approval. The proposed section 5(f) rule requires no "collection of information" as that term is defined in the Paperwork Reduction Act. The rule requires distributors to transmit information supplied by the Agency to the recipients of P-84-310 via warning labels and letters, and to confirm receipt of the information. No new information need be generated by the distributors of the chemical substance nor are reporting or recordkeeping requirements imposed under this rule. The proposed section 5(f) rule is therefore not reviewable under the Paperwork Reduction Act.

List of Subjects in 40 CFR Part 747

Chemicals, Environmental protection, Hazardous materials, Metalworking fluids.

Dated: June 7, 1984.
William D. Ruckelshaus,
Administrator.

PART 747—[AMENDED]

Therefore, it is proposed that proposed Part 747 of Chapter I of Title 40 be amended by adding § 747.195 to read as follows:

§ 747.195 Triethanolamine salt of a substituted organic acid.

This section identifies activities with respect to a chemical substance which are prohibited and requires that warnings and instructions accompany the substance when distributed in commerce.

(a) *Chemical substance subject to this section.* The following chemical substance, referred to by its premanufacture notice number and generic chemical name, is subject to this section: P-84-310, triethanolamine salt of a substituted organic acid.

(b) *Definitions.* Definitions in section 3 of the Act, 15 U.S.C. 2602, apply to this section unless otherwise specified in this paragraph. In addition, the following definitions apply:

(1) The terms "Act," "article," "chemical substance," "commerce," "importer," "impurity," "inventory," "manufacturer," "person," "process," "processor," and "small quantities solely for research and development," have the same meaning as in § 720.3 of this chapter.

(2) "Metalworking fluid" means a liquid of any viscosity or color containing intentionally added water used in metal machining operations for the purpose of cooling, lubricating, or rust inhibition.

(3) "Nitrosating agent" means any substance that has the potential to transfer a nitrosyl group ($-NO$) to a primary, secondary, or tertiary amine to form the corresponding nitrosamine.

(4) "Process or distribute in commerce solely for export" means to process or distribute in commerce solely for export from the United States under the following restrictions on domestic activity:

(i) Processing must be performed at sites under the control of the processor.

(ii) Distribution in commerce is limited to purposes of export.

(iii) The processor or distributor may not use the substance except in small quantities solely for research and development.

(c) *Use limitations.* (1) Any person producing a metalworking fluid, or a product which could be used in or as a metalworking fluid, which includes as one of its components P-84-310, is prohibited from adding any nitrosating agent to the metalworking fluid or product.

(2) A person using as a metalworking fluid a product containing P-84-310 is prohibited from adding any nitrosating agent to the product.

(d) *Warnings and instructions.* (1) Any person who distributes in commerce P-84-310 in a metalworking fluid, or in any form in which it could be used as a component of a metalworking fluid, must send to each recipient of P-84-310 and confirm receipt in writing prior to the first shipment to that person:

(i) A letter that includes the following statements: A substance, identified generically as a triethanolamine salt of a substituted organic acid, contained in the product (*insert distributor's trade name or other identifier for product containing P-84-310*) has been regulated by the Environmental Protection Agency, at 40 CFR 747.195, as published in the Federal Register of June 14, 1984. A copy of the regulation is enclosed. The regulation prohibits the addition of any

nitrosating agent, including nitrites, to the triethanolamine salt of a substituted organic acid, when the substance is or could be used in metalworking fluids. The addition of nitrites or other nitrosating agents to this substance leads to formation of a substance known to cause cancer in laboratory animals. The triethanolamine salt of a substituted organic acid has been specifically designed to be used without nitrites. Consult the enclosed regulation for further information.

(ii) A copy of this § 747.195.

(2)(i) Any person who distributes in commerce a metalworking fluid containing P-84-310 must affix a label to each container containing the fluid.

(ii) The label shall contain a warning statement which shall consist only of the following language:

WARNING! Do Not Add Nitrites to This Metalworking Fluid under Penalty of Federal Law. Addition of nitrites leads to formation of a substance known to cause cancer. This product is designed to be used without nitrites.

(iii) The first word of the warning statement shall be capitalized, and the type size for the first word shall be no smaller than six point type for a label five square inches or less in area, ten point type for a label above five but below ten square inches in area, twelve point type for a label above ten but below fifteen square inches in area, fourteen point type for a label above fifteen but below thirty square inches in area, or eighteen point type for a label over thirty square inches in area. The type size of the remainder of the warning statement shall be no smaller than six point type. All required label text shall be of sufficient prominence, and shall be placed with such conspicuousness relative to other label text and graphic material, to insure that the warning statement is read and understood by the ordinary individual under customary conditions of purchase and use.

(e) *Liability and determining whether a chemical substance is subject to this section.* (1) If a manufacturer or importer of a chemical substance which is described by the generic chemical name in paragraph (a) of this section makes an

inquiry under § 710.7(g) of this chapter or § 720.25(b) of this chapter as to whether the specific substance is on the Inventory and EPA informs the manufacturer or importer that the substance is on the Inventory, EPA will also inform the manufacturer or importer whether the substance is subject to this section.

(2) Except for manufacturers and importers of P-84-310, no processor, distributor, or user of P-84-310 will be in violation of this section unless that person has received a letter specified in paragraph (d)(1) of this section or a container with the label specified in paragraph (d)(2) of this section.

(f) *Exemptions.* A person identified in paragraphs (c) and (d) of this section is not subject to the requirements of those paragraphs if:

(1) The person manufactures, imports, processes, distributes in commerce, or uses the substance only in small quantities solely for research and development and in accordance with section 5(h)(3) of the Act.

(2) The person manufactures, imports, processes, distributes in commerce, or uses the substance only as an impurity.

(3) The person imports, processes, distributes in commerce, or uses the substance only as part of an article.

(4) The person processes or distributes the substance in commerce solely for export, and when distributing in commerce, labels the substance in accordance with section 12(a)(1)(B) of the Act.

(g) *Enforcement.* (1) Failure to comply with any provision of this section is a violation of section 15 of the Act (15 U.S.C. 2614).

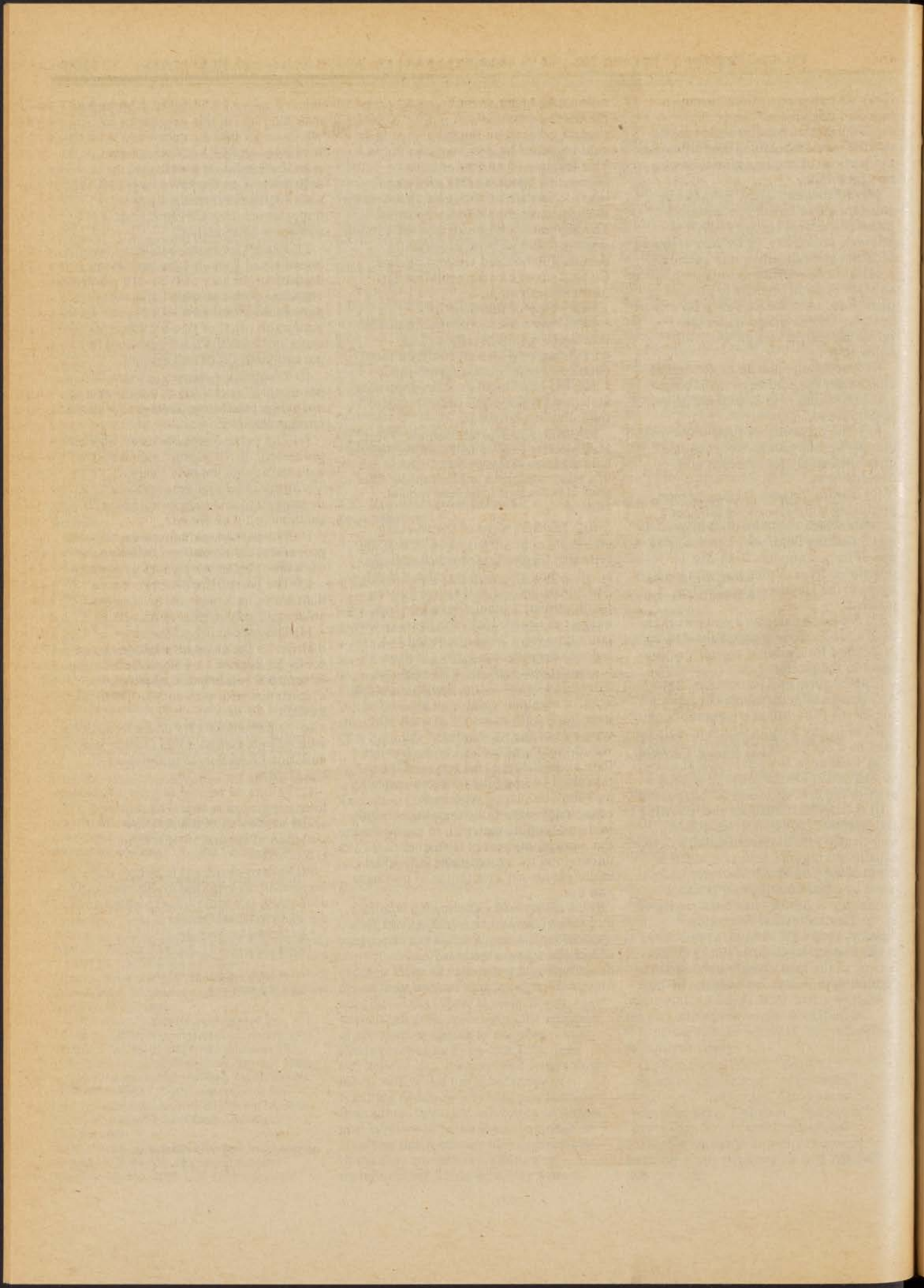
(2) Failure or refusal to permit access to or copying of records, as required under section 11 of the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(3) Failure or refusal to permit entry or inspection, as required under section 11 of the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(Secs. 5 and 6, Pub. L. 94-469, 90 Stat. 2112 and 2020 (15 U.S.C. 2604f and 2605))

[FR Doc. 84-15949 Filed 6-13-84; 8:45 am]

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Registered Trademark

Thursday
June 14, 1984

Part V

Department of the Interior

Minerals Management Service

Outer Continental Shelf; Western Gulf of
Mexico; Oil and Gas Lease Sale 84;
Notices

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Western Gulf of Mexico
Oil and Gas Lease Sale 84

1. Authority. This Notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (30 CFR Part 256).

2. Filing of Bids. Sealed bids will be received by the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Boulevard, Metairie, Louisiana 70002. Bids may be delivered in person to the above address during normal business hours (8:00 a.m. to 4:00 p.m., c.s.t.), until the Bid Submission Deadline at 1:00 p.m., c.s.t., July 16, 1984. Hereinafter, all times cited in this Notice refer to Central Standard Time (c.s.t.) unless otherwise stated. Bids will not be accepted on July 17, 1984, or on the day of Bid Opening, July 18, 1984. Delivery by mail should be addressed to P.O. Box 7944, Metairie, Louisiana 70010 and must be received by the Bid Submission Deadline. Bids received by the Regional Manager later than the time and date specified above will be returned unopened to the bidders. Bids may not be modified unless written modification is received by the Regional Manager prior to 1:00 p.m., July 16, 1984. Bids may not be withdrawn unless written withdrawal is received by the Regional Manager prior to 8:30 a.m., July 18, 1984. Bid Opening Time will be 9:00 a.m., July 18, 1984, at the Westin Galleria, Exhibition Area, 5060 West Alabama, Houston, Texas. All bids must be submitted and will be considered in accordance with applicable regulations, including 30 CFR Part 256. The list of restricted joint bidders which applies to this sale appeared in the Federal Register at 49 FR 12767, on March 30, 1984.

3. Method of Bidding. Tract numbers will not be used. A separate bid in a sealed envelope labeled "Sealed Bid for Oil and Gas Lease, Western Gulf of Mexico Sale 84 (insert map number(s)), map name(s), and block number(s)", not to be opened until 9:00 a.m., c.s.t., July 18, 1984, must be submitted for each block or prescribed bidding unit bid upon. For example, a label would read as follows: "Sealed Bid for Oil and Gas Lease, Western Gulf of Mexico Sale 84, NG 15-1, East Breaks, Block 701, not to be opened until 9:00 a.m., c.s.t., July 18, 1984." For those blocks which must be bid upon together as a bidding unit (see paragraph 12), it is recommended that all numbers of blocks comprising the bidding unit appear in the label on the sealed envelope. A suggested bid form appears in 30 CFR Part 256, Appendix A. In addition, the total amount bid must be in whole dollar amounts (no cents). Bidders must submit with each bid one-fifth of the cash bonus, in cash or by cashier's check, bank draft, or certified check, payable to the order of the Department of the Interior--Minerals Management Service. No bid for less than all of the unleased portions of a block or bidding unit will be considered. Bidders are advised to use the description "All the Unleased

Federal Portion" for those blocks having only aliquot portions currently available for leasing. Partnerships also need to submit or have on file in the Gulf of Mexico Regional Office a list of signatories authorized to bind the partnership. All documents must be executed in conformance with signatory authorizations on file. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places after the decimal point; e.g., 50.12345 percent. Other documents may be required of bidders under 30 CFR 256.46. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All bids submitted at this sale must provide for a cash bonus in the amount of \$150 or more per acre or fraction thereof. All leases awarded from this sale will provide for a yearly rental payment of \$3 per acre or fraction thereof. All leases will provide for a minimum royalty of \$3 per acre or fraction thereof. The bidding systems to be utilized for this sale apply to blocks or bidding units as shown on map 2 (see paragraph 12). The following bidding systems will be used:

(a) Bonus Bidding with a 12½ Percent Royalty. Bids on the blocks and bidding units offered under this system must be submitted on a cash bonus basis with a fixed royalty of 12½ percent.

(b) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on the blocks and bidding units offered under this system must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent.

5. Equal Opportunity. Each bidder must have submitted by the Bid Submission Deadline, stated in paragraph 2, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (June 1982) and the Affirmative Action Representation Form, Form 1140-7 (June 1982). See paragraph 14, "Information to Lessees."

6. Bid Opening. Bid opening will begin at the Bid Opening Time stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight on the day of Bid Opening, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid will be deposited by the Government in an interest bearing account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Blocks. The United States reserves the right to withdraw any block from this sale prior to issuance of a written acceptance of a bid for the block.

9. Acceptance, Rejection, or Return of Bids. The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block or bidding unit will be awarded to any bidder, unless:

- (a) the bidder has complied with all requirements of this Notice and applicable regulations;
- (b) the bid is the highest valid bid; and
- (c) the amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of \$150 or more per acre or fraction thereof. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, or other applicable regulations, may be returned to the person submitting that bid by the Regional Manager and not considered for acceptance.

10. Successful Bidders. Each person who has submitted a bid accepted by the authorized officer will be required to execute copies of the lease, pay the balance of the cash bonus bid with the first year's annual rental as specified below, and satisfy the bonding requirements of 30 CFR 256, Subpart I.

For this lease sale, the Minerals Management Service will utilize procedures for the electronic funds transfer (EFT) payment of four-fifths of the cash bonus bid and the first year's annual rental for each lease issued. Successful bidders are required to submit the balance of the bonus and the first year's annual rental payment by EFT utilizing the Federal Reserve Communications System (FRCS) and the Treasury Financial Communications System, payable to the Department of the Interior--MMS.

The Regional Manager will provide more detailed instructions on making the EFT payments when bidders are qualified to submit bids at the sale. Bidders are referred to the final rule (30 CFR 218.155) which appeared in the Federal Register on March 8, 1984, at 49 FR 8602.

11. Leasing Maps and Official Protraction Diagrams. Blocks or bidding units offered for lease may be located on the following Leasing Maps and Official Protraction Diagrams which may be purchased from the Gulf of Mexico Regional Office at the address stated in paragraph 2 of this Notice:

- (a) Outer Continental Shelf Leasing Maps - South Texas Set.
This set of maps sells for \$5.00.

Map 1 South Padre Island Area
Map 1A South Padre Island Area, East Addition
Map 2 North Padre Island Area
Map 2A North Padre Island Area, East Addition
Map 3 Mustang Island Area
Map 3A Mustang Island Area, East Addition
Map 4 Matagorda Island Area

- (b) Outer Continental Shelf Leasing Maps - East Texas Set.
The following set of maps sells for \$7.00.

Map 5 Brazos Area
Map 5B Brazos Area, South Addition
Map 6 Galveston Area
Map 6A Galveston Area, South Addition
Map 7 High Island Area
Map 7A High Island Area, East Addition
Map 7B High Island Area, South Addition
Map 7C High Island Area, East Addition, South Extension
Map 8 Sabine Pass Area

- (c) Outer Continental Shelf Official Protraction Diagrams.
These diagrams sell for \$2.00 each.

NG 14-3 Corpus Christi (approved January 27, 1976)
NG 14-6 Port Isabel (approved January 27, 1976)
NG 15-1 East Breaks (approved January 27, 1976)
NG 15-2 Garden Banks (approved February 2, 1976)
NG 15-4 Alaminos Canyon (approved March 26, 1976)
NG 15-5 Keathley Canyon (approved December 2, 1976)

12. Description of the Areas Offered for Bids.

(a) Acreages of full and partial blocks occurring at the meeting of map borders appear on Leasing Maps and Official Protraction Diagrams. Acreages of split blocks on the State-Federal boundary appear on the set of drawings entitled "Split Blocks - Western Gulf of Mexico," available from the Gulf of Mexico Regional Office (see paragraph 14(a)). Where part of any of the above full, partial, or split blocks is under lease (as indicated below), the acreage available for leasing at this sale is listed in the document entitled "Western Gulf of Mexico Lease Sale 84, Open Acreages for Blocks with Aliquots Under Lease," also available from the Gulf of Mexico Regional Office. A list entitled "8(g) Boundary Blocks" is also available from the Regional Office.

(b) References to maps 1, 2, and 3 in this Notice refer to the following maps which are available on request from the Gulf of Mexico Regional Office:

Map 1 entitled "Western Gulf of Mexico Lease Sale 84, Stipulations, Lease Terms, and Warning Areas Final."
Map 2 entitled "Western Gulf of Mexico Lease Sale 84, Bidding Systems and Bidding Units, Final," refers largely to Royalty Rates and Bidding Units.

Map 3 entitled "Western Gulf of Mexico Lease Sale 84, Detailed Maps of Biologically Sensitive Areas, Final," pertains to areas referenced in Stipulation No. 2.

(c) In several instances two or more blocks have been joined together into bidding units totaling less than 5,760 acres. Any bid submitted for a bidding unit having more than one block must be for all of the unleased Federal acreage within all of the blocks in that bidding unit. The list of those bidding units with their total acreages appears on map 2.

(d) The areas offered for leasing include all those blocks shown on the OCS Leasing Maps and Official Protraction Diagrams listed in paragraph 11 (a), (b), and (c), except for those blocks or partial blocks described as follows:

WESTERN GULF OF MEXICO LEASE OFFERING
JULY 1984
WESTERN GULF OF MEXICO LEASED LANDS

3/8/84

(i) Descriptions of Blocks Listed Represent All Federal Acreage Leased Unless Otherwise Noted

S. Padre Island	N. Padre Island, East Addition (continued)	Mustang Island, East Addition (continued)	Matagorda Island, East Addition (continued)	Brazos, South Addition (continued)	Galveston (continued)	Galveston (continued)	Galveston, South Addition	High Island (continued)	High Island (continued)	High Island, South Addition (continued)
1041	828	828	653	450	295—(cont'd)	426		71 (SE $\frac{1}{4}$)	171	
1049	A-12	A-151	654	451	W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$;	427		72	176	A-433
1063	A-13	A-152	655	452	S $\frac{1}{2}$ SE $\frac{1}{4}$	464		86	177	A-435
1069	A-14	A-153	656	453	296—	465		87	179	A-437
1070	A-15	A-154	657	454	(NE $\frac{1}{4}$;	503		88	193	A-438
1111	A-29	A-162	657	455	NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;	A-3		90	194	A-439
1112	A-30	A-174	664	456	S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;	A-4		92	195	A-440
1125	A-31	A-175	665	457	S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;	A-18		94	196	A-441
	A-40		666	458	NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;	A-24		95	199	A-442
	A-41		667	459	NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;	A-35		96	200	A-443
	A-42		668	460	NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;	A-37		105	201	A-444
	A-51		669	461	NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;	A-38		106	202	A-445
	A-57		670	462	NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;	A-57		107	204	A-446
	A-58		671	463	NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;	A-58		108	206	A-447
	A-61		672	464	SE $\frac{1}{4}$ SE $\frac{1}{4}$	A-84		110	232	A-448
	A-65		673	465	300	A-111		111	A-1	A-454
	A-70		674	466	301	A-112		115	A-3	A-455
	A-71		675	467	302	A-113		116	A-6	A-459
	A-72		676	468	303			133	A-7	A-461
	A-73		677	469	304			134	A-12	A-462
			678	470	313			135—	A-14	A-466
			679	471	318			(N $\frac{1}{2}$; N $\frac{1}{2}$ SW $\frac{1}{4}$;	A-20	A-467
			680	472	319			SW $\frac{1}{4}$ SW $\frac{1}{4}$;	A-21	A-469
			681	473	321			NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$;	A-22	A-471
			682	474	322—			N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;	A-24	A-472
			683	475	(NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;			NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$;	A-26	A-474
			684	476	W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;			136—	A-33	A-475
			685	477	NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;			(E $\frac{1}{2}$; E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$;	A-34	A-476
			686	478	NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;			S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;	A-38	A-477
			687	479	SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;			138	A-60	A-480
			688	480	NW $\frac{1}{4}$			139	A-86	A-486
			689	481	211			140	A-62	A-487
			690	482	213			141 (E $\frac{1}{2}$)	A-64	A-488
			691	483	223			142	A-65	A-489
			692	484	239			143	A-69	A-490
			693	485	241			154	A-86	A-492
			694	486	255			155 (W $\frac{1}{2}$)	A-87	A-494
			695	487	257			158	A-88	A-495
			696	488	270			159	A-89	A-497
			697	489	271			160—	A-90	A-498
			698	490	288—			(NE $\frac{1}{4}$; NE $\frac{1}{4}$ NE $\frac{1}{4}$;	A-119	A-499
			699	491	(S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;			E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$;	A-120	A-500
			700	492	SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;			N $\frac{1}{2}$ SE $\frac{1}{4}$;	A-152	A-501
			701	493	E $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$;			N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;	A-157	A-503
			702	494	SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;			161—	A-161	A-506
			703	495	SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;			(NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;	A-162	A-507
			704	496	SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;			S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;	A-508	
			705	497	SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;			W $\frac{1}{2}$ NE $\frac{1}{4}$;	A-511	
			706	498	SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;			NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$;	A-514	
			707	499	SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;			W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$;	A-515	
			708	500	295			NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;	A-517	
			709	501	(S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;			162	A-411	
			710	502	NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;			163	A-412	
			711	503	W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;			169	A-413	
			712	504	W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;			170	A-414	
			713	505	N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;				A-416	
			714	506	N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;				A-417	
			715	507	N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;				A-424	
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13. Lease Terms and Stipulations.

(a) Leases resulting from this sale will have initial terms as shown on map 1 and will be on Form MWS-2005 (August 1982). Copies of the lease form are available from the Gulf of Mexico Regional Office.

(b) The applicability of Stipulations Nos. 1 through 4 that will be included in leases resulting from this sale is as shown on map 1 and supplemented by references in this Notice.

Stipulation No. 1--Cultural Resources.

(This stipulation will apply to all blocks offered for lease in this sale.)

(a) "Cultural resource" means any site, structure, or object of historic or prehistoric archaeological significance. "Operations" means any drilling, mining, or construction or placement of any structure for exploration, development, or production of the lease.

(b) If the Regional Manager (RM) believes a cultural resource may exist in the lease area, the RM will notify the lessee in writing. The lessee shall then comply with subparagraphs (1) through (3).

(1) Prior to commencing any operations, the lessee shall prepare a report, as specified by the RM, to determine the potential existence of any cultural resource that may be affected by operations. The report, prepared by an archaeologist and geophysicist, shall be based on an assessment of data from remote-sensing surveys and other pertinent cultural and environmental information. The lessee shall submit this report to the RM for review.

(2) If the evidence suggests that a cultural resource may be present, the lessee shall either:

(i) Locate the site of any operation so as not to adversely affect the area where the cultural resource may be; or

(ii) Establish to the satisfaction of the RM that a cultural resource does not exist or will not be adversely affected by operations. This shall be done by further archaeological investigation conducted by an archaeologist and geophysicist, using survey equipment and techniques deemed necessary by the RM. A report on the investigation shall be submitted to the RM for review.

(3) If the RM determines that a cultural resource is likely to be present on the lease and may be adversely affected by operations, he will notify the lessee immediately. The lessee shall take no action that may adversely affect the cultural resource until the RM has told the lessee how to protect it.

(c) If the lessee discovers any cultural resource while conducting operations on the lease area, the lessee shall report the discovery immediately to the RM. The lessee shall make every reasonable effort to preserve the cultural resource until the RM has told the lessee how to protect it.

Stipulation No. 2--Protection of High Relief Banks.

(This stipulation will be included in leases located in the areas so indicated on maps 1 and 3 entitled "Western Gulf of Mexico Lease Sale 84, Stipulations, Lease Terms, and Warning Areas, Final," and "Western Gulf of Mexico Lease Sale 84, Detailed Maps of Biologically Sensitive Areas, Final," respectively. The high relief banks with their appropriate "no activity" isobath are listed below.)

Bank Name	Isobath (meters)
Mysterious Bank ¹	74, 76, 78, 80, 84
Blackfish Ridge ¹	70
Dream Bank ²	78, 82
Southern Bank ²	80
Hospital Bank ²	70
North Hospital Bank ²	68
Aransas Bank ²	70
South Baker Bank ²	70
Baker Bank ²	70
Big Dunn Bar ¹	65
Small Dunn Bar ¹	65
32 Fathom Bank ¹	52
Stetson Bank ¹	62
Claypile Bank ¹	50
Applbaum Bank	85
Coffee Lump	Various
West Flower Garden Bank ⁴	100 (defined by the system)
East Flower Garden Bank ⁴	100 (defined by the system)
HacNeil Bank	82
29 Fathom Bank	64
28 Fathom Bank	85
Geyer Bank	85
Elvers Bank	85
Bright Bank ³	85
18 Fathom Lump ³	85
Rezak Bank ³	85
Sidner Bank ³	85
Parker Bank ³	85

1 Low Relief Banks - only paragraph (a) of the stipulation applies.

2 Other South Texas Banks - paragraph (c) of the stipulation shall not apply; for production and development operations only, the provisions of paragraph (b) shall apply in both the "1 Mile Zone" and the "3 Mile Zone."

3 Central Gulf of Mexico bank with a portion of its "1 Mile Zone" and/or "3 Mile Zone" in Western Gulf of Mexico.

4 Flower Garden Banks - has a "4 Mile Zone" rather than a "3 Mile Zone"; in the "1 Mile Zone," paragraph (c)(2) of the stipulation shall apply in addition to paragraph (b); in the "4 Mile Zone," only paragraph (b) shall apply.

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- (a) No structures, drilling rigs, pipelines, or anchoring will be allowed within the isobaths of the banks listed above.
- (b) Operations within the area shown as "1 Mile Zone" shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates at appropriate distance, but no more than 10 meters, from the bottom.
- (c) Operations within the area shown as "3 Mile Zone" shall be restricted as specified in either (1) or (2) below at the option of the lessee.

(1) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates at appropriate distance, but no more than 10 meters, from the bottom.

(2) The operator (lessee) shall submit a monitoring plan. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified, independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the Regional Manager (RM) on a schedule established by the RM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank are being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the RM shall require shunting as specified in subparagraph (1) above or other appropriate operational restrictions.

Stipulation No. 3--Military Warning Areas.

(This stipulation is required of the lessee for operations within warning areas indicated on map 1 entitled "Western Gulf of Mexico Lease Sale 84, Stipulations, Lease Terms, and Warning Areas, Final.")

Warning Areas Command Headquarters
Western Planning Area

Warning Areas

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Command Headquarters

Naval Air Training Command
Naval Air Station
Corpus Christi, Texas

Director of Training
Deputy Chief of Staff, Operations
Headquarters Strategic Air Command
Offutt AFB, Nebraska

(a) **Hold Harmless.** Whether compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the United States Government, its contractors or subcontractors, or any of their officers, agents, or employees, being conducted as a part of, or in connection with, the programs and activities of the command headquarters listed in the table above.

Notwithstanding any limitation of the lessee's liability in section 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by an act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of its officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installations, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of its officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

(b) **Electromagnetic Emissions.** The lessee agrees to control its own electromagnetic emissions and those of its agents, employees, invitees, independent contractors, or subcontractors, emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the command headquarters listed in the table above to the degree necessary to prevent damage to, or unacceptable interference with, DOD flight, testing, or operational activities, conducted within individual designated warning areas. Necessary monitoring control and coordination with the lessee, its agents, employees, invitees, independent contractors or subcontractors, will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area; provided, however, that control of such electromagnetic emission shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors, or subcontractors and onshore facilities.

(c) Operational. The lessee, when operating or causing to be operated on its behalf, boat or aircraft traffic into the individual designated warning area, shall enter into an agreement with the commander of the individual command headquarters listed in the table above on utilizing an individual designated warning area, prior to commencing such traffic. Such an agreement will provide for positive control of boats and aircraft operating into the warning areas at all times.

Stipulation No. 4--Suspension of Operations.

(This stipulation will be included in leases on blocks in water depths of 400-900 meters as shown on map 1 described in paragraph 12.)

The Director shall suspend or temporarily prohibit production or any other operation or activity pursuant to this lease if such suspension or cessation of operations or activities is necessary to complete operations or activities described in a development and production plan approved by the Regional Manager pursuant to 30 CFR 250.34 and the interim final rule which was published in the Federal Register on April 24, 1984, at 49 FR 17449.

14. Information to Lessees.

(a) There is available from the Gulf of Mexico Regional Office a set of drawings entitled "Split Blocks - Western Gulf of Mexico," depicting the State-Federal boundary, including the acreage on the Federal side of the line. For complete information on any of the subjects mentioned in this Notice, including copies of the various documents identified as available from the Gulf of Mexico Regional Office, prospective bidders should contact the Regional Supervisor for Leasing and Environment at the address stated in paragraph 2, either in writing or by telephone (504) 837-4720.

(b) Operations on some of the blocks offered for lease may be restricted by designation of fairways, precautionary zones, anchorages, safety zones, or traffic separation schemes established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et. seq.), as amended. Corps of Engineers permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf (OCS) in accordance with section 4(e) of the OCS Lands Act, as amended.

Prospective bidders should be aware of a Coast Guard study of port access routes in the Gulf of Mexico. Notice of this study was published in the Federal Register on March 19, 1984, at 49 FR 10127, with an additional reference on April 12, 1984, at 49 FR 14538. The study will evaluate two alternative routing measures for the Galveston Approach area. The results of this study could cause restrictions on the manner in which specific offshore areas leased after March 19, 1984, may be explored and developed. In the Western Gulf of Mexico, the following blocks in the High Island Area (Maps 7 and 7A of the East Texas Set) are affected:

A-40 to A-48; A-52 to A-59; A-61; A-67 to A-68; A-70 to A-80;
A-212 to A-214; A-219 to A-223.

For additional information, prospective bidders should contact Lt. Commander M. W. Brown, Assistant Marine Port Safety Officer, 8th Coast Guard District, Hale Boggs Federal Building, New Orleans, Louisiana (Phone: (504) 589-6901).

(c) Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

(d) Bidders are advised that, in accordance with section 16 of each lease offered, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a net profit share payment.

(e) For those blocks identified as having lease terms with an initial period of 10 years, bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to the Minerals Management Service either an exploration plan, where required, or a general statement of exploration intention prior to the end of the ninth lease year.

(f) Revisions of Department of Labor regulations on affirmative action requirements for Government contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this sale, section 18 of the lease form (Form MMS-2005, August 1982) would be deleted from leases resulting from this sale. In addition, existing stocks of the affirmative action forms described in paragraph 5 of this Notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5 (a)(1) and 60-1.7(a)(1). Pending the issuance of revised versions of Forms 1140-7 and 1140-8, submission of Form 1140-7 (June 1982) and Form 1140-8 (June 1982) will not invalidate an otherwise acceptable bid, and the revised regulations requirements will be deemed to be part of the existing affirmative action forms.

(g) Bidders are cautioned as to the existence of two inactive ordnance disposal areas in the Corpus Christi and East Breaks areas, shown on map 1 described in paragraph 12. These areas were used to dispose of ordnance of unknown composition and quantity. These areas have not been used since about 1970. Water depths in the Corpus Christi disposal area range from approximately 600 to 900 meters. Water depths in the East Breaks disposal area range from approximately 300 to 700 meters. Bottom sediments in both areas are generally soft, consisting of silty clays. Exploration and development activities in these areas require precautions commensurate with the potential hazards. Lessees are advised of an Environmental Protection Agency dumping site located in portions of Alaminos Canyon, East Breaks, Garden Banks, and Keathley Canyon.

(h) Federal regulation (30 CFR 250.34) requires a lessee to conduct shallow hazards and other geological and geophysical surveys that are necessary for the evaluation of activities to be carried out under a proposed exploration or development/production plan or activities being carried out under an approved plan. Data collection by the lessee on a lease, and, when necessary, off a lease, will be analyzed and submitted by the lessee and then reviewed and, when necessary, reanalyzed by the Regional Manager (RM) to ensure that drilling, development, and production activities can be conducted in an acceptable manner with minimum acceptable risk or damage to human, marine, and coastal environments. Based on the review and analysis of the data received and other available data and information, the RM either approves or requires modification to an exploration or development/production plan or application for permit to drill, or recommends that the Director, Minerals Management Service, temporarily prohibit or suspend the conduct of exploration or development/production activities, according to provisions of the OCS Lands Act, as amended, and appropriate regulations. Existing regulations authorize the RM to take whatever steps are necessary to assure safe operations offshore, whether shallow hazards are delineated before or after the lease sale.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico OCS Orders, as of their effective dates, and any other applicable OCS Order as it becomes effective.

Approved:

William D. Bettenberg
Secretary of the Interior

William Clark

JUN 11 1984

Date

William D. Bettenberg
Director, Minerals Management Service
JUN 5 1984

William D. Bettenberg

[FR Doc. 84-16021 Filed 6-13-84; 8:45 am]

BILLING CODE 4310-MR-C

UNITED STATES
DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf
Western Gulf of Mexico

Notice of Leasing Systems, Sale 84

Section 8(a)(8)(43 U.S.C. 1337(a)(8)) of the Outer Continental Shelf Lands Act (OCSLA) requires that, at least 30 days before any lease sale, a Notice be submitted to the Congress and published in the Federal Register:

1. identifying the bidding systems to be used and the reasons for such use; and
2. designating the tracts to be offered under each bidding system and the reasons for such designation.

This Notice is published pursuant to these requirements.

1. Bidding systems to be used. In the Outer Continental Shelf (OCS) Sale 84, blocks will be offered under the following two bidding systems as authorized by section 8(a)(1) (43 U.S.C. 1337(a)(1)):
 - (a) bonus bidding with a fixed 16 2/3-percent royalty on all unleased blocks in less than 400 meters of water; and
 - (b) bonus bidding with a fixed 12 1/2-percent royalty on all remaining unleased blocks.

- a. Bonus Bidding with a 16 2/3-Percent Royalty. This system is authorized by section 8(a)(1)(A) of the OCSLA. This system has been used extensively since the passage of the OCSLA in 1953 and imposes greater risks on the lessee than systems with higher contingency

payments, but may yield more rewards if a commercial field is discovered. The relatively high front-end bonus payments may encourage rapid exploration.

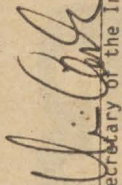
- b. Bonus Bidding with a 12 1/2-Percent Royalty. This system is authorized by section 8(a)(1)(A) of the OCSLA. It has been chosen for certain deeper water blocks proposed for the Western Gulf of Mexico (Sale 84) because these blocks are expected to require substantially higher exploration, development, and production costs, as well as longer times before initial production, in comparison to shallow water blocks. Department of the Interior analyses indicate that the minimum economically developable discovery on a block in such high-cost areas under a 12 1/2-percent royalty system would be less than for the same blocks under a 16 2/3-percent royalty system. As a result, more blocks may be explored and developed. In addition, the lower royalty rate system is expected to encourage more rapid production and higher economic profits. It is not anticipated, however, that the larger cash bonus bid associated with a lower royalty rate will significantly reduce competition, since the higher costs for exploration and development are the primary constraints to competition.

2. Designation of Blocks. The selection of blocks to be offered under the two systems was based on the following factors:

- a. Lease terms on adjacent, previously leased blocks were considered to enhance orderly development of each field.
- b. Blocks in deep water were selected for the 12 1/2-percent royalty system based on the favorable performance of this system in these high-cost areas as evidenced in our analyses.

The specific blocks to be offered under each system are shown on Map 2 entitled "Western Gulf of Mexico (Sale 84) Bidding Systems and Bidding Units, Final." This map is available from the Minerals Management Service, Gulf of Mexico Region, 3301 North Causeway Boulevard, Metairie, Louisiana 70002.

Approved:


Secretary of the Interior

JUN 11 1984

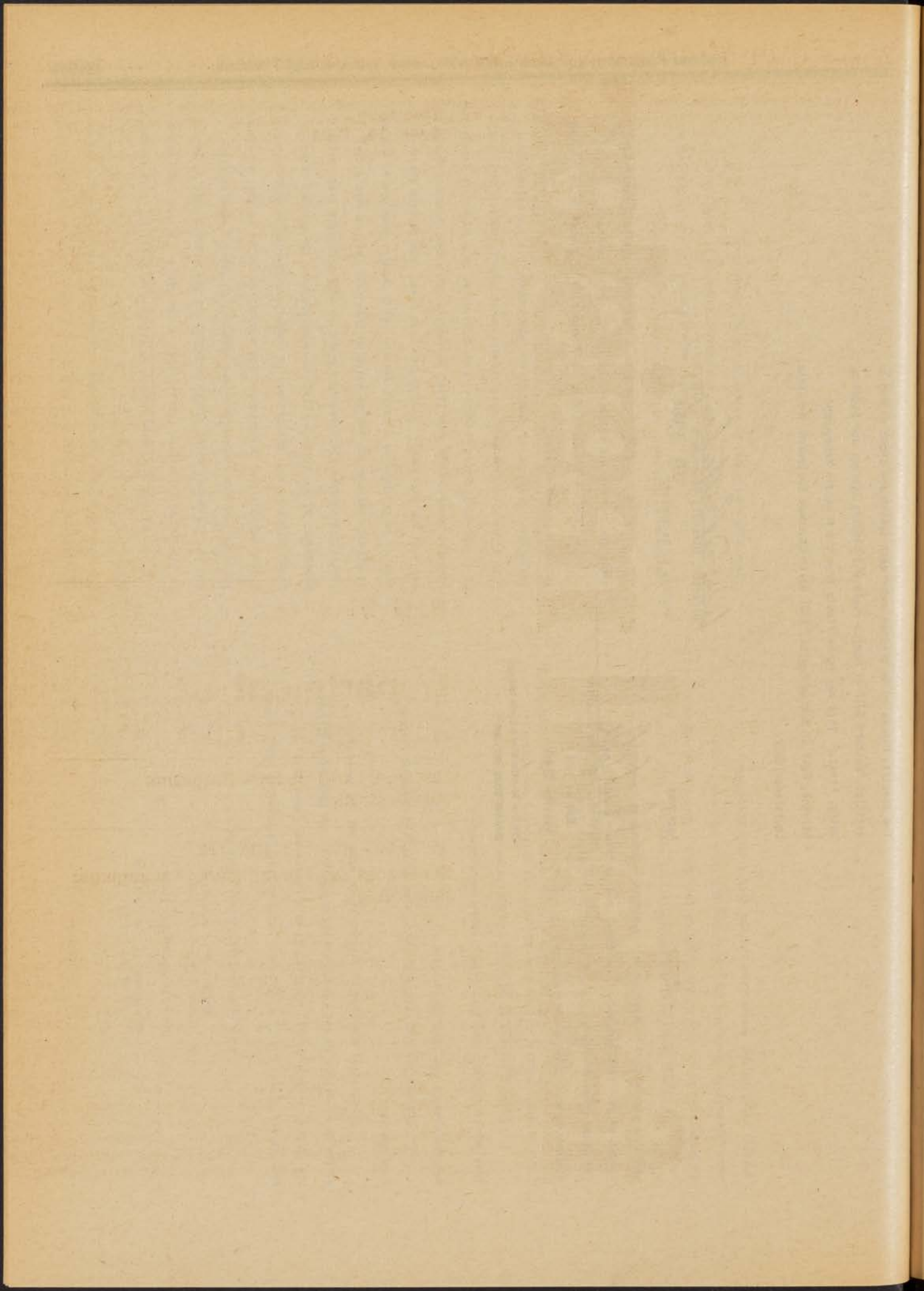
William Clark

[FR Doc. 84-16020 Filed 6-13-84; 8:45 am]

BILLING CODE 4310-MR-C


Director, Minerals Management Service
JUN 5 1984

William D. Bettenberg



Federal Register

**Thursday
June 14, 1984**

Part VI

Department of Transportation

**Research and Special Programs
Administration**

**49 CFR Parts 173 and 178
Standards for Polyethylene Packagings;
Final Rule**

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173 and 178

[Docket No. HM-185; Amdt. Nos. 173-176, 178-79]

Standards for Polyethylene Packagings

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

ACTION: Final rule.

SUMMARY: MTB is revising the Hazardous Materials Regulations (HMR) applicable to polyethylene packagings used for hazardous materials. These amendments are in response to both industry petitions for rulemaking and MTB's initiative in converting exemptions into regulations of general applicability. Major changes are as follows:

1. Section 173.24 is revised to establish permeation limits for hazardous materials in polyethylene packagings and receptacles and to require permanent marking of polyethylene packagings which are used for poisonous materials.

2. In Part 173, the 30 gallon capacity limitation for Specification 34 drums is removed and the use of Specification 34 drums is authorized for a number of materials previously authorized in polyethylene drums only under exemption.

3. Section 178.19 is revised to increase emphasis on performance requirements rather than detailed construction requirements and to authorize a maximum capacity of 55-gallons for Specification 34 polyethylene drums.

4. In Part 178, specifications for polyethylene packagings and receptacles are revised to eliminate detailed criteria pertaining to polyethylene resins and to clarify performance requirements.

The purpose of these amendments is to increase safety with regard to use of polyethylene packagings for hazardous materials; to clarify certain aspects of the HMR and to reduce the burden of regulatory compliance imposed under the terms of exemptions on manufacturers of polyethylene packagings and shippers who use these packagings.

EFFECTIVE DATE: October 1, 1984, except subparagraph (d)(3) of § 173.24 which contains information collection requirements which are under review at the Office of Management and Budget (OMB). After an OMB approval number

has been assigned, notice will be published in the Federal Register announcing the effective date of § 173.24(d)(3). Voluntary compliance with the regulations as hereby amended is authorized as of June 15, 1984.

FOR FURTHER INFORMATION CONTACT: Mario E. Gigliotti, Technical Division, (202) 755-4906, or Edward T. Mazzullo, Standards Division, (202) 426-2075, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: On August 28, 1982, MTB published a notice of proposed rulemaking (Notice 82-7) in the Federal Register (47 FR 37592). In the notice, MTB proposed adoption of certain rules applicable to polyethylene packagings used for hazardous materials. This document contains changes to the Hazardous Materials Regulations (HMR) based on the proposals in Notice 82-7 and the merits of comments received from the public in response to the notice. The interested reader is referred to Notice 82-7 for additional background information.

MTB received 32 comments to Notice 82-7 from 25 respondents. Respondents represented 12 chemical shippers, six container manufacturers, one individual and six associations. The majority of commenters expressed support for the proposals, while offering comments and suggestions for improving specific aspects of the rulemaking. Only one commenter opposed the rulemaking, citing the lack of fire resistance standards in Specification 34 as a reason why MTB should not increase the authorized capacity for Specification 34 polyethylene drums from 30 to 55 gallons. Several commenters suggested changes to the proposals without expressing either support or opposition. Amendments adopted in this final rule and significant comments are discussed in the following paragraphs.

Deletion of Obsolete Requirements, "Grandfather" Provision for Exemption Packagings (§ 173.23)

There were no objections from commenters concerning deletion of obsolete specifications in paragraphs (a) and (b) of § 173.23. The change is made as proposed. Based on the merits of several comments, a new paragraph (a) is added. It provides that polyethylene drums which are manufactured and marked in accordance with various DOT exemptions may be used in place of Specification 34 drums, for those materials for which Specification 34 drums are authorized. The exemption

packaging must conform to all Specification 34 requirements, with the exception of the specification marking requirement and must be marked "DOT-34" in characters at least one half inch in height to identify it as an authorized package. Without this provision, these exemption polyethylene drums would be authorized for continued use only if their manufacturers periodically applied for, and received, renewal of the applicable exemptions. This amendment should result in a substantial savings to polyethylene drum manufacturers and shippers.

Permeation and Compatibility Criteria (§ 173.24, Appendix A to Part 173)

In Notice 82-7, MTB proposed standards for hazardous materials packaged in polyethylene packagings with regard to compatibility between the packaging and its lading and permeation of lading through the container. Eighteen commenters specifically addressed this proposal, most offering suggestions for revising the proposed standard.

One commenter suggested that the permeation and compatibility issue should be deferred for consideration under Docket HM-181, entitled "Performance-Oriented Packagings Standards" (ANPRM published April 15, 1982; 47 FR 16268) because of the complexity of the issue and its effect on polyethylene packagings. It is apparent that permeation and compatibility criteria may be essential to implementation of a performance oriented packaging system as envisioned in Docket HM-181, particularly if plastics other than polyethylene are permitted for construction of packagings for hazardous materials. However, MTB sees no reason for deferring action on the issue since the new standards will facilitate the use of 55 gallon polyethylene drums other than under the terms of exemptions and will fulfill an existing need for permeation and compatibility criteria applicable to polyethylene packagings.

The proposal in Notice 82-7 is adopted with changes based on the merits of comments and the MTB's own initiative. Maximum permissible rates of permeation of 0.5% for Poison B materials and 2.0% for other hazardous materials are specified. Three time and temperature combinations are specified for the test procedure: 14 days at 60°C (140°F), 28 days at 50°C (122°F) and 180 days at 18°C (64°F) or higher. The language of paragraph (d) of § 173.24 is revised to clarify that the permeation and compatibility criteria are standards rather than a requirement to test, and

the paragraph is revised editorially. The test procedure in Appendix B is revised to incorporate the suggestions of commenters. These changes and the reasons for them are discussed in greater detail in the following paragraphs.

The permeation and compatibility criteria which were proposed in Notice 82-7 are revised by using the language "Each polyethylene packaging * * * must be capable of withstanding without failure the procedure specified in Appendix B * * *" rather than the proposed language "The procedure specified in Appendix B * * * shall be followed * * *". This change responds to the requests of several commenters that MTB clarify that the criteria represent standards rather than a requirement to test, except in those instances where the specific packaging authorization in Part 173 requires testing. This change permits shippers to make a reasonable determination of compliance with the standard, in many instances without the need for actual testing, based on: (1) Successful shipping experience, (2) industry generated data concerning permeation and compatibility, (3) the shippers' knowledge of the material, or (4) testing performed on similar products. Actual testing is required for specifically named materials unless such testing has been performed for materials packaged in exemption packagings. The language is also revised so that approval by the Associate Director for Hazardous Materials Regulation is required only in certain instances such as use of test procedures other than that specified in Appendix B or use of packagings and materials which exceed the prescribed permeation rates but are known to be safe for transport.

One commenter contended that the permeation and compatibility criteria should not apply to small quantities of materials which are permitted to be shipped in nonspecification packagings, claiming a hardship would be imposed on users of such packagings. Another commenter contended that the criteria should not apply to inside plastic receptacles used in combination packagings. MTB disagrees with these commenters on the basis that incompatibility or permeation of hazardous material through a nonspecification packaging or an inside receptacle may be potentially just as hazardous as incompatibility or permeation through a specification packaging. Therefore, the adopted criteria apply to all polyethylene packagings and receptacles used for hazardous materials.

With regard to the proposed criteria, several commenters suggested a 180 day test period at ambient temperature as an alternative to the two proposed time-at-temperature combinations of 54.4 °C (130°F) for 90 days and 60°C (140°F) for 14 days. This suggestion is consistent with the permeation criteria proposed in Docket No. HM-181 and is adopted in this final rule. Commenters suggested that testing for 14 days at 60°C (140°F) yields results roughly equivalent to testing for 180 days at ambient temperature. They contended that the time-at-temperature test of 90 days at 54.4°C (130°F) is not equivalent to either of the aforementioned time-at-temperature combinations. A test at 50°C (122°F) for 28 days was suggested as an appropriate alternative. This latter time-at-temperature combination is referenced in several industry standards for testing permeation and compatibility. MTB agrees with this suggestion and the final rule provides three alternative time-at-temperature combinations: 14 days at 60°C (140°F), 28 days at 50°C (122°F) and 180 days at 18°C (64°F) or higher.

Several commenters objected to the use of toxicity levels in the proposed criteria which differ from those found in 49 CFR 173.343. Commenters alleged that the proposed toxicity levels (i.e., oral toxicity of less than 20 mg/Kg (LD50, oral rat) and dermal toxicity of less than 80 mg/Kg (LD50, dermal rabbit)) are arbitrary and may require testing beyond that currently required to determine if a material meets Poison B criteria because of either oral or dermal toxicity (i.e., oral toxicity of 50 mg/Kg or less (LD50, oral rat) and dermal toxicity of 200 mg/Kg or less (LD50, dermal rabbit)). Based on the merits of these comments, MTB is revising the toxicity levels to be consistent with § 173.343, so that the lower permissible rate of permeation of 0.5 percent applies to hazardous materials which meet Poison B criteria. The higher rate of permeation of 2 percent applies to all other hazardous materials.

Several commenters proposed alternate rates of permeation ranging from 1 percent to 10 percent on a yearly basis. As indicated in the preceding paragraph, MTB is adopting maximum permissible rates of permeation of 0.5 percent for Poison B materials and 2.0 percent for other hazardous materials, determined over the time period of the test, which is roughly equivalent to 1 percent and 4 percent, respectively, per year. It is believed that these rates provide an acceptable level of safety, as evidenced through limited application under various polyethylene container

exemptions, without being overly restrictive as to the types of materials which may be packaged in polyethylene. One commenter contended that a general prohibition against hazardous conditions during transportation and handling is a greater inducement to safety than setting specific permeation limits. Another suggested that the shipper of hazardous material should be responsible for determining an appropriate rate of permeation. MTB disagrees with these commenters and believes that both a general prohibition against hazardous conditions and specified maximum permissible rates of permeation are necessary to provide regulatory guidance and achieve an acceptable level of safety.

The test procedure which was proposed for adoption in the notice is revised based on the merits of comments. Three samples are specified for conducting the permeation and compatibility test. The term "rate of permeation" is clarified and expressed as the percentage loss of hazardous material content during the time period over which the test is conducted. The format and language of the procedure are revised for clarity. One commenter suggested that a static compression test be required (after the storage test and prior to the drop test) and that test containers be cut apart for internal inspection after completion of testing. Another commenter proposed rejection criteria based on loss of tare weight during conduct of the storage test. These suggestions may have merit but since they go beyond the scope of testing proposed in Notice 82-7, they are not adopted in this final rule.

Several commenters recommended that MTB incorporate by reference *Packaging Institute, USA (PI/USA) Test Procedure T4101-80*. MTB has reviewed this test procedure and believes it to be unsatisfactory for incorporation by reference due to the use of recommendatory language and subjective failure criteria. It also appears to go beyond the scope of testing provided in Notice 82-7, in that it requires testing of both test coupons and whole containers and provides a limitless array of time and temperature combinations. The test procedure for whole containers (Part B) is roughly equivalent to the procedure adopted in this final rule, although *PI/USA T4101-80* does not prescribe maximum permissible rates of permeation. Two commenters proposed environmental stress crack resistance (ESCR) test procedures as base level tests for determining if different types and designs of polyethylene containers are

suitable as packagings for hazardous materials. Although the commenters differed in their recommendations, the test procedures generally involve placing an environmental stress crack agent into a polyethylene container for a specified period of time at a specified temperature. The container passes the test if it does not crack or leak. Another commenter proposed a compatibility test that is conducted at three different temperatures (0°C (32°F), 23.8°C (75°F) and 37.7°C (100°F)) over a one year period by immersing test coupons of polyethylene, cut from the intended packaging, in the hazardous material which is to be packaged. Measurements of coupon material thickness and tensile strength are made at the beginning and end of the test period. Failure is defined as more than 5% loss of either material thickness or tensile strength. Although both of these proposed tests may have merit, MTB believes that they are beyond the scope of the proposals contained in Notice 82-7 and they are not adopted in this final rule.

Marking of Polyethylene Packagings Used for Poisonous Materials (§§ 173.24, 173.28)

In Notice 82-7, it was proposed to amend § 173.28(d) to require that polyethylene packagings used for Poison B materials be limited to Poison B materials in any subsequent reuse. Notice of this limitation was proposed to be accomplished by means of maintaining Poison labels on such containers. This proposal was based on a petition from the Society of the Plastics Industry (SPI) for a permanent marking on such containers which would include a skull and crossbones symbol and the warning "Contains Poison, Limit Reuse for Poison Only." Both proposals have the objective of warning reusers of containers of potential hazards. MTB initially believed that its proposal was a more cost effective means of accomplishing the safety objective. Comments addressed to this proposal appear to represent a consensus of polyethylene drum manufacturers and shippers and overwhelmingly favor a permanent marking requirement instead of the proposed provision for maintenance of Poison labels. Commenters accurately point out that it is difficult to maintain labels on empty packagings, particularly when the packagings undergo a reconditioning process. Implicit in these comments is that it is neither cost effective, nor effective from a safety standpoint, to require maintenance of labels instead of a permanent marking. Several marking alternatives were suggested: the SPI recommendation; just

the skull and crossbones symbol; the terms "Poison", "Contains Poison", and "Poison-Do not re-use except for Poisons". MTB believes these comments have merit and has adopted a permanent marking requirement in this final rule. MTB believes that a minimal marking requirement using the word "Poison" is adequate for conveying notice of a potential hazard and is adding the requirement in § 173.24(d) for the permanent marking of polyethylene packagings used for poisonous materials. The word "Poison" must be marked in lettering of at least 1/4 inch in height. Additional text or symbols may be included with the required marking. A one year delay in the effective date of the marking requirement is provided to ease any burden that might arise from the new marking requirement. Paragraph (d) of § 173.28 is revised to clarify that permanent markings should not be removed. Also, a new paragraph (i) is added to § 173.28 which recommends that polyethylene packagings previously used for poisons be reused for poisons or hazardous wastes only.

One commenter suggested that all polyethylene packagings used for hazardous materials should be permanently marked in order to identify those packagings that have been in hazardous materials service. Although the proposal has some merit, such a requirement may not be justifiable in terms of cost, is controversial and is not adopted in this final rule.

One commenter supported the proposed limitation on reuse of polyethylene containers but suggested the limitation not apply to containers used as packagings for hazardous wastes destined for disposal. MTB agrees with this suggestion and has provided an exception in § 173.28(i) to permit for hazardous wastes, when authorized, regardless of whether the hazardous waste is a poisonous material.

Authorizations for Use of Specification 34 Polyethylene Drums (Part 173) and Elimination of Exemptions

Twelve commenters addressed the proposed Part 173 authorizations for use of Specification 34 polyethylene drums. There was strong support for revising the authorizations for use currently in the HMR (§§ 173.245, 173.263, 173.264, 173.265, 173.266, 173.272, 173.276, 173.277 and 173.288) to permit use of a 55 gallon maximum capacity Specification 34 instead of the previously authorized maximum capacities of 30 gallons or less. With the exception of § 173.245, these sections are changed as proposed in Notice 82-7. Because of the likelihood of previously untried corrosive liquids

being shipped in Specification 34 drums under the packaging authorization in § 173.245 (corrosive liquids, n.o.s.), MTB believes it is essential that compatibility between lading and container be established prior to first shipment. Therefore, the authorization for use in § 173.245(a)(26) is revised both to permit use of a 55 gallon Specification 34 and to require the shipper to assure conformance with the permeation and compatibility criteria of § 173.24(d), prior to first shipment. This will necessitate testing in most instances. However, if testing has previously been performed for a given material and packaging by the shipper, the container manufacturer or a third party, then it need not be repeated.

MTB had proposed adding authorizations for use to 12 packaging sections, as follows: §§ 173.125, 173.247, 173.256, 173.257, 173.269, 173.271, 173.287, 173.348, 173.349, 173.357, 173.361 and 173.362a. There were no objections to the proposed changes to § 173.125 (alcohol, n.o.s.) and § 173.257 (alkaline and acid battery fluid) and these are changed as proposed.

One commenter pointed out that arsenic acid (§ 173.348), carbolic acid (§ 173.349), chloropicrin and chloropicrin mixtures (§ 173.357), aldrin mixtures (§ 173.361) and dinitrophenol solutions (§ 173.362a) are often dissolved in carrier solutions containing surfactants which may have deleterious effects on polyethylene. The commenter suggested that compatibility between lading and packaging should be established for these poisonous materials by actual testing prior to first shipment. MTB shares this commenter's concerns and, therefore, the final rule requires the shipper to assure conformance with the permeation and compatibility criteria of § 173.24(d) prior to the first shipment for these five materials. It should be noted that testing has been performed for many of these materials as a condition for their being authorized for shipment in Specification 34-type drums under various exemptions and, therefore, may not have to be repeated.

Several commenters suggested that perhaps the other materials should remain under exemption because of compatibility problems or inadequate shipping experience. The materials addressed are thionyl chloride; compound cleaning liquids containing more than 30% hydrofluoric acid, perchloric acid, phosphorous oxychloride, chromic acid solutions and chloropicrin. MTB notes that all of these materials have successful shipping experience under exemption and that there has been over one year of

additional experience acquired since comments were submitted to Notice 82-7. Based on this experience MTB does not believe it is necessary to prohibit use of Specification 34 for these materials. However, since it appears that these materials may require a higher degree of care in their packaging, MTB is requiring that the shipper assure conformance with the permeation and compatibility criteria of § 173.24(d) prior to first shipment. The requirement does not preclude use of test data generated by someone other than the shipper, such as by the drum manufacturer or another shipper, or the use of test data acquired under the terms of exemptions.

In Notice 82-7, MTB requested comments concerning materials or categories of material other than those proposed which may be suitable for shipment in Specification 34 drums. Several commenters recommended adding authorizations to Part 173 for use of Specification 34 for the following materials, contending that successful shipping experience has been acquired under the terms of exemptions. These materials are: flammable liquids with flash points above 20° F. (§ 173.119); paint (§ 173.128); organic peroxides, including those classed flammable liquid (§ 173.119, 173.221-223); hydrobromic acid not over 49% (§ 173.262); poisonous liquids, n.o.s. (§ 173.346); and cyanide solutions (§ 173.352). These materials are currently authorized in polyethylene drums under the terms of approximately 30 exemptions.

MTB agrees with commenters that some successful shipping experience has been demonstrated. However, it is noted that in some instances these materials generally have not been shipped under exemption for as long a period of time as the materials proposed in Notice 82-7 and that under provisions of many exemptions, materials are specifically identified to and acknowledged in writing by MTB's Office of Hazardous Materials Regulation (OHMR) prior to first shipment. Under this latter provision OHMR has required that permeation and compatibility testing be performed prior to first shipment. In order to achieve an equivalent level of safety as that provided under the exemptions program, MTB believes it is necessary to require the shipper to assure conformance to the permeation and compatibility criteria of § 173.24(d) prior to first shipment. Authorizations for use of Specification 34 are adopted in this final rule, for those materials named in the preceding paragraph, with this stipulation. One commenter recommended an across-the-board authorization to use Specification 34 for

any compatible material. In the absence of a demonstration of transportation safety through shipping experience gained under the terms of exemptions or international regulations, MTB is reluctant to expand authorizations for use beyond those discussed above and, therefore, no action is taken on the commenter's recommendation.

There are approximately 700 named materials (including trade names, generic names and "not otherwise specified" descriptions) authorized to be packaged in Specification 34 and 34-style polyethylene drums under the provisions of 46 DOT exemptions which are affected by this rulemaking.

The 46 exemptions are listed as follows:

DOT-E: 6397, 6637, 6700, 6726, 6787, 6800, 6883, 6986, 7035, 7062, 7072, 7082, 7220, 7249, 7502, 7538, 7682, 7788, 7888, 7933, 7940, 8051, 8067, 8188, 8197, 8247, 8301, 8339, 8389, 8468, 8488, 8498, 8499, 8537, 8585, 8709, 8780, 8823, 8888, 8896, 9014, 9054, 9115, 9119, 9252, 9253.

MTB has not conducted a detailed review of these exemptions to determine which authorizations for use or exemptions may be rendered unnecessary by this final rule. Some of these exemptions have many materials authorized (for example, two exemptions authorize 118 and 210 materials, respectively) and a one by one review of the material authorizations, to determine which might be eliminated, was not feasible. It is anticipated that exemption holders will not apply for renewal of those exemptions rendered obsolete upon expiration of the exemptions. Also, in some instances it may not be feasible for a polyethylene drum manufacturer to maintain an exemption if it is only needed for one or two materials. It appears probable that at least 13, and possibly as many as 42, exemptions will be rendered obsolete. Shipments under the remaining exemptions will be significantly reduced due to the packaging authorizations adopted in the final rule, but some exemptions will probably be continued in effect because they will still contain those packaging authorizations for materials such as low flash point flammable liquids which are not adopted in the final rule. In addition, three of the exemptions may be continued in effect because they authorize container thicknesses of less than 0.125 inches in specific locations for a drum of 55 gallons capacity whereas this final rule specifies a minimum wall thickness of 0.125 inches.

Container Specification Requirements (Part 178)

Twelve respondents submitted comments addressed specifically to the proposed changes to Part 178. Comments indicated support for the proposals, particularly with regard to the elimination of requirements relative to the physical composition and characteristics of polyethylene resins used in the manufacture of containers and the increase of the maximum authorized capacity of Specification 34 to 55 gallons. Detailed specifications for polyethylene resins are removed from §§ 178.16, 178.19, 178.21, 178.24, 178.24a, 178.27, 178.35, 178.35a and Appendix B to Part 178. The proposed editorial revision to the aforementioned sections to emphasize performance requirements, is adopted in the final rule. Also the word "molded" has been removed from the title of Specification 34, in recognition of other manufacturing techniques which may be used for the manufacture of polyethylene drums.

It has been determined that the vibration test procedure which appears in §§ 178.19-7, 178.21-3, 178.24-7, 178.27-4, 178.35-5, 178.35a-4 and 178.133-11 is technically incorrect in referring to "an amplitude of one inch." Such an amplitude imposes a more rigorous vibration test than is intended, and is not practicable. The correct terminology, as found in § 178.16-13(a)(2), is "a vertical double-amplitude (peak-to-peak displacement) of one inch." This error is corrected in this final rule in the aforementioned sections. Since this change imposes no additional requirements and is a relaxation of an existing requirement, prior notice is deemed unnecessary.

Changes to requirements for packaging testing and test record retention are being considered under Docket HM-181 with regard to all non-bulk specification packagings other than cylinders. One commenter has suggested that the changes in testing proposed in Notice 82-7 should be postponed for consideration under Docket HM-181. MTB notes that the test requirements proposed in Notice 82-7 are different from those envisioned under Docket HM-181 and that any changes to test requirements made in this final rule may be rendered obsolete by future rulemaking action under Docket HM-181. As there is no pressing need to change the existing requirements from the standpoint of safety, MTB is deferring action on this issue for consideration under Docket HM-181. Therefore, § 178.19 is revised in part, rather than in its entirety as proposed, in

order to implement the increase in capacity to 55 gallons, emphasize performance requirements, correct the language of the vibration test and make other editorial corrections. In Notice 82-7, MTB proposed minimum wall thickness of 0.125 inches for Specification 34 polyethylene drums of greater than 15 gallons capacity, with a thickness of 0.090 inches permitted in corners and undercuts. Several commenters contended that it is in the best interests of safety not to provide a reduction of material thickness in corners and undercuts. MTB agrees with this contention and the final rule requires a minimum wall thickness of 0.125 inches throughout the container. One commenter suggested that Specification 34 be revised to authorize rated capacities of up to 210 gallons. MTB considers this suggestion to be beyond the scope of this rulemaking.

It was proposed in Notice 82-7 to require that polyethylene resins used to mold containers be unused so as to prohibit the use of polyethylene resins made from reprocessed containers which previously might have been used as hazardous materials packagings. The proposal was supported by commenters. However, several commenters suggested that the proposal be revised to permit use of reground material (such as excess molding material or off-specification containers) from an ongoing manufacturing process. MTB agrees with this suggestion and the language in §§ 178.16-4(a), 178.19-2(a), 178.21-3(a), 178.24-2(a), 178.24a-3(a), 178.27-1(a), 178.35-2(a) and 178.35a-1(d) is revised accordingly.

Section-by-Section Summary of Changes

Section 173.23. Paragraph (b) is deleted to eliminate obsolete provisions and paragraph (a) is revised to permit use of DOT-34 style exemption polyethylene drums wherever Specification 34 drums are authorized for use.

Section 173.24. Paragraph (c)(9) is deleted, paragraph (d) is redesignated paragraph (e) and a new paragraph (d) is added specifying rates of permeation and chemical compatibility requirements for hazardous materials packaged in polyethylene, and requiring the permanent marking of polyethylene packagings used for poisonous materials with the word "Poison" in letters at least 1/4 inch in height.

Section 173.28. Paragraph (d) is revised to clarify that permanent markings should not be removed from used packagings and paragraph (i) is added to recommend that polyethylene packagings not be reused for anything other than poisons or hazardous wastes

if the packagings were previously used for poisonous materials.

Section 173.119. Authorizations for use of Specification 34 are added as paragraphs (b)(11) and (m)(19). The authorizations necessitate that the shipper assure conformance with the requirements of § 173.24(d) prior to first shipment.

Section 173.125. Authorization for use of Specification 34 is added as paragraph (a)(7).

Section 173.128. Authorization for use of Specification 34 is added as paragraph (a)(5). The authorization necessitates that the shipper assure conformance with the requirements of § 173.24(d) prior to first shipment.

Section 173.221. Authorization for use of Specification 34 is added as paragraph (a)(12). The authorization necessitates that the shipper assure conformance with the requirements of § 173.24(d) prior to first shipment.

Section 173.222. Authorization for use of Specification 34 is added as paragraph (a)(6). The authorization necessitates the conduct of permeation and compatibility testing, in accordance with § 173.24(d) prior to first shipment.

Section 173.223. Authorization for use of Specification 34 is added as paragraph (a)(7). The authorization necessitates that the shipper assure conformance with the requirements of § 173.24(d) prior to first shipment.

Section 173.245. Paragraph (a)(26) is revised to remove the 30 gallon limitation for Specification 34 and to require that the shipper assure conformance with the requirements of § 173.24(d) prior to first shipment.

Section 173.247. Authorization for use of Specification 34 is added as paragraph (a)(21). The authorization necessitates that the shipper assure conformance with the requirements of § 173.24(d) prior to first shipment.

Section 173.256. Authorization for use of Specification 34 is added as paragraph (a)(9). The authorization necessitates that the shipper assure conformance with the requirements of § 173.24(d) prior to first shipment.

Section 173.257. Authorization for use of Specification 34 is added as paragraph (a)(13).

Section 173.262. Authorization for use of Specification 34 is added as paragraph (a)(5). The authorization necessitates that the shipper assure conformance with the requirements of § 173.24(d) prior to first shipment.

Section 173.263. Paragraph (a)(28) is revised to remove the 30 gallon limit for Specification 34.

Section 173.264. Paragraph (a)(18) is revised to remove the 5 gallon limit for Specification 34.

Section 173.265. Paragraph (d)(6) is revised to remove the 30 gallon limit for Specification 34.

Section 173.266. Paragraph (b)(8) is revised to remove the 30 gallon limit for Specification 34.

Section 173.269. Authorization for use of Specification 34 is added as paragraph (a)(8). The authorization necessitates that the shipper assure conformance with the requirements of § 173.24(d) prior to first shipment.

Section 173.271. Authorization for use of Specification 34 is added as paragraph (a)(1). The authorization necessitates that the shipper assure conformance with the requirements of § 173.24(d) prior to first shipment.

Section 173.272. Paragraph (g) is revised to authorize use of Specification 34 for sulfuric acid in concentrations of 95 percent to 100.5 percent and paragraph (i)(9) is revised to remove the 30 gallon limit for Specification 34.

Section 173.276. Paragraph (a)(10) is revised to remove the 30 gallon limit for Specification 34.

Section 173.277. Paragraph (a)(6) is revised to remove the 30 gallon limit for Specification 34 and to authorize the use of vented closures for Specification 34.

Section 173.287. Authorization for use of Specification 34 is added as paragraph (b)(9). The authorization necessitates that the shipper assure conformance with the requirements of § 173.24(d) prior to first shipment.

Section 173.288. Paragraph (e) is revised to remove the 5 gallon limit for Specification 34.

Section 173.346. Authorization for use of Specification 34 is added as paragraph (a)(6). The authorization necessitates that the shipper assure conformance with the requirements of § 173.24(d) prior to first shipment.

Section 173.348. Authorization for use of Specification 34 is added as paragraph (a)(5). The authorization necessitates that the shipper assure conformance with the requirements of § 173.24(d) prior to first shipment.

Section 173.349. Authorization for use of Specification 34 is added as paragraph (a)(4). The authorization necessitates that the shipper assure conformance with the requirements of § 173.24(d) prior to first shipment.

Section 173.352. Authorization for use of Specification 34 is added as paragraph (a)(8). The authorization necessitates that the shipper assure conformance with the requirements of § 173.24(d) prior to first shipment.

Section 173.357. Authorization for use of Specification 34 is added as paragraph (a)(4). The authorization necessitates that the shipper assure

conformance with the requirements of §173.24(d) prior to first shipment.

Appendix B to Part 173. Appendix B is added to provide a procedure for determining chemical compatibility and rates of permeation.

Section 178.16. In §178.16-1, paragraph (c) is added to emphasize performance requirements and, in §178.16-4, paragraph (a) is revised to delete specifications for polyethylene resins and requirements for retaining data concerning melt index and density.

Section 178.19. The section title and §178.19-1 are revised for clarity and to emphasize performance requirements, §178.19-2 is revised to delete specifications for polyethylene resins, §178.19-3 and paragraph (c)(2) of §178.19-7 are revised to authorize a container capacity of 55 gallons and paragraph (c)(1) of §178.19-7 is revised to correct deficiencies in the vibration test.

Section 178.21. Paragraph (b) of §178.21-1 is added to emphasize performance requirements, the introductory text of paragraph (a) of §178.21.3 is revised to add a prohibition against using a polyethylene resin that has been used previously, paragraph (c)(4) of §178.21-3 is revised to correct deficiencies in the vibration test and Note 1 which follows paragraph (a) of §178.21-3 is deleted to remove specifications for polyethylene resins.

Section 178.24. The specification title and the title and text of §178.24-1(c) are revised for clarity and to emphasize performance requirements; prohibition against using a polyethylene resin that has been used previously is added and specifications for polyethylene resins are deleted in §178.24-2(a); and §178.24-7(a)(3) is revised to correct deficiencies in the vibration test.

Section 178.24a. In §178.24a-3, paragraph (c) deleted and paragraph (a) is revised to add a prohibition against using a polyethylene resin that has been used previously and to delete specifications for polyethylene resins.

Section 178.27. In §178.27-1, Note 1 is deleted to remove specifications for polyethylene resins, paragraph (a) is revised to add a prohibition against using a polyethylene resin that has been used previously and paragraph (b) is added to emphasize performance requirements. Paragraph (a)(3) of §178.27-4 is revised to correct deficiencies in the vibration test.

Section 178.35. The section title and §178.35-1 are revised for clarity; emphasis on performance requirements is added as §178.35-1(c); in §178.35-2, specifications for polyethylene resins are deleted and a prohibition against using a polyethylene resin that has been

used previously is added; and paragraph (a)(4) of §178.35-5 is revised to correct deficiencies in the vibration tests.

Section 178.35a. The section title and §178.35a-1 are revised for clarity, to delete specifications for polyethylene resins, require that resins may not have been used previously and to emphasize performance requirements. Paragraph (a)(3) of §178.35a-4 is revised to correct deficiencies in the vibration test.

Section 178.133. Paragraph (b) of §178.133-11 is revised to correct deficiencies in the vibration test.

Appendix B to Part 178. Appendix B, entitled "Specifications for Plastics," is deleted in its entirety.

This rule contains information collection requirements. Those requirements are contained in paragraph (d)(3) §173.24 and have been submitted to the OMB for review under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) This item will become effective only after an OMB approval number has been assigned. When this number is assigned, notice will be published in the *Federal Register* announcing the effective date of §173.24(d)(3).

List of Subjects

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

49 CFR Part 178

Hazardous materials transportation, Shipping container specifications.

In consideration of the foregoing 49 CFR Parts 173 and 178 are amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. In §173.23, paragraph (b) is removed and reserved, and paragraph (a) is revised as follows:

§173.23 Previously authorized packaging.

(a) Where the regulations specify Specification 34 polyethylene drums, a polyethylene drum manufactured and marked in accordance with a DOT exemption may be used if the polyethylene drum conforms to Specification 34 except for the specification marking required by §178.19-6(a)(2) of this subchapter and the drum is legibly marked "DOT-34" in characters at least one half inch in height in a location near the exemption marking.

(b) [Reserved]

2. In §173.24, paragraph (c)(9) is removed, paragraph (d) is redesignated

paragraph (e), and a new paragraph (d) is added as follows:

§173.24 Standard requirements for all packages.

(d) *Polyethylene packagings and receptacles.* (1) Polyethylene used in packagings and receptacles must be of a type compatible with the lading and may not be permeable to an extent that a hazardous condition occurs during transportation, handling or refilling.

(2) Each polyethylene packaging or receptacle which is used for liquid hazardous materials must be capable of withstanding without failure the procedure specified in Appendix B of this Part ("Procedure for Testing Chemical Compatibility and Rate of Permeation in Polyethylene Packagings and Receptacles") and the maximum rate of permeation of hazardous lading through or into the polyethylene packaging or receptacles may not exceed the following rates:

(i) 0.5 percent for materials meeting the definition of a poison according to this subchapter and 2.0 percent for other hazardous materials, when subjected to temperatures no lower than 18°C. (64°F.) for 180 days in accordance with Test Method 1;

(ii) 0.5 percent for materials meeting the definition of a poison according to this subchapter and 2.0 percent for other hazardous materials, when subjected to a temperature no lower than 50°C. (122°F.) for 28 days in accordance with Test Method 2; or

(iii) 0.5 percent for materials meeting the definition of a poison according to this subchapter and 2.0 percent for other hazardous materials, when subjected to a temperature no lower than 60°C. (140°F.) for 14 days in accordance with Test Method 3.

(3) Alternative procedures or rates of permeation are permitted if they yield a level of safety equivalent to or greater than that provided by paragraph (d)(2) of this section and are approved by the Associate Director for HMR.

(4) Each polyethylene packaging used as an outside packaging for materials meeting the definition of a poison according to this subchapter shall be permanently marked, by embossment or other durable means, with the word "POISON" in letters of at least ¼ inch in height. Additional text or symbols may be included in the marking. The marking shall be located within six inches of the packaging's closure. The requirements of this subparagraph do not apply prior to September 1, 1985.

3. In § 173.28, paragraph (d) is revised and paragraph (i) is added, as follows:

§ 173.28 Reuse of packagings (containers).

(d) Packagings previously used for any hazardous material must have the old markings (other than markings which are required by this subchapter to be permanent) and labels, if any, thoroughly removed or obliterated before being used for other materials.

(i) Polyethylene packagings previously used for poisonous materials should not be reused for any materials other than poisonous materials or hazardous wastes.

4. In § 173.119, paragraphs (b)(11) and (m)(19) are added to read as follows:

§ 173.119 Flammable liquids not specifically provided for.

(b) ***
(11) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. The shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

(m) ***
(19) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. Authorized for flammable liquids which are also organic peroxides only. The shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

5. In § 173.125, paragraph (a)(7) is added to read as follows:

§ 173.125 Alcohol, n.o.s. (flammable liquid).

(a) ***
(7) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum.

6. In § 173.128, paragraph (a)(5) is added to read as follows:

§ 173.128 Paint and paint related material (flammable liquids).

(a) ***
(5) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. The shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

7. In § 173.221, paragraph (a)(12) is added to read as follows:

§ 173.221 Liquid organic peroxides, n.o.s., and liquid organic peroxide solutions, n.o.s.

(a) ***
(12) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. The

shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

8. In § 173.222, paragraph (a)(6) is added to read as follows:

§ 173.222 Acetyl peroxide and acetyl benzoyl peroxide, solution.

(a) ***
(6) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. The shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

9. In § 173.223, paragraph (a)(7) is added to read as follows:

§ 173.223 Peracetic acid.

(a) ***
(7) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. The shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

10. In § 173.245, paragraph (a)(26) is revised to read as follows:

§ 173.245 Corrosive liquids not specifically provided for.

(a) ***
(26) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. The shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

11. In § 173.247, paragraph (a)(21) is added to read as follows:

§ 173.247 Acetyl bromide; acetyl chloride; acetyl iodide; antimony pentachloride; benzoyl chloride; boron trifluoride acetic acid complex; chromyl chloride; dichloroacetyl chloride; diphenylmethyl bromide solutions; pyrosulfuryl chloride; silicon chloride; sulfur chloride (mono and di); sulfuryl chloride; thionyl chloride; tin tetrachloride (anhydrous); titanium tetrachloride; trimethyl acetyl chloride.

(a) ***
(21) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. Authorized for thionyl chloride only. The shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

12. In § 173.256, paragraph (a)(9) is added to read as follows:

§ 173.256 Compounds, cleaning, liquid.

(a) ***
(9) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. The shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

13. In § 173.257, paragraph (a)(13) is added to read as follows:

§ 173.257 Electrolyte (acid) and alkaline corrosive battery fluid.

(a) ***
(13) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum.

14. In § 173.262, paragraph (a)(5) is added to read as follows:

§ 173.262 Hydrobromic acid.

(a) ***
(5) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. The shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

15. In § 173.263, paragraph (a)(28) is revised to read as follows:

§ 173.263 Hydrochloric (muriatic) acid; hydrochloric (muriatic) acid mixtures; hydrochloric (muriatic) acid solution, inhibited; sodium chlorite solution (not exceeding 42 percent sodium chlorite); and cleaning compounds, liquids, containing hydrochloric (muriatic) acid.

(a) ***
(28) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum.

16. In § 173.264, paragraph (a)(18) is revised to read as follows:

§ 173.264 Hydrofluoric acid; white acid.

(a) ***
(18) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. Authorized only for hydrofluoric acid not over 52% strength.

17. In § 173.265, paragraph (d)(6) is revised to read as follows:

§ 173.265 Hydrofluorosilicic acid.

(d) ***
(6) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum.

18. In § 173.266, paragraph (b)(8) is revised to read as follows:

§ 173.266 Hydrogen peroxide solution in water.

(b) ***
(8) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. Each drum must have a vented closure to prevent accumulation of internal pressure and the head with the closure must be marked "Keep This End Up."

19. In § 173.269, paragraph (a)(8) is added to read as follows:

§ 173.269 Perchloric acid.

(a) ***
(8) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum.

Authorized for perchloric acid not exceeding 50% strength only. The shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

20. In § 173.271, paragraph (a)(1) is added to read as follows:

§ 173.271 **Methyl phosphonic dichloride, phosphorus oxybromide, phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride.**

(a) * * *

(1) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. Authorized for phosphorus oxychloride only. The shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

21. In § 173.272, paragraphs (g) and (i)(9) are revised to read as follows:

§ 173.272 **Sulfuric acid.**

(g) *Sulfuric acid concentration of greater than 95 percent to not over 100.5 percent:* Authorized packaging is described in paragraphs (i)(1)-(4), (6), (9), (14)-(22), and (29) of this section.

(i) * * *

(9) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum.

22. In § 173.276, paragraph (a)(10) is revised to read as follows:

§ 173.276 **Anhydrous hydrazine and hydrazine solution.**

(a) * * *

(10) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. Authorized for hydrazine solution only.

23. In § 173.277, paragraph (a)(6) is revised to read as follows:

§ 173.277 **Hypochlorite solutions.**

(a) * * *

(6) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. Authorized for not over 16% sodium hypochlorite solution only. Vented closures are authorized if head with closure is marked "Keep This End Up."

24. In § 173.287, paragraph (b)(9) is added to read as follows:

§ 173.287 **Chromic acid solution.**

(b) * * *

(9) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. The shipper shall assure conformance with

the requirements of § 173.24(d) of this Part prior to first shipment.

25. In § 173.288, paragraph (e) is revised to read as follows:

§ 173.288 **Chloroformates.**

(e) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum.

26. In § 173.346, paragraph (a)(6) is added to read as follows:

§ 173.346 **Poison B liquids not specifically provided for.**

(a) * * *

(6) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. The shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

27. In § 173.348, paragraph (a)(5) is added to read as follows:

§ 173.348 **Arsenic acid.**

(a) * * *

(5) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. The shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

28. In § 173.349, paragraph (a)(4) is added to read as follows:

§ 173.349 **Carbolic acid (phenol) liquid.**

(a) * * *

(4) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. The shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

29. In § 173.352, paragraph (a)(8) is added to read as follows:

§ 173.352 **Sodium and potassium cyanide solutions, and cyanide solution, n.o.s.**

(a) * * *

(8) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. The shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

30. In § 173.357, paragraph (a)(4) is added to read as follows:

§ 173.357 **Chloropicrin and chloropicrin mixtures containing no compressed gas or Poison A liquid.**

(a) * * *

(4) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. The shipper shall assure conformance with the requirements of § 173.24(d) of this Part prior to first shipment.

31. Appendix B to Part 173 is added to read as follows:

Appendix B—Procedure for Testing Chemical Compatibility and Rate of Permeation in Polyethylene Packaging and Receptacles

1. The purpose of this procedure is to determine the chemical compatibility and permeability of liquid hazardous materials packaged in polyethylene packaging and receptacles. Alternatives for this procedure are permitted as specified in § 173.24(d)(3) of this subchapter.

2. Compatibility and rate of permeation are determined by subjecting full size polyethylene containers (or smaller containers as permitted in paragraph 4 of this Appendix) and hazardous material lading to one of the following combinations of time and temperature:

- Test Method 1: 180 days at a temperature no lower than 18°C. (64°F.)
- Test Method 2: 28 days at a temperature no lower than 50°C. (122°F.)
- Test Method 3: 14 days at a temperature no lower than 60°C. (140°F.)

3. Regardless of which test method is used, at least three sample containers shall be tested for each combination of hazardous material and size and design of container. Fill containers to rated capacity with the specific hazardous material (at the concentration to be transported) and close as for shipment. For the first and last 24 hours of storage under the selected test method, place the containers with closures downward, except that containers fitted with a vent are so placed on each occasion for five minutes only.

4. For testing under Test Method 2 or 3 in those instances where it is not practicable to use full size containers, smaller containers may be used. The small container shall be manufactured by the same process as the larger container (for example, using the same method of molding and processing temperatures) and be made of identical resins, pigments and additives.

5. Determine filled container weight or net weight of contents both before and after storage under the selected test method. Rate of permeation is determined from loss of hazardous materials contents, during the conduct of the test, expressed as a percentage of the original weight.

6. After storage under the selected test method, the container shall be drained, rinsed, filled to rated capacity with water and, with filled container at ambient temperature, dropped from a height of 1.2 meters (3.94 feet) onto solid concrete.

7. Each of the following constitute test failure:

a. Visible evidence of permanent deformation due to vapor pressure build-up or collapse of walls, deterioration, swelling, crazing, cracking, excessive corrosion, oxidation, embrittlement, leakage, rupture or other defects likely to cause premature failure or a hazardous condition.

b. For materials meeting the definition of a poison according to this subchapter, a rate of permeation in excess of 0.5% determined over the test period. For all other hazardous materials, a rate of permeation in excess of 2.0% determined over the test period.

PART 178—SHIPPING CONTAINER SPECIFICATIONS

32. In § 178.16, paragraph (c) of § 178.16-1 is added and paragraph (a) of § 178.16-4 is revised to read as follows:

§ 178.16 Specification 35; non-reusable molded polyethylene drum for use without overpack; removable head required.

§ 178.16-1 Compliance.

(c) Each drum must be capable of withstanding the performance tests prescribed in §§ 178.16-13 and 178.16-16 without failure.

§ 178.16-4 Materials.

(a) Drums shall be made of an injection molding grade of high density polyethylene resin which has not been used previously. Regrind from the same production process may be used.

33. In § 178.19, the title and §§ 178.19-1 and 178.19-2 are revised to read as follows:

§ 178.19 Specification 34; reusable polyethylene drum for use without overpack. Removable head not authorized.

§ 178.19-1 Compliance.

(a) Required in all details.
(b) Each drum must be capable of withstanding the performance tests prescribed in § 178.19-7 without failure.

§ 178.19-2 Material.

(a) Drums shall be made of a polyethylene resin which has not been used previously. Regrind from the same production process may be used.
(b) Ultraviolet light protection shall be provided by impregnation of polyethylene with carbon black or other equally efficient pigments or inhibitors. These additives shall be compatible with lading and retain their effectiveness for the life of the drum.
(c) Other materials may be added provided they do not adversely affect the structural integrity of the drum.

§ 178.19-3 [Amended]

34. In § 178.19-3, the table is amended by removing the number "30" and inserting, in its place, "55".

35. In § 178.19-7, the second sentence of paragraph (c)(1) is revised by removing the words "an amplitude" and inserting in their place the words "a vertical double-amplitude (peak-to-peak displacement)". Also, the table in paragraph (c)(2) is revised as follows:

§ 178.19-7 Tests.

(c) ***

(2) ***

Marked (rated) capacity not over (gallons)	Compression weight load pounds
2½ through 6½	600
15	1,200
30	1,800
55	2,400

36. In § 178.21, paragraph (b) of § 178.21-1 is added, the introductory text of paragraph (a) of § 178.21-3 preceding paragraph (a)(1) is revised, and Note 1 following paragraph (a) of § 178.21-3 is removed, as follows:

§ 178.21 Specification 2T; polyethylene container.

§ 178.21-1 Compliance.

(b) Each container must be capable of withstanding the performance tests prescribed in § 178.21-3 without failure.

§ 178.21-3 Material.

(a) Containers shall be made of polyethylene resin which has not been used previously. Regrind from the same production process may be used.

37. In § 178.21-3, the second sentence of paragraph (c)(4) is revised by removing the words "an amplitude" and inserting in their place the words "a vertical double-amplitude (peak-to-peak displacement)".

38. In § 178.24, the specification title, the title and text of § 178.24-1 and paragraph (a) of § 178.24-2 are revised, Notes 1 and 2 following paragraph (a) of § 178.24-2 are removed, and paragraph (c) of § 178.24-3 is added, as follows:

§ 178.24 Specification 2U; molded or thermoformed polyethylene containers.

§ 178.24-1 General requirements.

(a) Compliance is required in all details.
(b) Removable head containers and containers fabricated from film are not authorized.
(c) Each container must be capable of withstanding the performance tests prescribed in § 178.24-7 without failure.

§ 178.24-2 Material.

(a) Containers shall be made of a polyethylene resin which has not been used previously. Regrind from the same production process may be used.

§ 178.24-3 Construction capacity.

(c) Minimum rated capacity is one gallon.

§ 178.24-7 [Amended]

39. In § 178.24-7, the second sentence of paragraph (a)(3) is revised by removing the words "an amplitude" and inserting in their place the words "a vertical double-amplitude (peak-to-peak displacement)".

40. In § 178.24a, paragraph (c) of § 178.24a-3 is removed and paragraph (a) is revised to read as follows:

§ 178.24a Specification 2E; inside polyethylene bottle.

§ 178.24a-3 Materials of construction.

(a) Each bottle shall be made of a blow-molding grade of polyethylene resin which has not been used previously (except for regrind from the same production process) and shall be constructed so that it will maintain its shape when standing empty and open.

41. In § 178.27-1, Note 1 is removed, paragraph (a) is revised and paragraph (b) is added, as follows:

§ 178.27-1 Material requirements.

(a) Containers shall be made of polyethylene resin which has not been used previously. Regrind from the same production process may be used.

(b) Each container must be capable of withstanding the performance test prescribed in §§ 178.27-3 and 178.27-4 without failure.

42. In § 178.27-4, the second sentence of subparagraph (a)(3) is revised by removing the words "an amplitude" and inserting in their place the words "a vertical double-amplitude (peak-to-peak displacement)".

43. In § 178.35, the section title, §§ 178.35-1 and 178.35-2 are revised to read as follows:

§ 178.35 Specification 2S; polyethylene container.

§ 178.35-1 General requirements.

(a) Compliance is required in all details.
(b) Removable head containers are not authorized.
(c) Each container must be capable of withstanding the performance test prescribed in § 178.35-5 without failure.

§ 178.35-2 Material requirements.

(a) Containers shall be made of a polyethylene resin which has not been

used previously. Regrind from the same production process may be used.

44. In § 178.35-5, the second sentence of paragraph (a)(4) is revised by removing the words "an amplitude" and inserting in their place the words "a vertical double-amplitude (peak-to-peak displacement)".

45. In § 178.35a, the section title and § 178.35a-1 are revised as follows:

§ 178.35a Specification 2SL; molded or thermoformed polyethylene container.

§ 178.35a-1 General requirements.

(a) Compliance is required in all details.

(b) Removable head containers and containers fabricated from film are not authorized.

(c) Each container must be capable of withstanding the performance tests prescribed in §§ 178.35a-3 and 178.35a-4 without failure.

(d) Containers shall be made of polyethylene resin which has not been used previously. Regrind from same production process may be used.

§ 178.35a-4 [Amended]

46. In § 178.35a-4, the second sentence of paragraph (a)(3) is revised by removing the words "an amplitude" and inserting in their place the words "a vertical double-amplitude (peak-to-peak displacement)".

§ 178.133-11 [Amended]

47. In § 178.133-11, the second sentence of paragraph (b) is revised by removing the words "an amplitude" and inserting in their place the words "a vertical double-amplitude (peak-to-peak displacement)".

Appendix B—[Removed]

48. Appendix B to Part 178 is removed in its entirety.

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

Note—The Materials Transportation Bureau has determined that this document will not result in a major rule under terms of Executive Order 12291 or a significant regulation under DOT's regulatory policy and procedures (44 FR 11034) or require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, et seq.). Based on limited information available concerning size and nature of entities likely to be affected, I certify that this final rule will not have a significant economic impact on a substantial number of small entities because the overall economic impact is minimal. A regulatory evaluation and environmental assessment are available for review in the Docket.

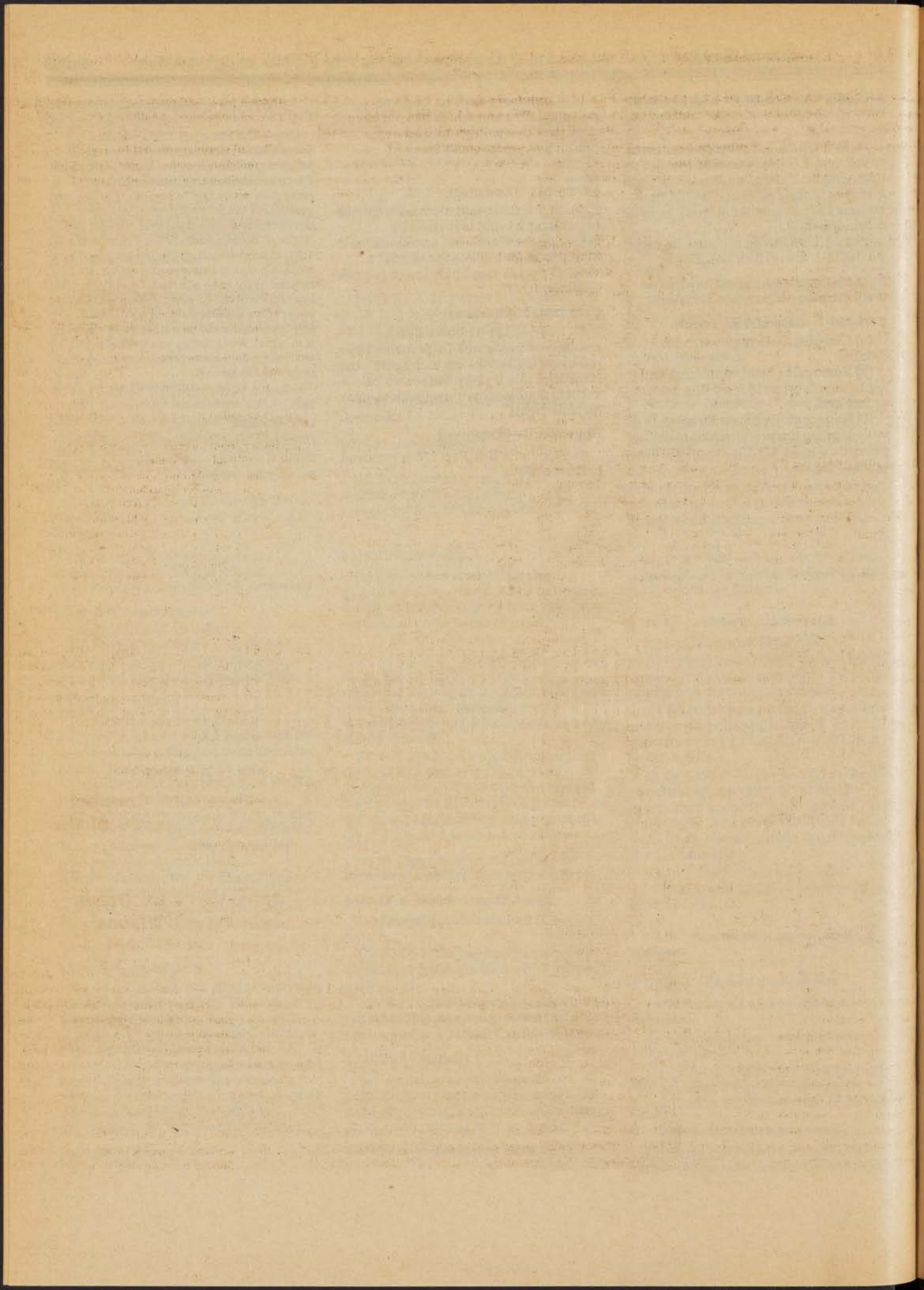
Issued in Washington, D.C. on June 11, 1984.

L.D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 84-15998 Filed 6-13-84; 8:45 am]

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Thursday
June 14, 1984

Part VII

**Federal Maritime
Commission**

46 CFR Parts 536, 538, and 580

**Filing of Tariffs and Dual Rate Contract
Systems in the Foreign Commerce of the
United States; Interim Rule**

46 CFR Part 572

**Rules Governing Agreements by Ocean
Common Carriers and Other Persons
Subject to the Shipping Act of 1984;
Interim Rule**

46 CFR Part 580

**Publishing and Filing Tariffs by Common
Carriers in the Foreign Commerce of the
United States; Interim Rules**

FEDERAL MARITIME COMMISSION

46 CFR Part 536, 538, and 580

[Docket No. 84-23]

Filing of Tariffs and Dual Rate Contract Systems in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Interim rule—response to emergency comments.

SUMMARY: This responds to comments which seek to have the Commission modify or eliminate its Interim Rules governing loyalty (dual rate) contracts prior to June 18, 1984, the effective date of the Rule.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523-5740.

SUPPLEMENTARY INFORMATION: On May 17, 1984, an Interim Rule governing loyalty (dual rate) contracts was published in the *Federal Register* (49 FR 20817-20818). The Interim Rule implements the Shipping Act of 1984 (46 U.S.C. app. 1701-1720) as it applies to loyalty contracts by removing regulations contained in Part 538 governing the present use of such contracts and by amending the regulations contained in Part 536 (redesignated Part 580) governing the filing of tariffs by carriers and conferences of carriers by (1) providing that any new loyalty contract will be permitted to be included in tariffs after June 18, 1984 only to the extent supported by a Business Review Letter issued by the Department of Justice, and (2) prohibiting the use of an existing loyalty contract after September 18, 1984 unless likewise supported by such a Business Review Letter.

In response to the notice, "emergency" comments were filed by Admiral R. A. Ratti, Chief Counsel, House Subcommittee on Merchant Marine on his own behalf; Chemical Manufacturers Association (CMA) and Trans-Pacific Freight Conference of Japan/Korea and Japan/Korea-Atlantic and Gulf Freight Conference¹ (TPFCJ/K and J/KAG). Although section 17(b) of the Shipping Act of 1984 (Act or 1984 Act) (46 U.S.C. app. 1716(b)) permits the Commission to publish interim rules without complying with the notice and comment requirements of the

Administrative Procedure Act (5 U.S.C. 553), due to the impact of the rule, the Commission believes that an immediate response to these comments is appropriate.

Admiral Ratti believes that loyalty contracts are covered within section 20(d) of the 1984 Act (46 U.S.C. app. 1719(d)) and are granted antitrust immunity by section 7(a)(6) of the Act (46 U.S.C. app. 1706(a)(6)). He concludes that the Commission has no authority to impose the requirements of section 10(b)(9) of the Act (46 U.S.C. app. 1709(b)(9)) on loyalty contracts subject to section 20(d).

TPFCJ/K and J/KAG contend that section 7(a)(6) bars enforcement of section 10(b)(9). They go on to challenge reliance on Business Review Letters and the procedure adopted by the Commission.

CMA seeks to have the Commission waive the 90-day notice period in existing dual rate contracts so that shippers may cancel their contracts as soon as the 1984 Act becomes effective.

There appears to be some confusion regarding the Commission's construction of sections 20(d), 7(a)(6), and 10(b)(9). Accordingly, a brief discussion and analysis of these sections as they impact on the Interim Rule at issue is in order.

Section 20(d) of the 1984 Act simply continues existing agreements and contracts (including loyalty contracts) "as if approved under this Act." It does not confer antitrust immunity, nor does it purport to relieve such agreements and contracts from complying with the standards of the 1984 Act. Under the Shipping Act, 1916 (1916 Act) (46 U.S.C. 814), approval of an agreement or contract does not relieve that agreement or contract from complying with other provisions of that Act. Nor is the Commission presently barred from cancelling or modifying an approved agreement or contract under the 1916 Act. Likewise, the continued approval afforded by section 20(d) of the 1984 Act does not bar the Commission from cancelling or modifying an existing agreement or contract.

Section 7(a)(6) grants antitrust immunity to agreements approved pursuant to sections 15 or 14b of the 1916 Act and any properly filed tariff matter implementing that agreement. It does not prevent the Commission from disapproving, cancelling or modifying agreements or contracts subject to section 20(d). The House Judiciary Committee observed that section 7(a)(7) [now section 7(a)(6)], which extends antitrust immunity to agreements previously approved under sections 15 and 14b of the 1916 Act,

* * * Must be read in light of the continuing authority of the Commission to disapprove, cancel, or modify an agreement pursuant to Section 11, or to seek an injunction against operation of an agreement pursuant to section 5(g). The antitrust immunity extended by subsection (a)(7) does not run beyond the validity of the agreement itself.

H.R. Rep. No. 53, 98th Cong., 1st Sess. 33 (1983).

Section 10(b)(9) of the 1984 Act prohibits the use of a loyalty contract "except in conformity with the antitrust laws." Although section 10(b)(9) imposes a standard on the use of loyalty contracts that did not exist under the 1916 Act, it does not "outlaw" all existing contracts as some have suggested. Thus, section 10(b)(9) can be given effect without rendering section 20(d) of the Act a nullity.

While there is no conflict between sections 10(b)(9) and 20(d) the question remains whether because section 10(b)(9) is stated in antitrust terms, enforcement is barred by section 7(a)(6) which grants antitrust immunity to "grandfathered" loyalty contracts. We believe that enforcement of section 10(b)(9) is not barred.

Despite the reference to the antitrust laws, it is our view that liability under section 10(b)(9) exists apart from liability under the antitrust laws. The use of a loyalty contract filed after the 1984 Act becomes effective may violate both the antitrust laws and section 10(b)(9). If Congress did not intend to impose liability apart from the antitrust laws there would have been no need for section 10(b)(9). In order to give section 10(b)(9) meaning it must be construed as imposing liability apart from that imposed by the antitrust laws. Thus, a bar to antitrust enforcement is not a bar to enforcement of section 10(b)(9).

The Conference Committee Report cited by CMA in its comments also supports the view that Congress intended to apply to the standards of section 10(b)(9) to existing loyalty contracts:

A critical factor enabling the Conferees to agree on a more narrowly drawn general standard is the inclusion in this bill of numerous other provisions which address the nation's interest in competition in the ocean common carrier industry * * *. [T]he bill includes other specific and major procompetitive reforms that will affect the operation of ocean carriers and conferences—notably a strong requirement of independent action with a limited notice period and the elimination of conference authority to offer loyalty contracts (unless their use would not violate the antitrust laws).

¹ United States-flag members that are also members of the U.S. Flag Far East Discussion Agreement (Agreement No. 10050) have disassociated themselves from the comments of TPFCJ/K and J/KAG.

H.R. Rep. No. 98-600, 98th Cong., 2d Sess. 33-34 (1984) (emphasis added).

The Commission believes that the burden of proving the lawfulness of loyalty contracts in on the parties. Section 10(b)(9) prohibits the use of loyalty contracts "except in conformity with the antitrust laws." Generally, the one claiming the benefits of an exception to the prohibition of a statute has the burden of proof. *Federal Trade Commission v. Morton Salt Co.*, 334 U.S. 37, 44-45 (1948). The legislative history discussing the burden of proof with respect to agreements is inapposite. Agreements and loyalty contracts are given radically different treatment under the 1984 Act.

The Commission's reliance on the Business Review Letters is appropriate. If anything, the procedure adopted imposes a lesser burden on conferences than a literal reading of section 10(b)(9) might require. Carriers and conferences need only obtain a Business Review Letter stating that the Department of Justice does not intend to prosecute them for using the loyalty contract. Conferences and carriers are not required to demonstrate that use of their contracts would not in fact violate the antitrust laws.

We believe that the Commission's reliance on Business Review Letters works no unfairness on the carriers and conferences affected by it, given statutory requirements. The concerns of TPFC/J and J/KAG over "automatic" termination of contracts without hearing are unfounded. The rule simply does not provide for the "automatic" termination of loyalty contracts. Failure by the carriers and conferences to comply with the rule would require further action by the Commission under the 1984 Act. Such further action would necessarily afford the opportunity for any hearing required by law.

CMA would have the Commission waive the 90-day notice provision for termination of existing contracts. We are not satisfied that there is any basis upon which a Commission waiver could be granted. Nevertheless, the parties of course could mutually agree to waive notice and terminate the agreement on less than 90 days' notice.

In instances where the dual rate contract is to be terminated on September 18, 1984 or earlier, conferences and carriers are urged to make necessary tariff amendments, providing applicable statutory notice periods, to bring their tariff publications into conformity with the new law and the procedures provided by this Rule.

The Commission has carefully considered the comments to the Interim

Rule filed to date and, for reasons stated above, concludes that they do not warrant or require any change to the Rule. The Interim Rule will therefore become effective on June 18, 1984, as scheduled. This action is without prejudice to the filing of future comments by any interested person, including those whose comments are addressed herein, within the 60-day period originally provided in the May 17 Notice, i.e., by July 16, 1984.

By the Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 84-16127 Filed 6-13-84; 9:16 am]
BILLING CODE 6730-01-M

46 CFR Part 572

[Docket No. 84-26]

Rules Governing Agreements by Ocean Common Carriers and Other Persons Subject to the Shipping Act of 1984

AGENCY: Federal Maritime Commission.

ACTION: Interim rules.

SUMMARY: The Commission amends its interim rules governing agreements by ocean common carriers and other persons subject to the Shipping Act of 1984. These amendments are issued pursuant to the interim rulemaking authority provided in the Act. These amendments make changes in Subpart D with respect to those modifications to agreements which must be accompanied by the Information Form. The purpose of these amendments to Subpart D is to ensure that only those modifications to agreements which significantly reduce competition will be subject to the information requirements. These amendments make adjustments in several of the mandatory provisions of Subpart H. The purpose of these changes is to clarify the mandatory provisions. These amendments also make the completion of Part VII of the Information Form optional for the filing party. Finally, these amendments make certain technical corrections in the rules and Information Form.

DATE: Interim Rule amendments listed in this document are effective on June 18, 1984.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The Shipping Act of 1984, Pub. L. 98-237, 98 Stat. 67, 46 U.S.C. app. 1701-1720 (hereinafter referred to as "the Act" or "the 1984 Act") was signed into law on March 20, 1984 with an effective date of June 18, 1984. Section 17(b) of the Act (46 U.S.C. app. 1716(b)) authorizes the Commission to prescribe interim rules without adhering to the normal notice and comment procedures under the Administrative Procedure Act (5 U.S.C. 553). On May 29, 1984, pursuant to the authority under section 17(b), the Commission published interim rules implementing those provisions of the Act which govern agreements by ocean common carriers and other persons subject to the Act (49 FR 22296-22318). These interim agreements rules become effective on June 18, 1984. Interested persons were given 90 days from the date of publication in the Federal Register in which to comment on the interim rules. In addition, the supplementary information to the interim rules invited persons who believed that the interim rules created a serious problem which should be addressed prior to the effective date, to bring their concern to the attention of the Commission in writing without prejudice to subsequently filing additional comments within the 90-day comment period.

The Commission has received a number of comments on the interim rules and has carefully reviewed all of these comments. Some address matters which do not require attention at this time. The absence of discussion of any particular comment in connection with these amendments should not in any way be construed as a determination as to the merits of the comment. It merely reflects the Commission's judgment that the comment did not raise a matter of such urgency as to require immediate action. Consideration of these comments not of an emergency nature will be deferred until final rules are issued and the Commission has the benefit of a full record developed during the course of this proceeding.

Other comments, either in whole or in part, do raise questions which require clarification prior to June 18, 1984. Based on the comments received, the Commission has determined that certain adjustments to Subparts D and H of the interim rules and to Part VII of the Information Form are warranted at this time. These adjustments affect the information requirements for agreement modifications, certain mandatory

provisions, and the agreement benefits section of the Form, and are discussed more fully below. In addition, certain technical corrections are being made in the interim rules and the Form. Interested persons will have the opportunity to comment on these amendments to the interim rules, as well as the interim rules themselves, within the original 90-day comment period. Comments on the interim rules, as amended, should be received on or before August 27, 1984.

A. Amendments to Subpart D

1. *Section 572.402(e)(2)*. Section 572.402 generally sets forth the requirements as to form for all agreements except for marine terminal agreements and assessment agreements. Paragraph (e)(2), however, presently refers only to § 572.502 in prescribing format rules for the body of an agreement. In order to provide direction to all classes of agreements subject to format requirements, paragraph (e)(2) should also refer to § 572.501. This section therefore is being amended by adding a reference to § 572.501.

2. *Section 572.403(a)*. Subpart D of the interim rules, among other things, implements the information requirements under section 5 of the Act by requiring the filing of an Information Form with certain agreements. Section 572.403(a) provides that the Information Form must accompany a significant modification to certain agreements. Significant modifications, for the purpose of section 572.403(a), are those that may result in a reduction in competition. Section 572.403(a) presently states that:

Such modifications include, but are not limited to, changes in geographic scope, additions to the number of parties, reductions in service levels, changes in the allocations of pooled revenues or cargoes, or changes in pool penalty provisions or carrying charges.

All such modifications must be accompanied by the Information Form.

One comment refers to the definition of a significant modification in this section and contends, among other arguments, that the requirement that every significant modification to an existing agreement be accompanied by the Information Form is unduly burdensome.

One purpose of § 572.403(a) is to obtain needed information to review a modification to an agreement where such a modification may result in a significant reduction in competition. This purpose is clearly related to the standard of review set forth in section 6(g) of the Act. The Information Form would not be required where the

competitive consequences of an agreement modification are minor. For example, the addition of a single port to an agreement's geographic scope would not, in most cases, be likely to have a significant impact on competition. On the other hand, expansion of geographic scope to include an entire new port range may have such competitive impact as to be a significant modification.

The Commission, therefore, is amending section 572.403(a) to clarify that its purpose is to apply only to significant modifications. Agreements which would not generally be likely to have a significant competitive impact will thereby not be required to file the Information Form. In the case of those modifications where the Form is not required and an issue under the general standard is raised, the Commission would be able to obtain information through the request for additional information procedures as set forth in section 572.606. The Commission has not attempted to address all cases in which a modification would require the filing of the Information Form. If a filing party is uncertain as to whether a modification is significant within the meaning of this section, they may contact the Director, Bureau of Agreements and Trade Monitoring for clarification.

B. Amendments to Subpart H

Subpart H of the interim rules deals with certain transitional matters affecting existing agreements. In particular, § 572.801 of Subpart H establishes rules for assuring that existing agreements comply with the requirements for conference agreements set forth in section 5(b) of the Act. The mechanism for achieving compliance is the submission to the Commission of a telex followed by a letter, or a letter, evidencing the adoption by the conference of the mandatory provisions contained in this section (§§ 572.801(a) through 572.801(e)). A number of the comments recommended changes to the mandatory provisions of paragraphs (c), (d) and (e) of § 572.801 dealing, respectively, with consultation, shippers' requests and complaints, and independent action. As indicated in the following discussion, the Commission has determined to adopt some of the recommended changes or otherwise to make adjustments in the rules to accommodate concerns expressed in the comments.

1. *Section 572.801(c)*. This section sets forth a mandatory consultation provision for conference agreements as required by section 5(b)(6) of the Act. One comment suggests that the phrase "direct discussions" be deleted and

replaced with the phrase "direct communications." The reason offered for this change appears to be that a requirement of "direct discussions" is unduly burdensome on the conference. The Commission believes that there is merit in direct discussions between conferences and shippers and that such discussions are beneficial to the consultation process. The term "direct discussions" need not be limited to face-to-face meetings. Nor are such direct discussions intended to be the only means of consultation. Rather, it is intended that the consultation process shall provide an opportunity for such discussions. The Commission therefore is amending the first sentence of § 572.801(c) to state that the conference shall attempt to resolve the dispute in an amicable manner "with the opportunity for direct discussions with the disputant."

2. *Section 572.801(d)*. This section sets forth a mandatory provision establishing conference procedures for handling shippers' requests and complaints as required under section 5(b)(7) of the Act. A number of comments recommend changes to various aspects of this mandatory provision.

Section 572.801(d)(2) presently states that, upon submission, a complaint will be considered at the next conference meeting. Written notice is to be sent to the shipper who will have an opportunity to be heard at a conference meeting.

One comment states that the requirement for consideration of a request or complaint at the next conference meeting is unworkable because of the large number of complaints received and because requests are often submitted in incomplete form and require investigation before they may be properly considered. For the same reasons, the comment argues that granting a shipper a hearing before the conference would not be feasible. The comment also states that it is inefficient and burdensome to require the entire conference to consider a request or complaint.

The Commission believes that there are benefits in having shipper requests and complaints considered at a conference meeting and in providing shippers with an opportunity to be heard. Nevertheless, the Commission does not wish to unduly burden conference deliberations or impose inflexible requirements as to when a shipper matter must be considered.

The Commission therefore is amending the first sentence of § 572.801(d)(2) by deleting the

requirement that these matters be considered at the next meeting and stating that such matters shall be considered promptly. The Commission will also amend the third sentence of § 572.801(d)(2) to provide for an opportunity for hearing of a shipper matter by the chief executive officer of the conference if the shippers' request or complaint is denied. This provision will be relocated in § 572.801(d)(4) of this section. Finally, sentence two is being deleted in light of the other changes to this provision.

Section 572.801(d)(4) provides that conference decisions on shipper matters shall include a notice that the shipper may file a complaint with the Federal Maritime Commission. One comment on this provision states that such a notification requirement would change the nature of the process from commercial consultation to an adversarial proceeding. The Commission does not wish to require procedures which could have an adverse impact on the successful resolution of request or complaints. Moreover, in the absence of such a notice, shippers would still be likely to be aware of their rights under the 1984 Act. The Commission therefore is amending § 572.801(d)(4) by deleting the third sentence.

3. *Section 572.801(e)*. This section implements the statutory requirement specified in section 5(b)(8) of the Act through a mandatory independent action provision. A number of the comments recommend changes in this provision. Several of these recommended changes have merit in that they clarify the purpose of this provision or avoid results which were not intended by the Commission.

The first sentence of § 572.801(e) states that a party may take independent action "upon not more than 10 calendar days' notice to the conference." Several comments note that this language could be interpreted to allow independent action at any time less than 10 days. The comments note that the statute allows a conference to fix a specific notice period as long as it does not exceed 10 days. It was not the Commission's intention to preclude a conference from selecting any period of notice not up to 10 days. Therefore, the Commission is amending the first sentence of § 572.801(e) to permit conferences to insert a specific number of days not to exceed 10 calendar days for notice of independent action.

The third sentence of § 572.801(e) states that the conference shall file the rate or service item in its tariff for use by the member "Within 10 calendar days of the receipt of such notice." One

comment notes that this language could have the effect of extending the notice period beyond the statutory limit. The introductory clause in this sentence will therefore be deleted in order to remove this ambiguity.

The fourth sentence of § 572.801(e) provides for the adoption of an independent action rate or service item by other conference members. One comment suggests that this sentence could be construed as preventing another member from adopting an independent rate until the date the independent action becomes effective. This was not the Commission's intention. The Commission therefore will delete sentence four and replace it with a sentence which indicates that a member may adopt an independent rate or service item at any time following its announcement, effective on or after the effective date announced by the party taking independent action.

The sixth sentence of § 572.801(e) presently provides that a conference may regulate or prohibit member lines from unilaterally entering into service or time/volume contracts and may also regulate or prohibit a conference member from taking independent action on any service contract or time/volume contract offered by a conference. A number of the comments recommended changes in this sentence. One comment notes that the phrase "conference members" should read "the conference." The Commission agrees. Another comment suggested that this sentence should make clear the authority of the conference itself to enter into service contracts with shippers and shippers' associations. Sentence six shall be revised to clearly state the conference's authority in this regard, while retaining the concept that the negotiating and providing of service contracts is a matter which is exclusively within the conference's authority to control. The Commission is also deleting the reference to time/volume contracts in sentence six. This change is made necessary because in a separate rulemaking proceeding the Commission is no longer treating time/volume contracts as a separate category. Finally, the Commission is deleting the introductory clause of sentence six which states "Unless otherwise provided in this agreement" because it is unnecessary.

C. Amendments to the Information Form

1. *Information Form: Part VII Benefits of the Agreement*

Part VII of the Information Form contains questions which seek to elicit information regarding the benefits that may be expected to accrue to the

parties, to shippers, or to U.S. commerce generally from the operation of the agreement. This part is included in the Form so that the Commission, in its review of an agreement under the section 6(g) general standard, may consider increases in efficiency that may offset a reduction in competition. One comment objects to Part VII of the Information Form as an attempt to re-establish the public interest standard which was specifically removed by the 1984 Act. The Commission continues to believe that its interpretation of the Act and its legislative history supports the inclusion of Part VII in the Information Form. Assessment of such benefits is one element of a full analysis of an agreement under the general standard. Such an assessment, however, would come into play and would only be reached if it were first determined that the agreement would be likely to result in a substantial reduction in competition. Parties to agreements should certainly be able to demonstrate benefits to themselves and in most instances there would likely be benefit to shippers or to commerce generally. It would appear therefore that completion of Part VII of the Information Form would generally be to the advantage of parties filing agreements. Nevertheless, the Commission has determined to make completion of Part VII of the Form optional during the period of these interim rules and to defer a determination as to whether Part VII should be made mandatory or optional after the full comment period and an opportunity to gain operational experience with the Information Form. Should the information in Part VII be necessary in a particular case the Commission may obtain it through a request for additional information. Parties, of course, should be aware that this procedure would extend the waiting period before an agreement becomes effective. Appropriate changes are being made in the Information Form and accompanying instructions in order to indicate that completion of Part VII is optional.

2. *Information Form, Part IX(C)*

The first sentence of this part refers to a "Supplemental Agreement Filing Information Form." The correct term is "Information Form." This incorrect term is being deleted and replaced with the correct term in sentence one.

The rules of this part, as amended herein, become effective on June 18, 1984. Existing conference agreements subject to the Act shall achieve compliance with the requirements of section 5(b) of the Act by indicating their adoption of the mandatory

provisions specified in § 572.801, as amended herein, in the manner provided for in these rules.

List of Subjects in 46 CFR Part 572

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

PART 572—[AMENDED]

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), and sections 5, 6, and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1704, 1705 and 1716), the Federal Maritime Commission hereby amends Title 46, Code of Federal Regulations, Part 572, Subchapter D as follows:

1. In § 572.402, revise paragraph (e)(2) to read as follows:

§ 572.402 Form of agreements.

(e) * * *

(2) Following the Table of Contents, the body of the agreement setting forth the operative provisions of the agreement in the order prescribed by §§ 572.501 and 572.502. Any additional material provisions shall be set forth as consecutively numbered articles.

2. In § 572.403, revise paragraph (a) to read as follows and the introductory text of the sections is set out for the convenience of the reorder:

§ 572.403 Modification of agreements.

The requirements of this section apply to all agreements except for marine terminal agreements and assessment agreements.

(a) Agreement modifications shall be filed in accordance with the provisions of § 572.401, in the format specified in § 572.402 and this section; and accompanied by an Information Form. The Information Form shall be completed as it pertains to significant modifications of the agreement. Significant modifications, for the purposes of this section, are those that may result in a significant reduction in competition. Such modifications include, but are not limited to: significant changes in the geographic scope of conference, pooling or joint service agreements which expand the scope to cover additional foreign countries or U.S. port ranges; additions to the number of parties in pooling or joint service agreements; significant reductions in service levels; significant changes in pool penalty provisions or carrying charges.

3. § 572.801 is amended by revising paragraphs (c), (d) and (e) to read as follows:

§ 572.801 Mandatory provisions in existing conference agreements.

(c) *Consultation.* In the event of a controversy, claim, or dispute of a commercial nature arising out of or relating to this agreement or efforts to reduce or eliminate malpractices, the conference, its [chief executive officer or other designee] shall attempt to resolve the dispute in an amicable manner with the opportunity for direct discussions with the disputant. The services of third parties may be drawn from members of the conference or impartial outsiders, including use of the Commission's conciliation service provided for at 46 CFR 502.401-502.406. The means of invoking consultation shall be set forth in the conference tariff.

(d) *Shippers' Requests and Complaints.* (1) Shippers' requests and complaints may be made by filing a statement thereof with the [chief executive officer or in the case of an executive domiciled outside the United States, the designated U.S. representative.] Such statement shall be accompanied by a completed information sheet prescribed by the conference [chief executive officer]. The statement and information sheet shall be submitted promptly to each member of the conference.

(2) The shipper's request or complaint shall be promptly considered by the conference.

(3) Conference discussion and action on the shipper's request or complaint need not be restricted to the exact scope of the request or complaint and may include other matters varying from but related thereto. However, all such discussion and action must be authorized by the conference agreement.

(4) The conference shall render a decision on the request or complaint promptly after its initial submission to the conference membership. Such decision shall be in writing, signed by the conference [chief executive officer] and served upon the shipper. If the shipper's request or complaint is denied, the shipper shall be granted an early opportunity to be heard by the chief executive officer.

(5) The procedures for filing shippers' requests and complaints shall be set forth in the conference tariff.

(e) *Independent Action.* (1) Any party to this agreement may take independent action on any rate or service item required to be filed in a tariff pursuant to section 8(a) of the Shipping Act of 1984 (46 U.S.C. app. 1707(a)) upon [10 or

such lesser period as the conference may elect] calendar days' notice to the conference. The time period shall commence upon receipt by the conference, during normal business hours, of a written notice of a member's intention to exercise independent action. The conference shall file the rate or service item in its tariff for use by the member. At any time following the announcement of an independent action by a party to this agreement, any other conference member may elect to adopt the independent rate or service item, effective on or after the effective date announced by the party taking independent action, by providing written notice of such intention. If another member decides to adopt the independent rate, then the conference shall file the rate immediately on behalf of that member.

(3) The conference may enter into service contracts with shippers and shippers' associations and may regulate or prohibit its member lines from unilaterally entering into service contracts and may also regulate or prohibit any conference member from taking independent action on any service contract offered by the conference.

Appendix A [AMENDED]

4. Appendix A of Part 572 is amended as follows:

a. In Part VII of the Information Form after the title Benefits of the Agreement insert the following: (Optional):

b. In the Explanation and Instructions for Information Form revise the second paragraph to read as follows:

All agreements by or among ocean common carriers referenced in § 572.201 (excluding assessment agreements, marine terminal agreements and those agreements exempted from the filing of the Information Form pursuant to Subpart C of the rules) filed with the Commission must be accompanied by a completed Information Form, which in all cases necessitates the completion of Parts I, II, V, VI, VIII and IX. Completion of Part VII is optional.

c. In the Part by Part Explanation of the Information Form revise Parts VII (A) and (B) to read as follows:

Part VII(A)

Part VII(A) permits the filing party to indicate all benefits resulting from the agreement that will accrue principally to the parties as a result of the operation of the agreement. Such benefits may include increased operational efficiencies or other reductions in costs that result from the implementation of the agreement. Data that

are necessary to substantiate the specified benefits should be submitted.

Part VII(B)

Part VII(B) permits the filing party to indicate all benefits resulting from the agreement that will accrue to shippers and to U.S. commerce generally. Such benefits may include reduced rate levels or improved quality or frequency of service that result from the operation of the agreement. Data that are necessary to substantiate the specified benefits should be submitted.

d. In Part IX(C) of the Information Form, remove the words "Supplemental Agreement Filing Information Form" and in their place insert the words "Information Form."

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-16129 Filed 6-13-84; 9:17 am]

BILLING CODE 6730-01-M

46 CFR Part 580

[Docket No. 84-21]

Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States—Service Contracts and Time/Volume Contracts

AGENCY: Federal Maritime Commission.
ACTION: Interim rule.

SUMMARY: This amends the Interim Rule published on May 3, 1984 (49 FR 18849). This responds to comments which seek to have the Commission modify or eliminate its interim rule governing service contracts and time/volume rates prior to June 18, 1984, the effective date of the rule. The most critical change in the interim rule is the elimination of provisions for the filing of time/volume contracts. Other technical changes have been made where appropriate.

DATE: Interim Rule amendments listed in this document are effective on June 18, 1984.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523-5740.

SUPPLEMENTARY INFORMATION: On May 3, 1984, the Commission published in the Federal Register (49 FR 18849) an Interim Rule governing the use of service contracts and time/volume contracts to implement the provisions of the Shipping Act of 1984 (1984 Act) (46 U.S.C. app. 1701-1720). The Rule provided a 90-day comment period but advised interested parties that if serious problems were considered to be created

by this Interim Rule which required immediate attention, suggested amendments could be filed with the Commission without prejudice to the filing of additional comments within the 90-day period.¹ Emergency comments have been filed that are deemed to be significant enough to require amendments to the Interim Rule. Those comments which do not require amendment to the Interim Rule but which raise valid concerns requiring clarification also will be addressed.

A number of commentators took exception to the Commission's treatment of time/volume contracts separate from service contracts. Upon consideration of these comments, the Commission has determined not to recognize time/volume contracts as contracts distinct from service contracts. Accordingly, except for the inclusion of a savings provision concerning currently published time/volume contracts, all references to time/volume contracts have been deleted.

In lieu of separate treatment of time/volume contracts, a new section governing the publication of time/volume rates has been added. Time/volume rates contemplated by this new section *must vary* with the volume of cargo offered or freight revenues received and the tariff offering must remain unchanged for the duration of their application. This would not preclude a carrier or conference from publishing a separate time/volume rate covering the same commodity under different terms, including duration and rate level. This revised approach to service contracts and time/volume rates accommodates, without unnecessary regulation, contemporary commercial customs and practices.

The requirements for the publication of essential terms of service contracts in a tariff appendix and the cross-referencing to applicable commodities are deleted. This Rule now requires that the essential terms of a carrier's or conference's service contracts are to be published in one tariff format document, indexed as to commodities or other rate classifications (e.g., F.A.K. rates) covered, and cross-referenced by number to the applicable contracts. A reference must appear on the title page of tariffs covering trades in which service contracts have been executed advising tariff users of the existence of the service contract publication.

¹ This opportunity for comment was provided notwithstanding the fact that section 17(b) of the 1984 Act (46 U.S.C. app. 1716(b)) authorizes the Commission to publish interim rules without complying with the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553).

The definition of "service contract" has been modified to recognize that such contracts may be based upon the amount of revenue provided by the shipper as well as a specific minimum volume of cargo.

The definition of "geographic area" has been modified to delete the language indicating that cargo origination and destination points of intermodal movements will vary with the size of a particular country. It is the Commission's intention to allow the contracting parties maximum flexibility in designating the intermodal scope of their contracts. Such contracts may cover a broad area of inland points or may be as specific as the parties desire.

To ensure that the published essential term relating to the applicable contract rate is clear and unambiguous, the rule has been modified to make clear that a detailed specification of all applicable charges in addition to the basic contract rate is required. Charges may be specified by cross-reference to tariff charges. To give effect to the statutory requirement that "the essential terms shall be available to all shippers similarly situated," any charge not specified in the public document may not be assessed.

The requirement that the shipment records maintained to support contracts be identified has been deleted as a published essential term. It is now required to be stated only in the confidential contract on file with the Commission.

The provision dealing with the status of contract amendments has also been revised. It in effect provides that an amendment to a service contract does not terminate the contract but is subject to the filing and publication requirements. However, the Commission at this time rejects any suggestions that contracts may be retroactively amended.

In the event that a service-contract, essential-term summary does not comply with the requirements of the Interim Rule and must be rejected, it is now expressly provided that a clear statement of the reasons for rejection will be supplied and, where possible, accompanied by a suggested modification which, if made, will result in the acceptance of the filing. The Rule now also provides for the return of contracts which do not comport with the filed essential terms.

There has been some confusion regarding public availability of the essential terms of service contracts and their availability to similarly situated shippers. The Rule has been generally reorganized to clarify this point. The

essential terms of all service contracts are now to be included in summary form in tariff format publications on file with the Commission and open to inspection by the general public. Any and all persons interested in viewing or obtaining copies of such publications may do so, subject to the Commission's public information rules.

The Commission has also been requested to provide an explanation for the requirement that essential terms be available to similarly situated shippers for a period of no less than 30 days. A minimum period of availability of essential terms is considered necessary to allow shippers time to determine whether they are similarly situated to the contract shipper and afford them a reasonable opportunity to enter into a contract with the publishing carrier or conference on the same terms. This period also serves the carrier or conference by limiting the period during which they must make the contract available to other shippers. We believe this is appropriate and necessary when consideration is given to the commercial and operational variables inherent in a public offering of long term contracts. The 30-day minimum was established on the basis of experience gained under the prior time/volume contract regulation.

Objections were also expressed regarding the section requiring that any deviations from contract terms expressly contemplated by the contract be included as an essential term. It is argued that the Commission has no authority to impose any essential terms other than those set forth in the Act. Without determining whether the statute actually prohibits the Commission from requiring the publication of terms beyond those specified in the statute, the publication requirements required by this section are not separate from the basic terms stated in the statute. Rather they are provisions which explain and refine underlying statutorily required essential terms. They are stated separately merely for purposes of clarity and organization. This section provides a means by which contracting parties may, by providing for specific operational contingencies in their contracts, protect themselves from unforeseen exigencies in a manner consistent with the Act's requirements. This should not be interpreted, however, as permitting, as some have urged, "retroactive" adjustments or adjustments not specifically contemplated by the contract.

Certain requirements regarding form and filing of contracts and essential terms have been added to ensure

confidentiality in transmittal and to facilitate handling by Commission staff.

The Commission has fully considered all comments and, as a result, is making the above-discussed adjustments to the rule deemed necessary at this time. Any comment not presently addressed or incorporated will nonetheless be considered further by the Commission prior to the adoption of a Final Rule.

Finally, in light of the administrative difficulties and possible commercial disruptions that may result from our present procedure requiring the rejection of unacceptable essential terms, the Commission is, in lieu thereof, considering requiring service contracts and their essential terms to be filed 30 days prior to their effective date. Interested parties are requested and urged to comment on this proposal in any further comments filed in this proceeding due by August 1, 1984.

List of Subjects in 46 CFR Part 580

Cargo, Cargo vessels, Exports, Harbors, Imports, Maritime carriers, Rates and fares, Reporting and recordkeeping requirements, Water carriers, Water transportation.

PART 580—[AMENDED]

Therefore, pursuant to 5 U.S.C. 553 and sections 8 and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1707 and 1716), Title 46, CFR Part 580 (formerly Part 536) is amended as follows:

1. Revise § 580.7 to read as follows:

§ 580.7 Filing of service contracts, time/volume rates, and the publication of essential terms.

(a) *Definitions.* The following definitions shall apply for purposes of this section:

(1) "Contract party" means a party signing a contract as shipper or ocean common carrier and any parent, subsidiary, or other related company or entity including the membership of any shippers' association, conference, or agreement who may engage in the shipment of commodities in the trade covered by the contract.

(2) "Geographic area" means the general location from which or to which contract cargo will move in intermodal service.

(3) "Port range" means those ports in the countries of loading or unloading of the contract cargo that are regularly served by the contracting carrier or conference, as specified in the tariff applicable to the service in which the contract is to be employed, even if the contract itself contemplates use of but a single port within that range.

(4) "Service contract" means a contract between a shipper or a

shippers' association and an ocean common carrier or conference in which the shipper makes a commitment to provide a certain minimum quantity of cargo or freight revenue over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule as well as a defined service level—such as, assured space, transit time, port rotation, or similar service features; the contract may also specify provisions in the event of nonperformance on the part of either party.

(5) "Shipper" means an owner or person for whose account the ocean transportation of cargo is provided or the person to whom delivery is to be made.

(6) "Time/volume rate" means a freight rate published in a tariff which must vary with the volume of cargo offered or freight revenues received over a specified period of time.

(b) *Contract Filing Requirements.* Except for contracts relating to bulk cargo, forest products, recycled metal scrap, waste paper, or paper waste, every ocean common carrier and conference that enters into a service contract with a shipper or shippers' association shall file with the Director, Bureau of Tariffs, as specified in paragraph (e) of this section, a true and complete copy of each contract prior to its effective date. Such contract shall clearly state:

- (1) The contract parties;
- (2) The essential terms;
- (3) A contract number bearing the prefix "SC";
- (4) The applicable governing publication in which the essential terms have been published; and
- (5) An identification of the shipment records which will be maintained to support the contract.

(c) *Confidentiality.* All service contracts filed with the Commission will, to the full extent permitted by law, be held in confidence.

(d) *Contract Amendments.* Amendments to contracts on file with the Commission shall be treated as new contracts for purposes of the filing and publication requirements of this section. No new contract may retroactively modify the terms or effects of a previously filed contract.

(e) *Transmittal of Service Contracts.* Service contracts are to be filed in single copy contained in double envelopes and contain no other material. A double envelope is an envelope within an envelope. The outer envelope is to be addressed to the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573. The inner

envelope is to be sealed, contain only the executed contract(s) and have protective markings, "This Envelope Contains a Confidential Service Contract." The top of each page of a filed service contract shall be stamped "Confidential".

(f) *Return of Contracts.* Service contracts which contain provisions not substantiated by the referenced essential terms will be returned to the filing party. Implementation of contracts which are not supported by essential terms are unlawful and their use prohibited under this part.

(g) *Publication of Essential Terms.*

(1) The essential terms of all service contracts shall be filed with the Commission and be made available to the general public in tariff format. The essential terms shall be available to all shippers or shippers' associations similarly situated under the same terms and conditions for a specified period of no less than thirty (30) days from the date of filing.

(2) The essential terms shall include, where applicable, the following:

(i) The origin and destination port ranges in the case of port-to-port movements, and the origin and destination geographic areas in the case of through intermodal movements;

(ii) The commodity or commodities involved;

(iii) The minimum quantity of cargo or freight revenue necessary to obtain the rate or rate schedule;

(iv) The contract rate, rates, or rate schedule, including any additional or other charges (*viz.* surcharges, terminal handling charges, etc.) that apply;

(v) The effective date, period, and expiration date of the contract;

(vi) Carrier or conference service commitments;

(vii) Liquidated damages for nonperformance, if any; or where the volume requirement will not be met during the contract period in situations other than those described in paragraph (g)(2)(viii) of this section, the rate, charge, or rate basis which will be applied;

(viii) A clear description of any circumstance which will permit:

(A) A reduction in the quantity of cargo or amount of revenues required under the contract,

(B) An extension of the contract period without any change in the contract rate or rate schedule,

(C) A discontinuance of the contract, or

(D) Other deviations from the terms of the contract.

(h) *Form and Filing of Essential*

Terms. (1) Each carrier or conference shall summarize the essential terms of

service contracts it has executed in a governing publication on file with the Commission.

(2) The form and manner requirements applicable to governing tariffs shall apply to the essential terms publication. In addition such publication shall include an index of the commodities covered by the service contracts in alphabetical order.

(3) All essential terms filings shall be printed on yellow paper using black ink.

(4) The essential terms of each service contract shall bear a cross-reference to its respective contract number, e.g., when a service contract is filed bearing "SC No. 10," the Essential Terms provisions shall also be marked as "SC No. 10."

(5) Tariffs of general applicability shall be cross-referenced on their title pages to a carrier's or conference's essential terms publication.

(i) *Transmittals of Essential Terms Publications.* Publications containing the essential terms of service contracts shall be transmitted to the Commission with an accompanying transmittal letter in an envelope which contains only matter relating to essential terms. The envelope and the inside address on the transmittal letter are to be addressed to the "Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573."

(j) *Rejection of Essential Terms.* Within 15 days of filing, the Commission may reject the essential terms for any service contract for failure to conform to the requirements of this section. Any such rejection will be accompanied by a specification of the reasons therefor and a statement of modification necessary to cure such infirmities.

(k) *Resident Agent.* Every common carrier and conference shall designate a resident representative in the United States who shall maintain contract shipment records for a period of five years from the completion of each contract.

(l) *Time/Volume Rates.* (1) Time/volume rates may be offered by common carriers by water or conferences in the regular conduct of their common carrier services. All rates, charges, classifications, rules and practices concerning time/volume rates must be published in an applicable tariff on file with the Commission and remain in effect without amendment for the term specified. Shippers utilizing time/volume rates must give notice to the offering carrier of their enrollment prior to tendering any shipments under such arrangement. A record of such notices shall be maintained by the offering carrier.

(2) Any contract with respect to a time/volume rate entered into prior to June 18, 1984, pursuant to 46 CFR 580.7 in effect on that date shall be permitted to remain in effect for the duration of the term specified in the contract or until June 17, 1985, whichever shall first occur.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-16126 Filed 6-13-84; 9:14 am]

BILLING CODE 6730-01-M

46 CFR Part 580

[General Order 13, Revised, Docket No. 84-24]

Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Interim Rule.

SUMMARY: This amends the Commission's Interim Foreign Tariff Rule published on May 23, 1984 by (1) correcting an administrative error, i.e., changing in the exempt commodity group, the phrase "recyclable metal scrap" to "recycled metal scrap"; and (2) reinstating the provision allowing for the filing of "project rates."

DATE: Interim Rule will become effective on June 18, 1984.

FOR FURTHER INFORMATION CONTACT: Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5796.

SUPPLEMENTARY INFORMATION: On May 23, 1984, the Commission published in the *Federal Register* (49 FR 21713-21717) an Interim Rule and Request for Comments to revise its tariff filing regulations (46 CFR Part 536, redesignated as Part 580) to the extent necessary to implement certain provisions of the Shipping Act of 1984, Pub. L. 98-237, 98 Stat. 67 (46 U.S.C. app. 1701-1720).

Two commentors, Sea-Land Service, Inc., (Sea-Land) and the "8900" Lines Rate Agreement (8900 Lines) have filed emergency comments requesting certain changes be made to the Interim Rule prior to its June 18, 1984, effective date.

The Shipping Act of 1984 provides that certain commodities will be exempt from tariff filing regulations. Sea-Land points out that the interim rule term "recyclable metal scrap" (46 CFR 536.1(a)) was incorrectly stated. Since section 18(a)(1) of the 1984 Act provides that "recycled metal scrap" is the

commodity group exempted from tariff filing requirements, the Commission is amending section 580.1(a) to correct this inadvertent error.

In its interim rule (46 CFR 536.6(o)(2)), the Commission deleted tariff filing regulations relating to "project rates" because such rates appeared to be subsumed by regulations relating to service contracts.

The 8900 Lines urge that project rates are not so subsumed. At this stage, we are not convinced that the deletion of tariff filing provisions for project rates should be made. To the extent that project rates are not the result of a service contract negotiated between a carrier or conference and a shipper as defined in this part, such rates shall continue to be filed in the tariff.

List of Subjects in 46 CFR Part 580

Cargo, Cargo vessels, Exports, Harbors, Imports, Maritime carriers, Rates and fares, Reporting and recordkeeping requirements, Water carriers, Water transportation.

Therefore, pursuant to 5 U.S.C. 553; and sections 4, 5, 6, 10, 15, 16, and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1703-1705, 1709, and 1714-1716), Part 580 (formerly Part 536) of Title 46 of the Code of Federal Regulations is amended as follows:

PART 580—PUBLISHING AND FILING TARIFFS BY COMMON CARRIERS IN THE FOREIGN COMMERCE OF THE UNITED STATES

1. In § 580.1, revise paragraph (a) to read as follows:

§ 580.1 Exemptions and exclusions.

(a) This part does not apply to bulk cargo, forest products, recycled metal scrap, waste paper and paper waste.

2. In § 580.6, add a new paragraph (o)(2) to read as follows:

§ 580.6 Statement of rates and charges.

(o)
(2) Project rates may be placed in a special section of the tariff. Provided, however, That the Table of Contents or Commodity Index contains a specific reference to "Project Rates."

By the Commission.
Francis C. Hurney,
Secretary.

[FR Doc. 84-16128 Filed 6-13-84; 9:15 am]
BILLING CODE 6730-01-M

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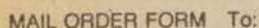
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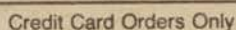
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