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Thursday,
August 2, 1984

Selected Subjects

Administrative Practice and Procedure
Federal Communications Commission
Federal Grain Inspection Service

Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Authority Delegations (Government Agencies)
Agriculture Department

Aviation Safety
Federal Aviation Administration

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Income Taxes
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Motor Vehicle Safety
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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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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority from the Secretary of Agriculture and general officers of the Department to reflect the transfer of certain functions from the Inspector General to the Assistant Secretary for Administration and the Director, Office of Personnel and to reflect personnel responsibilities for the National Finance Center.

EFFECTIVE DATE: August 2, 1984.

FOR FURTHER INFORMATION CONTACT: Lawrence S. Cavallaro, Chief, Employee Appeals Staff, Office of Personnel, U.S. Department of Agriculture, Washington, D.C., (202) 447–7467.

SUPPLEMENTARY INFORMATION: The delegations of authority of the Department of Agriculture are revised to reflect the transfer of responsibility for administering the contracts for investigations of Equal Employment Opportunity complaints from the Inspector General to the Assistant Secretary for Administration and the Director, Office of Personnel. In addition, the delegations of authority are changed to show that the National Finance Center is responsible for providing its own personnel services.

This rule relates to internal management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, and this is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegation (Government Agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise stated.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development and Assistant Secretaries

2. Section 2.25 is amended by adding a new paragraph (e)(15) as follows:

§ 2.25 Delegations of authority to the Assistant Secretary for Administration.

* * * * *

(e) * * *

(15) Administer the contracts for the investigation of USDA EEO Complaints.

* * * * *

Subpart J—Delegations of Authority by the Assistant Secretary for Administration

3. Section 2.78 is amended by adding a new paragraph (a)(27) and by revising paragraph (a)(13)(iii) to read as follows:

§ 2.78 Director, Office of Personnel.

(a) * * *

(13) * * *

(iii) The offices and agencies reporting to the Assistant Secretary for Administration, except the National Finance Center; and

* * * * *

(27) Administer the contracts for the investigation of USDA EEO Complaints.

* * * * *

For Subpart C.

Richard E. Lyng,

Acting Secretary of Agriculture.

For Subpart J.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 84–20465 Filed 8–1–84; 8:45 am]
BILLING CODE 3410–01–M

Federal Grain Inspection Service

7 CFR Part 800

Conditions For Obtaining or Withholding Official Services; and Delegations, Designations, Approvals, and Contractual Arrangements

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) is publishing, without change as a final rule, a proposed rule published in the **Federal Register** on April 3, 1984, (49 FR 13148), in which certain changes were made to the regulations under the United States Grain Standards Act, as amended (Act), concerning Conditions for Obtaining or Withholding Official Services; and Delegations, Designations, Approvals, and Contractual Arrangements. The changes involve rewriting, revising, and reorganizing these regulations to simplify, clarify, and condense certain language; and promote a better understanding of policy and procedure.

In addition, as mandated by changes in the Act, other changes allow additional eligible States to be delegated, and to include automatic termination of a delegation or designation when user fees are not paid within 30 days of the due date.

EFFECTIVE DATE: September 4, 1984.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information and Resources Management Branch, Resources Management Division, USDA, FGIS, Room 0667 South Building, 14th Street and Independence Ave., SW., Washington, D.C. 20250, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as "nonmajor" because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because: (a) It applies to a limited number of (1) States and private grain inspection and weighing agencies which are delegated or designated under the Act, (2) scale testing and certification organizations, and (3) persons under contract with the Service; all of which are not considered to be small entities because they are dominant in their area of operation; (b) most users of the inspection and weighing services do not meet the requirements for small entities; and (c) this action poses no new or additional duties or obligations to business entities involved in the loading, weighing, handling, or sampling of grain.

Information Collection and Recordkeeping Requirements

The information collection and recordkeeping requirements contained in this final rule have been approved by the Office of Management and Budget under control numbers 0580–0003 and 0580–0006.

Regulations Review

In compliance with the requirement for periodic review of existing regulations, FGIS reviewed and proposed certain changes to the regulations (7 CFR 800.45–800.52 and 800.195–800–208) regarding Conditions for Obtaining or Withholding Official Services; and Delegations, Designations, Approvals, and Contractual Arrangements in the April 3, 1984, issue of the **Federal Register** (49 FR 13148). Comments were to be submitted by June 4, 1984.

Two organizations commented on the proposed changes to the regulations. One suggested using the National Bureau of Standards Accreditation Program instead of the FGIS Scale Testing and Certification Program. The commentor also recommended that FGIS use a trade association which does laboratory accreditations as a source of persons that may be interested in contracting to provide certain inspection services. The second organization agreed with the proposed changes.

FGIS has been working closely with a National Bureau of Standards task group on accreditation systems and will utilize these systems as appropriate. Additionally, an FGIS contracting for certain inspection services would be based upon competitive bidding as necessary and appropriate Departmental procedures would have to be followed.

FGIS is publishing as final rule the text of the proposed rule without change.

The review included a determination of the continued need for and consequences of the regulations. An objective of the review was to ensure that the language of the regulations is clear and that the regulations are consistent with FGIS policy and authority. FGIS has determined that, in general, these regulations are serving their intended purpose, are consistent with FGIS policy and authority, and should remain in effect. FGIS, however, is amending §§ 800.45–800.52 and §§ 800.195–800.208.

Section 800.46 contained requirements for obtaining official services. Sections 800.195–800.208 also contained provisions regarding conditions for obtaining official services (approval of weighing facilities). FGIS is consolidating all the provisions for obtaining official services in § 800.46.

In addition, FGIS is amending the following sections:

(a) *Section 800.45, Availability of official services,* by (1) clarifying and condensing language; (2) eliminating superfluous references to U.S. grain in Canadian ports; (3) combining language regarding inspection, sacked grain, and weighing; and (4) restructuring the section as: Original inspection and weighing services; Reinspection, review of weighing, and appeal inspection services; and Proof of authorization.

(b) *Section 800.46, Requirements for obtaining official services,* by (1) clarifying and condensing language, and adding representative samples as a condition for accessibility, and (2) including present §§ 800.116 (a) and (b), 800.126 (a) and (b), and 800.136 (a) and (b) provisions for completing application forms in § 800.46(b)(8).

(c) *Section 800.47, Withdrawal of request for official sevices,* by (1) clarifying and condensing language; (2) eliminating subparagraph (b) which already appears in § 800.51; and (3) restructuring so there are no subparagraphs.

(d) *Section 800.48, Dismissal of request for official services,* by (1) clarifying and condensing language; (2) restructuring subparagraph (a) to read *General, Original services, Reinspection and appeal inspection services, and Review of weighing services;* and (3) including provisions for dismissing requests for official services presently contained in §§ 800.17, 800.127, and 800.137 of the regulations.

(e) *Section 800.49, Conditional withholding of official services,* by clarifying and condensing language.

(f) *Section 800.50, Refusal of official services,* no change.

(g) *Section 800.51, Expenses of agency, field office, or Board of Appeals and Review,* by clarifying and condensing language.

(h) *Section 800.52, Official services not to be denied,* no change.

The amendment to §§ 800.195–800.208 involves reorganizing the sections by subject. Thus, the four subject topics, *Delegations, Designations, Approvals, and Contracts,* are each addressed in a separate section.

In addition, FGIS is revising the following sections:

(a) *Section 800.195* is amended by changing the heading to read *Delegations,* condensing language, and including pertinent provisions contained in §§ 800.71, 800.200, 800.201(a), 800.202(a), 800.204, 800.206(a), 800.207, and 800.208. Other changes include incorporating recent amendments to the Act. The Agriculture and Food Act of 1981, (Pub. L. 97–98, 95 Stat. 1213, December 22, 1981), amended Section 7(e) of the Act to allow additional eligible States to be delegated. Prior to the amendment, only State agencies that were performing official inspection at export port locations under the Act on July 1, 1976, and were qualified and met the criteria in section 7 (f)(1)(A) of the Act, could be delegated.

The amendment to the Act provides for delegation of additional States which (1) were performing official inspection at an export port location at any time prior to July 1, 1976; (2) were designated under section 7(f) of the Act on December 22, 1981; and (3) operate in a State from which total annual grain exports do not exceed, as determined by the Administrator, 5 percent of the total amount of grain exported from the United States annually. FGIS is addressing this new provision in § 800.195(c).

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, August 13, 1981), amended sections 7(j) and 7A(1) of the Act by providing for automatic termination of a delegation for failure to pay user fees within 30 days after the date due. The amendment also provides for reinstatement of the delegation upon

payment of the fees plus late payment penalties. These provisions have already been included in § 800.71. FGIS is addressing these provisions in § 800.195(g).

FGIS also is changing the description of the responsibility assigned to a delegated State from either the switching limits, or the area within a 25-mile radius, to providing official services to export elevators at export port locations in the State (see § 800.195(f)(1)). This alleviates any confusion caused when a request for service is made at an export port location by a nonexport elevator within these limits.

Section 800.195 also is revised to provide for: (1) Rotation of licensees, where feasible, among elevators and other facilities as is necessary to preserve the integrity of the official inspection and weighing systems; (2) prohibiting delegated States or their employees from engaging in any outside work or activity that consists, in whole or in part, of performing unofficially any function or related activity they perform officially; and (3) a statement of the responsibility to adhere to the conflict-of-interest provisions of the Act and regulations. These provisions are part of the delegation of authority signed by each delegated State and FGIS has included them in § 800.195(f). Further revision provides explicitly for Class Y weighing at export elevators at export port locations. FGIS has provided Class Y weighing at export elevators at export locations since November 24, 1980. FGIS is including these provisions in § 800.195(a).

(b) *Section 800.196* is revised by changing the heading to read *Designations*, expanding certain language, and clarifying and condensing other language including pertinent provisions contained in §§ 800.200, 800.200(a), 800.201(b), 800.203, 800.205, 800.206(b), 800.207, and 800.208, and by incorporating an amendment to the Act by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, August 13, 1981). The Omnibus Budget Reconciliation Act amended sections 7(j) and 7A(1) of the Act by providing for automatic termination of a designation for failure to pay user fees within 30 days after due. The amendment also provides for reinstatement of the delegation upon payment of the fees plus late payment penalties. These provisions are already in § 800.71. FGIS is addressing these new provisions in § 800.196(h)(2).

FGIS is deleting the requirement that file copies of official certificates be carbon copies. This will allow designated agencies to use microrecords to maintain copies of official certificates.

Section 800.196 also is revised to provide for: (1) Rotating agency licensees, where feasible, among elevators and other facilities as is necessary to preserve the integrity of the official inspection and weighing systems; (2) prohibiting designated agencies, or their employees, from engaging in any outside work or activity that consists, in whole or in part, or performing unofficially any function or related activity they perform officially; and (3) a statement of the responsibility of agencies to adhere to the conflict-of-interest provisions of the Act and regulations. These provisions are part of the designation agreement signed by each agency, and FGIS is including them in § 800.196(g).

(c) *Section 800.197*, is revised by changing the heading to read *Approval* of scale testing and certification organizations, clarifying and condensing language, and including pertinent provisions contained in §§ 800.200, 800.201(c), and 800.208. Other changes include requiring State and local governmental agencies, which want to perform scale testing and certification under the Act and are not already approved, to request approval. Before the revision, the regulations (§ 800.198(c)) granted automatic approval to State and local governmental weights and measures organizations operating on September 29, 1977. A request for approval was not required. Automatic approval was included to ensure that there would be no lapse in scale testing and certification services, for purposes of the Act, when the initial regulations were implemented.

FGIS evaluated and approved several State organizations to perform scale testing and certifying for Class X and Class Y weighing. Since the initial approval process is over, exemption for State and local governmental scale testing and certification organizations is no longer needed. FGIS is deleting the exemption provisions and will require that a request be submitted.

Furthermore, State and local governmental scale testing and certification organizations which were operating on September 29, 1977, are subject to the termination of approval provisions. These organizations were exempted from the termination of approval provisions in conjunction with their exemption from the application provisions previously discussed. Approvals of scale testing and certification organizations do not have a termination date but are subject to termination for cause. FGIS is deleting exemption in § 800.201(c).

(d) *Section 800.198*, is amended by changing the heading to read Contracts, adding language in § 800.196(d), redefining the types of services that FGIS may contract, and including pertinent provisions contained in §§ 800.200, 800.201(d), and 800.202(d).

(e) *Section 800.199*, is amended by changing the heading to read *Conflict of interest* and adding pertinent language in § 800.196(e).

(f) Sections 800.200–800.208, is deleted and the provisions moved to sections 800.45–800.52, and 800.195–800.199 as described above.

List of Subjects in 7 CFR Part 800

Administrative practices and procedure, Export, Grain.

PART 800—GENERAL REGULATIONS

Accordingly, Part 800 is amended by:

1. Revising §§ 800.45–800.49, to read as follows:

Conditions for Obtaining or Withholding Official Services

§ 800.45 Availability of official services.

(a) *Original inspection and weighing services.* Original inspection and weighing services on grain are available according to this section and §§ 800.115 through 800.119, when requested by an interested person.

(b) *Reinspection, review of weighing, and appeal inspection services.* Reinspection, review of weighing, appeal inspection, and Board appeal inspection services are available when requested by an interested person, according to §§ 800.125 through 800.130 and §§ 800.135 through 800.140.

(c) *Proof of authorization.* If an application for official services is filed by a person representing the applicant, the agency or the field office receiving the application may require written proof of the authority to file the application. (Approved by the Office of Management and Budget under control number 0580–0003)

§ 800.46 Requirements for obtaining official services.

(a) *Consent and agreement by applicant.* In submitting a request for official services, the applicant and the owner of the grain consent to the special and general requirements specified in paragraphs (b) and (c) of this section. These requirements are essential to carry out the purposes or provisions of the Act.

(b) *General requirements*—(1) *Access to grain.* Grain on which official services

are to be performed shall, except as provided in §§ 800.85, 800.86, 800.98, and 800.99, be made accessible by the applicant for the performance of the requested official service and related monitoring and supervision activities. For the purposes of this section, grain is not "accessible" if it is offered for official services (i) in containers or carriers that are closed and cannot, with reasonable effort, be opened by or for official personnel; (ii) when any portion is located so as to prohibit the securing or a representative sample; or (iii) under conditions prescribed in the instructions as being hazardous to the health or safety of official personnel.

(2) *Working space.* When official services are performed at an elevator, adequate and separate space must be provided by the applicant for the performance of the requested service and related monitoring and supervision activities. Space will be "adequate" if it meets the space, location, and safety requirements specified in the instructions.

(3) *Notice of changes.* The operator of each facility at which official services are performed must notify the appropriate agency or field office promptly, in full detail, of changes in the grain handling and weighing facilities, equipment, or procedures at the elevator that could or would affect the proper performance of official services.

(4) *Loading and unloading conditions.* As applicable, each applicant for official services must provide or arrange for suitable conditions in the (i) loading and unloading areas and the truck and railroad holding areas; (ii) gallery and other grain-conveying areas; (iii) elevator legs, distributor, and spout areas; (iv) pier or dock areas; (v) deck and stowage areas in the carrier; and (vi) equipment used in loading or unloading and handling the grain. Suitable conditions are those which will facilitate accurate inspection and weighing, maintain the quantity and the quality of the grain that is to be officially inspected or weighed, and not be hazardous to the health and safety of official pesonnel, as prescribed in the instructions.

(5) *Timely arrangements.* Requests for official service shall be made in a timely manner; otherwise, official personnel may not be available to provide the requested service. For the purpose of this paragraph, "timely manner" shall mean not later than 2 p.m., local time, of the preceding business day.

(6) *Observation of activities.* Each applicant for official services must provide any interested person, or his agent, an opportunity to observe sampling, inspection, weighing, and loading or unloading of grain. Appropriate observation areas shall be mutually defined by the Service and facility operator. The areas shall be safe and shall afford a clear and unobstructed view of the performance of the activity, but shall not permit a close over-the-shoulder type of observation by the interested person.

(7) *Payment of bills.* Each applicant, for services under the Act, must pay bills for the services according to §§ 800.70 through 800.73.

(8) *Written confirmations.* When requested by the agency or field office, verbal requests for official services shall be confirmed in writing. Each written request shall be signed by the applicant, or the applicant's agent, and shall show or be accompanied by the following information: (i) The identification, quantity, and specific location of the grain; (ii) the name and mailing address of the applicant; (iii) the kind and scope of services desired; and (iv) any other information requested by the agency or field office.

(9) *Names and addresses of interested persons.* When requested, each applicant for official services shall show on the application form the name and address of each known interested person.

(10) *Surrender of superseded certificates.* When a request for official service results in a certificate being superseded, the superseded certificate must be promptly surrendered.

(11) *Recordkeeping and access.* Each applicant for official services must comply with applicable recordkeeping and access-to-facility provisions in §§ 800.25 and 800.26.

(12) *Monitoring equipment.* Owners and operators of elevators shall, upon a finding of need by the Administrator, provide equipment necesary for the monitoring by official personnel of grain loading, unloading, handling, sampling, weighing, inspection, and related activities. The finding of need will be based primarily on a consideration of manpower and efficiency.

(c) *Special requirements for official Class X and Class Y weighing services*—(1) *General.* Weighing services shall be provided only at weighing facilities which have met the conditions, duties, and responsibilities specified in section 7A(f) of the Act and this section of the regulations. Weighing services will be available only in accordance with the requirements of § 800.115(b). Facilities desiring weighing services should contact the Service in advance to allow the Service time to determine if the facility complies with the provisions of the Act and regulations.

(2) *Conditions.* The facility shall provide the following information annually to the Service: (i) The facility owner's name and address; (ii) the facility operator's name and address; (iii) the name of each individual employed by the facility as a weigher and a statement that each individual: (A) Has a technical ability to operate grain weighing equipment and (B) has a reputation for honesty and integrity; (iv) a blueprint or similar drawing of the facility showing the location of: (A) The loading, unloading, and grain handling systems; (B) the scale systems used or to be used in weighing grain; and (C) the bins and other storage areas; (v) the identification of each scale in the facility that is to be used for weighing grain under the Act; (vi) the following information regarding automated data processing systems: (A) Overall system intent, design, and layout; (B) make, model, and technical specifications of all hardware; (C) description of software, language used, and flow charts of all programs, subprograms, routines, and subroutines; and (D) complete operating instructions; and (vii) any other information deemed necessary to carry out the provisions of the Act.

If a facility has, or plans to have, an automated data processing system which is used in conjunction with any portion of the scale system, grain handling system, or the preparing or printing of official weight certificates, the facility shall make available to the Service sufficient documentation to ensure that the system cannot be used deceptively or otherwise provide inaccurate information. The Service or approved scale testing and certification organization shall conduct an onsite review to evaluate the performance and accuracy of each scale that will be used for weighing grain under the Act, and the performance of the grain loading, unloading, and related grain handling equipment and systems.

(3) *Duties and responsibilities of weighing facilities requesting official services*—(i) *Providing official services.* Upon request, each weighing facility shall permit official weighing services to be performed promptly.

(ii) *Supervision.* Each weighing facility shall supervise its employees and shall take action necessary to assure that employees are performing their duties according to the Act, regulations, and instructions and are not performing prohibited functions or are not involved in any action prohibited by the Act, regulations, and instructions.

(iii) *Facilities and equipment*—(A) *General.* Each weighing facility shall

obtain and maintain facilities and equipment which the Service determines are needed for weighing services performed at the facility. Each facility shall operate and shall maintain each scale system and related grain handling system used in weighing according to instructions issued by the manufacturer and by the Service. A scale log book for each approved scale used for official weighing services shall be maintained according to instructions at each weighing facility.

(B) *Malfunction of scales.* Scales or scale systems that are operating in other than a correct and approved manner shall not be used for weighing grain under the Act. Before the malfunctioning scale or scale system can be used again for weighing grain under the Act, it shall be repaired and determined to be operating properly by the Service or approved scale testing and certification organization.

(iv) *Oral directives.* FGIS oral directives issued to elevator personnel shall be confirmed in writing upon request by elevator management. Whenever practicable, the Service shall issue oral directives through elevator management officials.

(Approved by the Office of Management and Budget under control number 0580–0003.)

§ 800.47 Withdrawal of request for official services.

An applicant may withdraw a request for official services any time before official personnel release results, either verbally or in writing. See § 800.51 for reimbursement of expenses, if any.

§ 800.48 Dismissal of request for official services.

(a) *Conditions for dismissal*—(1) *General.* An agency or the Service shall dismiss requests for official services when (i) § 800.78 prohibits the requested service; (ii) performing the requested service is not practicable; (iii) the agency or the Service lacks authority under the Act or regulations; or (iv) sufficient information is not available to make an accurate determination.

(2) *Original services.* A request for original services shall be dismissed if a reinspection, review of weighing, appeal inspection, or Board appeal inspection has been performed on the same lot at the same specified service point within 5 business days.

(3) *Reinspection, appeal inspection, or Board appeal inspection services.* A request for a reinspection, appeal inspection, or Board appeal inspection service shall be dismissed when: (i) The kind and scope are different from the kind and scope of the last inspection service; (ii) the condition of the grain has undergone a material change; (iii) the request specifies a representative file sample and a representative file sample is not available, (iv) the applicant requests that a new sample be obtained and a new sample cannot be obtained; or (v) the service cannot be performed within 5 business days of the date of the last inspection date.

(4) *Review of weighing services.* A request for review of weighing services shall be dismissed when the request (i) is filed before the weighing results have been released, or (ii) is filed more than 90 calendar days after the date of the original service.

(b) *Procedure for dismissal.* When an agency or the Service proposes to dismiss a request for official services, the applicant shall be notified of the proposed action. The applicant will then be afforded reasonable time to take corrective action or to demonstrate there is no basis for the dismissal. If the agency or the Service determines that corrective action has not been adequate, the applicant will be notified again of the decision to dismiss the request for service, and any results of official services shall not be released.

§ 800.49 Conditional withholding of official services.

(a) *Conditional withholding.* An agency or the Service shall conditionally withhold requests for official services when an applicant fails to meet any requirement prescribed in § 800.46.

(b) *Procedure and withholding.* When an agency or the Service proposes to conditionally withhold official services, the applicant shall be notified of the reason for the proposed action. The applicant will then be afforded reasonable time to take corrective action or to show that there is no basis for withholding services. If the agency or the Service determines that corrective action has not been adequate, the applicant will be notified. Any results of official services shall not be released when a request for service is withheld.

2. Revising § 800.51 to read as follows:

§ 800.51 Expenses of agency, field office, or Board of Appeals and Review.

For any request that has been dismissed or withdrawn under §§ 800.47, 800.48, or 800.49, respectively, each applicant shall pay expenses incurred by the agency or the Service.

3. Revising the undesignated center heading and §§ 800.195–800.199 and removing §§ 800.200–800.208 as follows:

Delegations, Designations, Approvals, Contracts, and Conflicts-of-Interest

Sec.

800.195 Delegations.
800.196 Designations.
800.197 Approval as a scale testing and certification organization.
800.198 Contracts.
800.199 Conflict-of-interest provisions.

Authority: Secs. 8, 9, 10, 13, and 18, Pub. L. 94–582, 90 Stat. 2870, 2875, 2877, 2880, and 2884, 7 U.S.C. 79, 79a, 79b, 84, 87, and 87e.

* * * * *

Delegations, Designations, Approvals, Contractual Arrangements, and Conflicts of Interest

§ 800.195 Delegations.

(a) *General.* Eligible States may be delegated authority to perform official services (excluding appeal inspection) at export port locations within their respective States.

(b) *Restrictions.* Only the Service or the delegated State may perform official inspection, Class X, and Class Y weighing services at an export port location within the State. If official inspection services, at export port locations within the State, are performed by the Service, only the Service may perform Class X and Class Y weighing services at the locations. If official inspection services are performed by a delegated State, either the State or the Service may perform Class X and Class Y weighing services at the export port locations within the State.

(c) *Who can apply.* States which: (1) Were performing official inspection at an export port location under the Act on July 1, 1976, or; (2) (i) performed official inspection at an export port location at any time prior to July 1, 1976; (ii) were designated under Section 7(f) of the Act on December 22, 1981, to perform official inspections; and (iii) operate in a State from which total annual exports of grain do not exceed, as determined by the Administrator, 5 per centum of the total amount of grain exported from the United States annually may apply to the Service for a delegation.

(d) *When and how to apply.* A request for authority to operate as a delegated State should be filed with the Service not less than 90 calendar days before the State proposes to perform the official service. A request for authority to operate as a delegated State shall show: (1) The export port location(s) where the State proposes to perform official inspection, Class X, and Class Y weighing services; (2) the estimated annual volume of inspection and weighing services for each location; and (3) the schedule of fees the State proposes to assess. A request for a revision to a delegation shall (i) be filed with the Service not less than 90 calendar days before the desired

effective date, and (ii) specify the change desired.

(e) *Review of eligibility and criteria for delegation.* Each applicant for authority to operate as a delegated State shall be reviewed to determine whether the applicant meets the eligibility conditions contained in paragraph (c) of this section and the criteria contained in section 7(f)(1)(A) of the Act. The requested delegation may be granted if the Service determines that the applicant meets the eligibility conditions and criteria. If an application is dismissed, the Service shall notify the applicant promptly, in writing, of the reason(s) for the dismissal.

(f) *Responsibilities*—(1) *Providing official services.* Each delegated State shall be responsible for providing each official service authorized by the delegation at all export elevators at export port locations in the State. The State shall perform each official service according to the Act, regulations, and instructions.

(2) *Staffing, licensing, and training.* Delegated States shall employ official personnel on the basis of job qualifications rather than political affiliations. The State shall employ sufficient personnel to provide the services normally requested in an accurate and timely manner. The State shall only use personnel licensed by the Service for the performance of official services and shall train and assist its personnel in acquiring and maintaining the necessary skills. The State shall keep the Service informed of the employment status of each of its licensees and any substantial change in a licensee's duties.

(3) *Rotation of personnel.* Where feasible, each delegated State shall rotate licensees among elevators and other facilities as is necessary to preserve the integrity of the official inspection and weighting systems.

(4) *Supervision.* The State and its officials shall be responsible for the actions of the official personnel employed by the State, for direct supervision of the daily activities of such personnel, and for the conduct of official services and related activities in the State. The State shall supervise official activities according to the Act, regulations, and instructions and shall take action necessary to ensure that its employees are not performing prohibited functions and are not involved in any action prohibited by the Act, regulations, or instructions. Each State shall report to the Service information which shows or may show a violation of any provision of the Act, regulations, or instructions and information on any instructions which have been issued to State personnel by Service personnel or by any other person which are contrary to or inconsistent with the Act, regulations, or instructions.

(5) *Conflict of interest*—(i) *General.* The delegated State and any commissioner, director, employee, or other related person or entity shall not have a conflict of interest, as defined in section 11 of the Act and § 800.199 of the regulations. A conflict of interest may be waived pursuant to § 800.199(d).

(ii) *Unofficial activities.* The delegated State or personnel employed by the State shall not perform any unofficial service that is the same as any of the official services covered by the delegation.

(6) *Fees.* The delegated State shall charge fees according to § 800.70.

(7) *Facilities and equipment*—(i) *General.* The laboratory and office facilities of each delegated State shall be: Located; equipped; and large enough so that requested services are provided in an orderly and timely manner.

(ii) *Equipment testing.* Each delegated State shall test the equipment that it uses for official services according to the instructions.

(8) *Security.* Each delegated State shall provide sufficient security to assure that official samples, records, equipment, and forms are reasonably secure from theft, alteration, or misuse.

(9) *Certificate control system.* Each delegated State shall establish a certificate control system for all official certificates it receives, issues, voids, or otherwise renders useless. The system shall provide for: (i) Recording the numbers of the official certificates printed or received; (ii) protecting unused certificates from fraudulent or unauthorized use; and (iii) maintaining a file copy of each certificate issued, voided, or otherwise rendered useless in a manner that would permit retrieval.

(10) *Records.* Each delegated State shall maintain the records specified in §§ 800.145–800.155.

(g) *Termination*—(1) *Automatic Termination.* Failure to pay the user fees prescribed by the Service for supervisory costs related to official inspection and weighing services within 30 days after due shall result in the automatic termination of the delegation. The delegation shall be reinstated if fees currently due, plus interest and any further expenses incurred by the Service because of the termination, are paid within 60 days after the termination.

(2) *Voluntary cancellation.* A State may request that its delegation be canceled by giving 90 days written notice to the Service.

(3) *Revocation*—(i) *Without hearing.* The Administrator may revoke the delegation of a State without first affording the State opportunity for a hearing. Unless otherwise provided, the revocation shall be effective when the State receives a notice from the Service regarding the revocation and the reason(s) therefor.

(ii) *Informal conference.* At the discretion of the Administrator, before the delegation of a State is revoked under (g)(3)(i), the Service may (A) notify the State of the proposed action and the reason(s) therefor, and (B) afford the State an opportunity to express its views in an informal conference before the Administrator.

(h) *Provision of services following termination.* If a State's delegation is terminated, official services at the export port locations in the State shall be provided by the Service.

(The information collection requirements contained in paragraph (d) were approved by the Office of Management and Budget under control number 0580–0003. The information collection requirements contained in paragraphs (f)(2) and (f)(4) were approved under control number 0580–0006.

§ 800.196 Designations.

(a) *General.* Eligible persons or governmental agencies may be designated to perform official services (excluding appeal inspection) within a specified area (other than export port locations).

(b) *Restrictions*—(1) *General.* If official inspection services are performed in an area by a designated agency, Class X and Class Y weighing services in that area may be performed only by the designated agency if the agency applies for designation to provide weighing services and is found qualified by the Service. If the agency designated to provide official inspection services is found not qualified or does not apply, the Class X and Class Y weighing services may be performed by another available agency that is found qualified and is designated by the Service, or the official services may be performed by the Service.

(2) *Interim authority*—(i) *By agency.* A designated agency may perform official services outside its assigned area on an interim basis when authorized by the Service.

(ii) *By Service.* Official inspection services and/or Class X and Class Y weighing services may be performed by the Service in an area (other than export port locations) on an interim basis in accordance with sections 7(h) and 7A(c) of the Act.

(c) *Who can apply.* Any State or local governmental agency or any person may apply, subject to sections 7 and 7A of

the Act, to the Service for designation as an official agency to perform official inspection services (excluding appeal inspection) and/or Class X and Class Y weighing services in a given area (other than export port locations) in the United States.

(d) *When and how to apply.* An application for designation should be filed with the Service, according to the provisions of the **Federal Register** notice which requests applicants for designation to perform official services in existing or new geographic areas. The application for designation: (1) Shall be submitted on a form furnished by the Service; (2) shall be typewritten or legibly written in English; (3) shall show or be accompanied by documents which show all information requested on the form, or otherwise required by the Service; and (4) shall be signed by the applicant or its chief operating officer.

(e) *Review of conditions and criteria for designation*—(1) *Application.* Each application for a designation shall be reviewed to determine whether it complies with paragraph (d) of this section. If an application is not in compliance, the applicant shall be provided an opportunity to submit the needed information. If the needed information is not submitted within a reasonable time, as determined by the Service, the application may be dismissed. When an application is dismissed, the Service shall notify the applicant, in writing, of the reason(s) for the dismissal.

(2) *Applicant.* Each applicant for authority to operate as as designated agency shall be reviewed to determine whether the applicant meets the conditions and criteria contained in sections 7(f)(1) (A) and (B) of the Act, § 800.199 of the regulations, and paragraph (g) of this section. The requested designation may be granted if the Service determines that: (i) The requested action is consistent with the need for official services; (ii) the applicant meets the conditions and criteria specified in the Act and regulations; and (iii) the applicant is better able than any other applicant to provide official services.

(f) *Area of responsibility*—(1) *General.* Each agency shall be assigned an area of responsibility by the Service. Each area shall be identified by geographical boundaries and, in the case of a State or local government, shall not exceed the jurisdictional boundaries of the State or the local government, unless otherwise approved by the Service. The area of responsibility may not include any export elevators at export port locations or any portion of an area of responsibility assigned to another agency that is performing the same functions. A designated agency may perform official services at locations outside its assigned area of responsibility only after obtaining approval from the Service.

(2) *Amending.* A request for an amendment to an assigned area of responsibility shall (i) be submitted to the Service in writing; (ii) specify the change desired; (iii) be signed by the applicant or its chief operating officer; and (iv) be accompanied by the fee prescribed by the Service. The assigned area may be amended if the Service determines that the amendment is consistent with the provisions and objectives of the Act, regulations, and instructions. Upon a finding of need, the Service may initiate action to change an assigned area of responsibility.

(3) *Specified service points.* An agency may change its specified service points by notifying the Service in advance. Interested persons may obtain a list of specified service points within an agency's area of responsibility by contacting the agency. The list shall include all specified service points and shall identify each specified service point which operates on an intermittent or seasonal basis.

(g) *Responsibilities*—(1) *Providing official services.* Insofar as practicable, each agency shall be responsible for providing at all locations in its assigned area each service authorized by the designation. An agency may, subject to Service approval, make arrangements with a neighboring agency to provide official services requested infrequently. The agency shall perform all official services according to the Act, regulations, and instructions in effect at the time of designation or which may be promulgated subsequently.

(2) *Fees.* The agency shall charge fees according to § 800.70.

(3) *Staffing, licensing, and training*—(i) *General.* The agency shall employ sufficient personnel to provide the official services normally requested in an accurate and timely manner. Each agency shall only use personnel licensed by the Service for the performance of official services and shall train and assist its personnel in acquiring and maintaining the necessary skills. Each agency shall keep the Service informed of the employment status of each of its licensees and any substantial change in a licensee's duties.

(ii) *State agencies.* State agencies shall employ official personnel on the basis of job qualifications rather than political affiliations.

(4) *Rotation of personnel.* Where feasible, each agency shall rotate licensees among elevators and other facilities as is necessary to preserve the integrity of the official inspection and weighing systems.

(5) *Supervision.* The agency and its officials shall be responsible for the actions of the official personnel employed by the agency, for direct supervision of the daily activities of such personnel, and for the conduct of official services and related activities at the agency. The agency shall supervise official activities, in accordance with the Act, regulations, and instructions, and shall take action necessary to ensure that its employees are not performing prohibited functions and are not involved in any action prohibited by the Act, regulations, or instructions. Each agency shall report to the responsible field office information which shows or may show a violation of any provision of the Act, regulations, or instructions and information on any instructions which have been issued to agency personnel by Service personnel or by any other person which are inconsistent with the Act, regulations, or instructions.

(6) *Conflict of interest*—(i) *General.* Each agency and any officer, director, stockholder, employee, or other related entity shall not have a conflict of interest, as defined in Section 11 of the Act and § 800.199 of the regulations. A conflict of interest may be waived pursuant to § 800.199(d). The agency shall advise the Service immediately of any proposed change in name, ownership, officers or directors, or control of the agency and, if a trust, any change affecting the trust agreement.

(ii) *Unofficial activities.* The agency or personnel employed by the agency shall not perform any unofficial service that is the same as the official services covered by the designation.

(7) *Facilities and equipment*—(i) *General.* The laboratory and office facilities of each agency shall be: Located; equipped; and large enough so that requested services are provided in an orderly and timely manner.

(ii) *Equipment testing.* Each agency shall test the equipment it uses for official services according to the instructions.

(8) *Security.* Each agency shall provide sufficient security to ensure that official samples, records, equipment, and forms are reasonably secure from theft, alteration, or misuse.

(9) *Certificate control system.* Each agency shall establish a certificate control system for all official certificates it receives, issues, voids, or otherwise renders useless. The system shall provide for (i) recording the numbers of the official certificates printed or received; (ii) protecting unused

certificates from fraudulent or unauthorized use; and (iii) maintaining a file copy of each certificate issued, voided, or otherwise rendered useless in a manner that would permit retrieval.

(10) *Records.* Each agency shall maintain the records specified in §§ 800.145–800.155.

(h) *Termination and renewal*—(1) *Triennial.* (i) *Termination.* A designation shall terminate at a time specified by the Administrator, but not later than 3 years after the effective date of the designation. A notice of triennial termination shall be issued by the Service to a designated agency at least 120 calendar days in advance of the termination date. The notice shall provide instructions for requesting renewal of the designation. Failure to receive a notice from the Service shall not exempt a designated agency from the responsibility of having its designation renewed on or before the specified termination date.

(ii) *Renewal.* Designations may be renewed, upon application, in accordance with criteria and procedures for designation prescribed in Section 7(f) of the Act and this section of the regulations. The Administrator may decline to renew a designation if: (A) The requesting agency fails to meet or comply with any of the criteria for designation set forth in the Act, regulations, and instructions, of (B) the Administrator determines that another qualified applicant is better able to provide official services in the assigned area.

(2) *Automatic Termination.* Failure to pay the user fees prescribed by the Service for supervisory costs related to official inspection and weighing services within 30 days after due shall result in the automatic termination of the designation. The designation shall be reinstated if fees currently due, plus interest and any further expenses incurred by the Service because of the termination, are paid within 60 days after the termination.

(3) *Voluntary cancellation.* An agency may request that its designation be canceled by giving 90 days written notice to the Service.

(4) *Suspension or revocation of designation*—(i) *General.* A designation is subject to suspension or revocation, under section 7(g)(3) of the Act, by the Service, whenever the Administrator determines that: (A) The agency has failed to meet one or more of the criteria specified in section 7(f) of the Act or the regulations for the performance of official functions, or otherwise has not complied with any provision of the Act, regulations, or instructions, or (B) has been convicted of any violation of other Federal law involving the handling or official inspection of grain.

(ii) *Summary suspension.* The Service may, without first affording the agency (hereafter referred to in this paragraph as the "respondent") an opportunity for a hearing, suspend a designation or refuse to reinstate a designation when the suspension period has expired, pending final determination of the proceeding whenever the Service has reason to believe there is cause for revocation of the designation and considers such action to be in the best interest of the official inspection and weighing system. A suspension or refusal to reinstate a suspended designation shall be effective upon the respondent's receipt of a notice from the Service. Within 30 calendar days following the issuance of a notice of such action, the Service shall afford the respondent an opportunity for a hearing under paragraph (iii) of this section. The Service may terminate the action if it finds that alternative managerial, staffing, financial, or operational arrangements satisfactory to the Service can be and are made by the respondent.

(iii) *Other than summary suspension.* Except as provided in paragraph (h)(4)(ii) of the section, before the Service revokes or suspends a designation, the respondent shall be: (A) Notified by the Service of the proposed action and the reason(s) therefor, and (B) afforded an opportunity for a hearing in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 CFR Part 1, Subpart H). Before initiating formal adjudicatory proceedings, the Service may, at its discretion, afford the respondent an opportunity to present its views on the proposed action and the reason(s) therefor in an informal conference. If, as a result of the informal conference, a consent agreement is reached, no formal adjudicatory proceedings shall be initiated.

(i) *Provision of services following suspension or termination.* If the designation of an agency is suspended, terminated, or the renewal of a designation is not granted, the Service shall attempt, upon a finding of need, to arrange for a replacement agency. If a qualified replacement agency cannot be designated on a timely basis, a qualified agency, if available, shall be designated on an interim basis. If a qualified agency is not available on an interim basis, the Service shall provide needed services on an interim basis.

(The information collection requirements contained in paragraph (d) were approved by the Office of Management and Budget under control number 0580–0003. The information collection requirements contained in paragraphs (g)(3) and (g)(5) were approved under control number 0580–0006.)

§ 800.197 Approval as a scale testing and certification organization.

(a) *Who may apply.* Any State, local government, or person may request approval to perform scale testing and certification under the Act.

(b) *When and how to apply.* A request for approval to perform scale testing and certification under the Act should be filed with the Service not less than 90 calendar days before the requested action's effective date. A request for approval to perform scale testing and certification shall: (1) Show or be accompanied by documents which show all information required by the Service; (2) certify that each employee scheduled to perform official scale testing and certification services is competent to test weighing equipment and has a working knowledge of the regulations and instructions applicable to such services; (3) be accompanied by the fee prescribed in § 800.71; and (4) be signed by the applicant or its chief operating officer.

(c) *Review of applicant.* The review of an applicant for authority to perform scale testing and certification shall include an evaluation of the applicant's policies and procedures for testing and certifying scales for Class X and Class Y weighing.

(d) *Termination*—(1) *Voluntary.* A scale testing and certification organization may request cancellation of its approval by notifying the Service.

(2) *Suspension or revocation of approval*—(i) *General.* An approval is subject to suspension or revocation whenever the Administrator determines that the approved organization has violated any provision of the Act or regulations, or has been convicted of any violation involving the handling, weighing, or inspection of grain under Title 18 of the United States Code.

(ii) *Summary suspension.* The Service may, without first affording the organization an opportunity for a hearing, suspend an approval or refuse to reinstate an approval when the suspension period has expired, pending final determination of the proceeding whenever the Service has reason to believe there is cause for revocation of the approval and considers such action to be in the best interest of the official weighing system.

A suspension or refusal to reinstate a suspended approval shall be effective when the organization receives a notice from the Service. Within 30 calendar days following the issuance of a notice

of such action, the Service shall give the organization an opportunity for a hearing under paragraph (d)(2)(iii) of this section. The Service may terminate its action if it finds that alternative managerial, staffing, or operational arrangements satisfactory to the Service can be and are made by the organization.

(iii) *Other than summary suspension.* Except as provided in paragraph (d)(2)(ii) of this section, before the Service revokes or suspends an approval, the organization shall be notified by the Service of the proposed action and the reason(s) therefor and shall be given an opportunity for a hearing. Before the Service initiates a hearing, it may, at its discretion, give the organization an opportunity to present its views on the proposed action and the reason(s) therefor in an informal conference. If a consent agreement is reached during the informal conference, no formal adjudicatory proceedings shall be initiated.

[The information collection requirements contained in paragraph (b) were approved by the Office of Management and Budget under control number 0580–0003.)

§ 800.198 Contracts.

(a) *Services contracted and who may apply.* The Service may enter into a contract with any person, State, or governmental agency to perform on an occasional basis: (1) Specified official sampling, laboratory testing, or other similar objective technical activities involved in the testing of grain for official factors or official criteria, and (2) monitoring activities in foreign ports with respect to export grain that has been inspected and weighed under the Act.

(b) *Restrictions*—(1) *Conflict of interest.* A person, State or governmental agency with a conflict of interest prohibited by section 11 of the Act or § 800.199 shall not be eligible to enter into a contract with the Service.

(2) *Appeal service.* An agency or employees of agencies shall not be eligible to enter into a contract with the Service to obtain samples for, or to perform other services involved in, appeal inspection or Board appeal inspection services. However, agencies may forward file samples to the Service in accordance with § 800.154(b).

(3) *Monitoring services.* Agencies, employees of agencies, organizations, employees of organizations, and other persons that regularly provide official services to persons who export grain from the United States are eligible to enter into a contract with the Service to perform monitoring services on export grain in foreign ports only if they are under Service employees' direct supervision during monitoring activities.

(c) *When and how to apply.* An application for a contractual arrangement shall: (1) Be typewritten or legibly written in English; (2) conform to the invitation to bid or other instructions issued by the Service or be filed on a form furnished by the Service; (3) show or be accompanied by documents which show any information requested by the Service; and (4) be signed by the applicant or its chief operating officer. All contracts shall be issued by the Department and shall follow Departmental procedures.

(d) *Termination and renewal.* A contract with the Service shall terminate annually unless othewise provided in the contract. A contract may be renewed in accordance with Departmental procedures.

(e) *Cancellation.* A contract may, upon request of the governmental agency or person that entered into the contract with the Service, be canceled by the Department in accordance with the terms of the contract or Departmental procedures and regulations.

[The information collection requirements contained in paragraph (c) were approved by the Office of Management and Budget under control number 0580–0003]

§ 800.199 Conflict-of-interest provisions.

(a) *Meaning of terms.* For the purpose of this section, the following terms shall have the meaning given for them below:

(1) *Grain business.* The term "grain business" shall include (i) any entity that is engaged in the commercial transportation, storage, merchandising or other commercial handling of grain, which includes: The commercial buying, selling, transporting, cleaning, elevating, storing, binning, mixing, blending, drying, treating, fumigating, or other preparation of grain (other than as a grower of grain or the disposition of inspection samples); the cleaning, treating, or fitting of carriers or containers for transporting or storing of grain; the merchandising of equipment for cleaning, drying, treating, fumigating, or other processing, handling, or storing of grain; the merchandising of grain inspection and weighing equipment (other than the buying or selling by an agency or official personnel of the equipment for their exclusive use in the performance of their official inspection or Class X or Class Y weighing services); and the commercial use of official inspection and Class X or Class Y weighing services and (ii) any board of trade, chamber of commerce, grain exchange, or other trade group composed, in whole or in part, of one or more such entities.

(2) *Interest.* The term "interest" when used with respect to an individual, shall include the interest of a spouse, minor child, or blood relative who resides in the immediate household of the individual.

(3) *Related.* The term "related" when used in reference to a business or governmental entity means an entity that owns or controls another entity, or is owned or controlled by another entity, or both entities are owned or controlled by another entity.

(4) *Substantial stockholder.* The term "substantial stockholder" means any person holding 2 per centum or more, or 100 shares or more of the voting stock of the corporation, whichever is the lesser interest.

(b) *Prohibited conflicts of interest.* Unless waived on a case-by-case basis by the Administrator under section 11(b)(5) or the Act, the following conflicts of interest for a business or association are prohibited:

(1) *Agency and contractor.* No agency or contractor, or any member, director, officer, or employee thereof, and no business or governmental entity related to any such agency or contractor, shall be employed in or otherwise engaged in, or directly or indirectly have any stock or other financial interest in, any grain business or otherwise have any conflict of interest specified in § 800.187(b).

(2) *Grain business.* No grain business or governmental entity conducting any such business, or any member, director, officer, or employee thereof, and no other business or governmental entity related to any such entity, shall operate or be employed by, or directly or indirectly have any stock or other financial interest in, any agency or contractor.

(3) *Stockholder in any agency or contractor.* No substantial stockholder in any agency or contractor shall be employed in or otherwise engaged in, or be a substantial stockholder in, any grain business, or directly or indirectly have any other kind of financial interest in any such business or otherwise have any conflict of interest specified in § 800.187(b).

(4) *Stockholder of a grain business.* No substantial stockholder in any grain business shall operate or be employed by or be a substantial stockholder in, or

directly or indirectly have any other kind of financial interest in an incorporated agency or contractor.

(5) *Gratuity.* No person described in paragraph (b)(1) of this section shall give to or accept from a person described in paragraph (b)(2) of this section any gratuity, and no person described in paragraph (b)(2) of this section shall give to or accept from a person described in paragraph (b)(1) of this section any gratuity. A "gratuity" is defined in § 800.187(a).

(c) *Exempt conflicts of interest*—(1) *Agency and contractor.* An agency or contractor may use laboratory or office space or inspection, weighing, transportation, or office equipment that is owned or controlled, in whole or in part, by a grain business or related entity when the use of the space or equipment is approved by the Service for the performance of onsite official services under the Act.

(2) *Financial institution.* A bona fide financial institution that has a financial relationship with one or more grain businesses or related entities may have a financial relationship with an agency, contractor, or related agency.

(3) *Grain business.* A grain business or related entity may furnish laboratory or office space or inspection, weighing, transportation, or office equipment for use by an agency, contractor, or field office when use of the space or equipment is approved by the Service for the performance of onsite official inspection or weighing services.

(d) *Disposition of a conflict of interest.* Upon being informed that a prohibited conflict of interest exists in the ownership, management, or operation of an agency and that remedial action is required, the agency shall take immediate action to resolve that conflict of interest and inform the Service of the action taken. An agency which believes that remedial action will cause undue economic hardship or other irreparable harm may request a waiver by forwarding to the Service a written statement setting forth the facts, the circumstances, and the reasons for requesting a waiver.

§§ 800.200–800.208 [Removed]

Authority: Secs. 8, 9, 10, 13 and 18, Pub. L. 94–582, 90 Stat. 2870, 2875, 2877, 2880, and 2884, 7 U.S.C. 79, 79a, 79b, 84, 87, and 87e.

Dated: July 18, 1984.

K. A. Gilles,

Administrator.

[FR Doc. 84–20412 Filed 8–1–84; 8:45 am]

BILLING CODE 3410–EN–M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 7

[Docket No. 84–25]

Indemnification of Directors, Officers and Employees of National Banks

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final ruling.

SUMMARY: The Office of the Comptroller of the Currency has revised Interpretive Ruling 7.5217 (12 CFR 7.5217) to recognize that national banks may, with certain limitations, adopt articles of association to provide for the indemnification of their directors, officers and employees in accordance with the standards reflected in the law of the state in which the bank is headquartered, the law of the state in which the bank's parent holding company is incorporated or as provided in the Model Business Corporation Act (MBCA). The Ruling indicates that indemnification articles which substantially reflect the principles of any of the three alternatives are presumptively within the corporate powers of a national bank. The Ruling prohibits indemnification when a supervisory action results in a final order assessing civil money penalties or requiring affirmative action in the form of payments by an individual to a national bank, and recognizes the Comptroller's authority to deny or modify an indemnification which appears to be inconsistent with the standards stated in the bank's indemnification article or which would jeopardize the safety and soundness of the bank. The Ruling allows a bank to follow the insurance provisions contained in the indemnification standard set forth in the MBCA or the relevant state act, except that a bank may not insure its directors or employees against a final order assessing civil money penalties.

EFFECTIVE DATE: September 4, 1984.

FOR FURTHER INFORMATION CONTACT: Judith E. Cohn (202) 447–1954, Attorney, Office of the Comptroller of the Currency, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION: The principal drafter of this document was Judith E. Cohn, Attorney, Securities & Corporate Practices Division, Comptroller of the Currency (202) 447–1954.

Special Analysis

Since the Regulatory Flexibility Act does not apply to interpretive rulings, no regulatory flexibility analysis has been prepared for this proposal.

This Office believes that the Ruling is not a major regulation under Executive Order 12291 and, therefore, has not prepared a regulatory impact analysis. The Ruling will not require national banks to expend any funds or file reports, and will not otherwise have an adverse effect on their prices and costs. It seeks to reduce administrative expenses with respect to drafting and implementing indemnification provisions. Further, since the Ruling will enable national banks to adopt indemnification provisions comparable to those observed elsewhere in the business community, it will not have an adverse effect on their competitive posture.

Background

On June 3, 1983, the Office of the Comptroller of the Currency ("Office") published a Notice of Proposed Rulemaking ("Notice") which solicited comments on specific proposed changes to the Office's Interpretive Ruling 7.5217 (12 CFR 7.5217) regarding the indemnification of directors, officers and employees of national banks. 48 FR 24913. As the Notice indicated, the current Interpretive Ruling recognizes, in general terms, the legal authority of national banks to provide indemnification to directors, officers and employees "against legal and other expenses incurred in defending law suits brought against them by reason of the performance of their official duties." In addition, the existing Interpretive Ruling indicates that national banks may purchase and pay the premiums on insurance for such indemnification. A national bank may not, however, in any manner provide indemnification to persons "guilty of, or liable for, willful misconduct, gross neglect of duty, or criminal acts."

As a result of significant differences between this Office's interpretations concerning indemnification and general corporate law principles concerning indemnification, the general principles stated in the existing indemnification ruling had posed difficulties for drafters of bank articles of association regarding indemnification of bank officers and directors. Consequently, the Notice proposed to revise Interpretive Ruling 7.5217 to recognize that a national bank, with certain limitations, may adopt indemnification standards which reflect either general corporate law standards,

as evidenced by the law of the state in which it is headquartered, or the standards suggested in section 5 of the MBCA as drafted by the American Bar Association. Indemnification provisions substantially following either alternative were to be regarded by this Office as presumptively falling within the corporate powers of a national bank.

The current limitations upon a national bank's authority to follow the MBCA or state law indemnification provisions were based upon this Office's unique supervisory concerns and responsibilities. Neither the state statutes nor the MBCA address the permissibility of indemnification in the context of supervisory proceedings or actions where national bank directors or personnel are assessed civil money penalties or held personally liable. *See, e.g.*, 12 U.S.C. 93, 1818(b). Certain supervisory actions are comparable to actions brought by or in the right of the corporation. Consequently, the proposed Ruling indicated that a national bank could not authorize indemnification of bank directors and personnel when the supervisory action or proceeding results in a final order assessing civil money penalties or otherwise requiring an individual officer or director to make payments to the bank. In addition, in an exercise of its responsibilities for the safety and soundness of the national banking system, this Office proposed to review proposed indemnification awards when such review appeared necessary to ensure that an award was consistent with the bank's adopted idemnification standard or would not jeopardize the safety or soundness of the bank.

Comments

In response to the Notice, the Office received thirty (30) comments. The commenters supported the proposed revision, welcoming the opportunity to follow either the indemnification provisions of state law or of MBCA section 5. The comments indicated that indemnification provisions based largely upon general corporate law would enable the national banks to successfully compete for the prime candidates for positions as bank directors and officers.

Several commenters suggested that the alternatives available to the bank be expanded to include the option of following the indemnification provisions contained in the law of the state in which the bank's parent holding company is incorporated. It was argued that this enhancement of intra-organizational consistency and flexibility would meet the Notice's proposed goal of allowing indemnification standards parallel to those observed elsewhere in the business community. This Office has adopted this suggestion, since it is consistent with the purposes of the revision.

A number of commenters requested this Office to address the authority of national banks to purchase indemnification/liability insurance for coverage of bank directors and employees under the proposed Ruling. The current Ruling does allow national banks to insure the indemnifiable liability of its directors and employees and the MBCA provides more broadly for insurance of the non-indemnifiable liability of directors and employees. The final Ruling provides for insurance coverage of indemnifiable liability and some non-indemnifiable liability, as provided for in the MBCA and state law provisions. However, the Ruling does not provide for insurance coverage of liability arising from the imposition of civil money penalties, since such indemnification would be inconsistent with this Office's supervisory responsibilities.

Ten comments addressed the limitations imposed on a bank's authority to follow the MBCA or state law as a result of this Office's supervisory responsibilities. The commenters saw no need to impose on bank directors or officers an indemnification standard stricter than that applicable to corporate directors or officers. The MBCA standard of "good faith" (which has been adopted by at least the two-thirds of the states which incorporate MBCA standards) was felt to be an adequate and appropriate measure for indemnification determinations concerning bank personnel. The stricter indemnification standard was viewed as an obstacle to bank equality in the competitive recruitment of competent and qualified directors and officers. In formulating this Ruling, the Office found that its supervisory responsibilities required an indemnification standard somewhat more limited than one based entirely on the concept of corporate equality.

Revision of Interpretive Ruling 7.5217

The revised interpretive Ruling 7.5217 recognizes that a national bank may, with certain limitations, adopt indemnification standards which reflect general corporate law standards as evidenced by either the law of the state in which it is headquartered or the law of the state in which its holding company is incorporated, or, in the alternative, the standard suggested in MBCA section 5. An indemnification standard which substantially follows any of the three alternatives will be regarded by this Office as presumptively falling within the corporate powers of a national bank. This Office would encourage national banks to adopt a standard without change or with minimal modification in order to avoid interpretive ambiguities. However, the provisions adopted by a national bank cannot allow indemnification which would be necessitated by supervisory actions resulting in a final order assessing civil money penalties or requiring individuals to take affirmative action in the form of payments to the bank. In accordance with its supervisory responsibilities, this Office may review the consistency of any indemnification with the standards stated in the bank's articles and may review indemnification awards to ensure that bank safety and soundness is not jeopardized. National banks may incorporate the insurance provisions of the adopted standard, except that banks may not provide for coverage for supervisory actions resulting in civil money penalties.

(a) General Rule

As explained in the Notice of Proposed Rulemaking, 48 FR 24914, the authority of a national bank to indemnify its directors and staff derives from 12 U.S.C. 24, which in general terms outlines the corporate powers of a national bank. This Office has interpreted this provision in accordance with the broad purpose of the Act and other federal banking laws.

This Office has concluded that national banks may adopt indemnification standards paralled to those generally utilized in the business community. Both the state laws and MBCA section 5 appear to provide reasonable, accessible and equitable frameworks for the indemnification of the directors and personnel of a national bank. This Office believes that its interpretation of 12 U.S.C. 24, providing for slightly different sets of indemnification standards, will not result in significantly inconsistent policies among national banks. Our review of state law indicates that two-thirds of the states incorporate all or most MBCA standards. Moreover, as described in the Notice of Proposed Rulemaking, flexible interpretation of 12 U.S.C. 24 should enable a national bank to adopt the more familiar, appropriate or developed standard.

After weighing the alternatives, this Office has also concluded that a national bank may adopt the indemnification provisions contained within the law of the state in which its holding company is incorporated. While

this option could conceivably become an allowance for forum shopping (with regard to the choice of state of incorporation for a holding company), such a result is unlikely. Even in a state where indemnification law is not advanced, a national bank will already have the option of adopting the MBCA standard. In any case, two-thirds of the states have largely incorporated the MBCA standard. Thus, this minimal risk of forum shopping is strongly outweighed by the need for internal corporate consistency between a national bank and its holding company. The expense and incovenience engendered by administration of two inconsistent indemnification standards within two units of a corporate entity can be successfully resolved, with minimal cost, by expanding the presumption of a national bank's corporate powers to include the state standard on indemnification applicable to the holding company.

In sum, a review of both the relevant state indemnification provisions and MBCA section 5 has led this Office to conclude that, subject to the provisions described below, it is presumed to be within the corporate powers of a national bank to adopt indemnification provisions consistent with state law or MBCA criteria.

(b) Supervisory Concerns

This Office's conclusions with regard to its unique supervisory concerns and responsibilities were largely addressed in the Notice of Proposed Rulemaking. Congress has recognized the need to deter acts threatening bank safety and soundness, and has given this Office the responsibility of deterring acts of directors or officers of a national bank which violate applicable law and which may endanger the safety and soundness of the bank. *See, e.g.*, 12 U.S.C. 93, 1818(b). Certain supervisory actions are clearly based upon the acts of a bank director or officer which indicate that the individual has willfully, flagrantly, or in a manner otherwise evidencing bad faith, violated applicable law. For instance, a final order assessing civil money penalties is often utilized in such a context, and such liability is intended to rest with the responsible individual. To allow indemnification in such instances would dilute significantly the rehabilitative and deterrent objectives of the civil money penalty legislation and the enforcement provisions of the Financial Institutions Supervisory Act of 1966, as amended. Consequently, the Ruling indicates that a national bank cannot authorize indemnification of bank directors and personnel when a supervisory action or proceeding results in a final order assessing civil money penalties or otherwise holding them personally liable.

As an extension of its responsibility to monitor the safety and soundness of national banks, this Office has retained the right to review a proposed indemnification for consistency with the applicable standards and to ensure that the award would not provide a significant threat to the safety and soundness of the bank. The Ruling explicitly recognizes this authority.

(c) Provision For Insurance.

This Office is aware of the importance of enabling national banks to function, in general, in accordance with the standards observed elsewhere in the business community. Therefore, this Office has expanded the Ruling to provide that, in most respects, national banks may adopt the state law or MBCA provisions concerning insurance. Both MBCA Section 5 and the majority of state indemnification standards provide that a corporation may purchase and maintain insurance on behalf of its directors, officers, employees or agents for any liability asserted against and incurred by an individual in any capacity arising out of his or her status with the corporation. Since the deterrent purpose of a final order assessing civil money penalties (and imposing liability directly on the appropriate director or officer) would be defeated by insurance coverage of the director's or officer's liability, this Office cannot authorize, in toto, national bank adoption of the insurance provisions included within the MBCA or relevant state law. However, national banks may follow the insurance provisions of the adopted indemnification standards so long as the purchase of insurance to cover final orders assessing civil money penalties is expressly excluded by the articles of association.

List of Subjects in 12 CFR Part 7

National banks, Indemnification of directors, Officers and employees of national banks.

PART 7—[AMENDED]

For the reasons set out in the preamble, 12 CFR Part 7 is amended by revising § 7.5217 to read as follows:

1. The authority for 12 CFR Part 7 reads as follows:

Authority: R.S. 324 et seq., as amended; 12 U.S.C. 1 et seq., unless otherwise noted.

2. Section 7.5217 is revised as follows:

§ 7.5217 Indemnification of directors, officers and employees.

(a) A national bank may provide in its articles of association for the indemnification of directors, officers, and employees for expenses reasonably incurred in actions to which the directors, officers, or employees are parties or potential parties by reason of the performance of their official duties. Indemnification articles which substantially reflect general standards of law as evidenced by the law of the state in which the bank is headquartered, the law of the state in which the bank's holding company is incorporated, or the relevent provisions of the Model Business Corporation Act ("MBCA") are presumed by the Office of the Comptroller of the Currency to be within the corporate powers of a national bank.

(b) Such indemnification provisions shall not allow the indemnification of directors, officers, or employees of a national bank against expenses, penalties, or other payments incurred in an administrative proceeding or action instituted by an appropriate bank regulatory agency which proceeding or action results in a final order assessing civil money penalties or requiring affirmative action by an individual or individuals in the form of payments to the bank.

(c) In accordance with its supervisory responsibilities, the Office of the Comptroller of the Currency may, in its discretion, review the threat to bank safety and soundness posed by any indemnification or proposed indemnification of directors, officers or employees by a national bank or for the consistency of any such indemnification with the standards adopted by that bank in its articles of association. Based upon this review, the Office may direct a modification of a specific indemnification by a national bank through appropriate administrative action.

(d) A national bank may provide in its articles of association for the payment of premiums for insurance covering the liability of its directors, officers or employees to the extent that such coverage is provided for in the adopted MBCA or state law indemnification standard, except that such provision shall explicitly exclude insurance coverage for a formal order assessing civil money penalties against a bank director or employee.

Dated: June 15, 1984.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 84-20374 Filed 8-1-84; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 24173; Amdt. No. 1274]

14 CFR Part 97

Air Traffic and General Operating Rules; Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATE: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3.The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAP, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment of Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with types and effectives dates of the SIAPs. This amendment also identifies the airport, its location, the procedures identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice of Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Aviation safety, Standard instrument.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

PART 97—[AMENDED]

§ 97.23 [Amended]

1. By Amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

. . . Effective September 27, 1984

Beach City, OH—Beach City, VOR-A, Amdt. 1, Cancelled
Beach City, OH—Beach City, VOR-A, Orig.
Midland, TX—Midland Regional, VOR or TACAN RWY 16R, Amdt. 21
Midland, TX—Midland Regional, VOR/DME or TACAN RWY 34L, Amdt. 7

. . . Effective September 13, 1984

Rehoboth Beach, DE—Rehoboth Aircrafters, VOR-A, Amdt. 6
Bangor, ME—Bangor Intl, VOR/DME RWY 15, Amdt. 2
Troy, MI—Troy-Oakland, VOR-A, Amdt. 2
Albany, NY—Albany County, VOR RWY 28, Amdt. 5
Glens Falls, NY—Warren County, VOR RWY 1, Amdt. 9
Williamson/Sodus, NY—Williamson-Sodus, VOR/DME RWY 10, Orig., Cancelled
Charlotte, NC—Charlotte/Douglas Intl, VOR/DME RWY 18L, Amdt. 3
Charlotte, NC—Charlotte/Douglas Intl, VOR/DME RWY 18R, Amdt. 3
Charlotte, NC—Charlotte/Douglas Intl, VOR RWY 36L, Amdt. 2
Charlotte, NC—Charlotte/Douglas Intl, VOR RWY 36R, Amdt. 2

Greensboro, NC—May, VOR/DME–A, Amdt. 1
Siler City, NC—Siler City Muni, VOR–A, Amdt. 1
Lancaster, PA—Lancaster, VOR RWY 8, Amdt. 16
Lancaster, PA—Lancaster, VOR/DME or TACAN RWY 8, Amdt. 1
Johnson City, TX—Johnson City, VOR–B, Amdt. 1

. . . Effective August 30, 1984

Houma, LA—Houma-Terrebonne, VOR RWY 12, Amdt. 2
Houma, LA—Houma-Terrebonne, VOR/DME RWY 30, Amdt. 9

The FAA published an Amendment in Docket No. 24156, Amdt. No. 1273 to Part 97 of the Federal Aviation Regulations (VOL 49 FR No. 140 Page 29212; dated July 19, 1984) under § 97.23 effective July 5, 1984, which is hereby amended as follows:

Plymouth, MA—Plymouth Muni, VOR RWY 15, Amdt. 13 is amended to read:

Plymouth, MA—Plymouth Muni, VOR RWY 15, Amdt. 3

§ 97.25 [Amended]

2. By amending § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs identified as follows:

. . . Effective September 27, 1984

South Lake Tahoe, CA—Lake Tahoe, LDA/DME RWY 18, Amdt. 2

. . . Effective September 13, 1984

Niagara Falls, NY—Niagara Falls Intl, LOC BC RWY 10L, Amdt. 5
Charlotte, NC—Charlotte/Douglas Intl, LOC RWY 36R, Amdt. 1

. . . Effective August 30, 1984

Fresno, CA—Fresno Air Terminal, LOC BC RWY 11L, Amdt. 5

. . . Effective July 25, 1984

Barrow, AK—Wiley Post-Will Rogers Mem, LOC/DME BC RWY 24, Amdt. 2
Bethel, AK—Bethel, LOC/DME (BC) RWY 36, Amdt. 3
Bettles, AK—Bettles, LOC/DME RWY 1, Amdt. 3
Dillingham, AK—Dillingham, LOC/DME RWY 19, Amdt. 2
Homer, AK—Homer, LOC/DME RWY 3, Amdt. 7
Homer, AK—Homer, LOC/DME BC RWY 21, Amdt. 3
Juneau, AK—Juneau Intl, LDA–1 RWY 8, Amdt. 6
McGrath, AK—McGrath, LOC/DME RWY 16, Amdt. 1
Petersburg, AK—Petersburg, LDA/DME–D, Amdt. 5
Sitka, AK—Sitka, LDA/DME RWY 11, Amdt. 7
Unalakleet, AK—Unalakleet, LOC RWY 14, Amdt. 1
Valdez, AK—Valdez NR 2, LDA/DME–C, Amdt. 1
Wrangell, AK—Wrangell, LDA/DME–C, Amdt. 7
Wrangell, AK—Wrangell, LDA/DME–D, Amdt. 6
Kailua-Kona, HI—Ke-Ahole, LOC RWY 17, Amdt. 3
Kailua-Kona, HI—Ke-Ahole, LOC BC RWY 35, Amdt. 6
Westhampton Beach, NY—Suffolk County, LOC BC RWY 6, Amdt. 3

. . . Effective July 24, 1984

Ukiah, CA—Ukiah Muni, LOC/DME RWY 15, Amdt. 1
Butte, MT—Bert Mooney, LOC/DME RWY 15, Amdt. 4
Grand Forks, ND—Grand Forks Intl, LOC BC RWY 17, Amdt. 8
Aberdeen, SD—Aberdeen Regional, LOC/DME BC RWY 13, Amdt. 6
Huron, SD—Huron Regional, LOC/DME BC RWY 30, Amdt. 8
Watertown, SD—Watertown Muni, LOC/DME BC RWY 17, Amdt. 5

. . . Effective July 23, 1984

New Orleans, LA—New Orleans Intl (Moisant Field), LOC BC RWY 19, Amdt. 9

. . . Effective July 20, 1984

Tucson, AZ—Tucson Intl, LOC RWY 11L, Amdt. 2
Tucson, AZ—Tucson Intl, LOC BC RWY 29R, Amdt. 4
Kirksville, MO—Clarence Cannon Memorial, LOC RWY 36, Amdt. 4

. . . Effective July 19, 1984

Roswell, NM—Roswell Industrial Air Center, LOC BC RWY 3, Amdt. 6
Amarillo, TX—Amarillo Intl, LOC BC RWY 22, Amdt. 16
Brownsville, TX—Brownsville/South Padre Island Intl, LOC BC RWY 31L, Amdt. 10

§ 97.27 [Amended]

3. By amending § 97.27 NDB and NDB/DME SIAPs identified as follows:

. . . Effective September 27, 1984

London, OH—Madison County, NDB RWY 8, Amdt. 3

. . . Effective September 13, 1984

Cumberland, MD—Cumberland Muni, NDB–A, Amdt. 5
Ocracoke, NC—Ocracoke Island, NDB–A, Orig.

. . . Effective August 30, 1984

Houma, LA—Houma-Terrebonne, NDB RWY 18, Amdt. 2
Rochester, NH—Skyhaven, NDB RWY 32, Orig.

. . . Effective July 25, 1984

Ketchikan, AK—Ketchikan Intl, NDB/DME–A, Amdt. 5
Bellaire, MI—Antrim County, NDB RWY 2, Amdt. 9
Westhampton Beach, NY—Suffolk County, NDB RWY 24, Amdt. 3

§ 97.29 [Amended]

4. By amending § 97.29 ILS ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

. . . Effective September 27, 1984

Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS RWY 17R, Amdt. 12
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS RWY 35R, Amdt. 1
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS RWY 36L, Amdt. 1

. . . Effective September 13, 1984

Worcester, MA—Worcester Muni, ILS RWY 11, Amdt. 16
Brainerd, MN—Brainerd-Crow Wing Co/Walter F Wieland Fld, ILS RWY 23, Amdt. 2
Ithaca, NY—Tompkins County, ILS RWY 32, Amdt. 3
Charlotte, NC—Charlotte/Douglas Intl, ILS RWY 36L, Amdt. 6

. . . Effective August 30, 1984

Fresno, CA—Fresno Air Terminal, ILS RWY 29R, Amdt. 27
Houma, LA—Houma-Terrebonne, ILS RWY 18, Amdt. 1
Corpus Christi, TX—Corpus Christi Intl, ILS RWY 13, Amdt. 22
Corpus Christi, TX—Corpus Christi Intl, ILS RWY 35, Amdt. 7

. . . Effective July 25, 1984

Bethel, AK—Bethel, ILS/DME RWY 18, Amdt. 3
Ketchikan, AK—Ketchikan Intl, ILS/DME–1 RWY 11, Amdt. 4
Kodiak, AK—Kodiak, ILS/DME–1 RWY 25, Amdt. 3
Kotzebue, AK—Ralph Wien Memorial, ILS/DME RWY 8, Amdt. 4
Valdez, AK—Valdez No. 2, MLS/STOL–1 RWY 6, Amdt. 1
Pago Pago, American Samoa—Pago Pago Intl, ILS/DME RWY 5, Amdt. 11
Hilo, HI—General Lyman Field, ILS RWY 26, Amdt. 8
Kailua-Kona, HI—Ke-Ahole, ILS/DME RWY 17, Amdt. 7
Westhampton Beach, NY—Suffolk County, ILS RWY 24, Amdt. 7

. . . Effective July 24, 1984

Butte, MT—Bert Mooney, ILS RWY 15 Amdt. 2
Grand Forks, ND—Grand Forks Intl, ILS RWY 35, Amdt. 7
Minot, ND—Minot Intl, ILS RWY 31, Amdt. 6
Medford, OR—Medford-Jackson County, ILS RWY 14, Amdt. 11
Aberdeen, SD—Aberdeen Regional, ILS RWY 31, Amdt. 8
Huron, SD—Huron Regional, ILS RWY 12, Amdt. 5
Pierre, SD—Pierre Muni, ILS RWY 31, Amdt. 7
Rapid City, SD—Rapid City Regional, ILS RWY 32, Amdt. 14
Watertown, SD—Watertown Muni, ILS RWY 35, Amdt. 6
Spokane, WA—Spokane Intl, ILS RWY 3, Amdt. 3

. . . Effective July 23, 1984

Phoenix AZ—Phoenix Sky Harbor Intl, ILS RWY 8R, Amdt. 6
Santa Rosa, CA—Sonoma County, ILS RWY 32, Amdt. 12 New Orleans, LA—New

Orleans Intl (Moisant Field), ILS RWY 1, Amdt. 12

. . . Effective July 20, 1984

Tucson, AZ—Tucson Intl, ILS RWY 11L, Amdt. 8
Colorado Springs, CO—City of Colorado Springs Muni, ILS RWY 17, Amdt. 2
Denver, CO—Stapleton Intl, ILS/DME RWY 8R, Amdt. 3
Denver, CO—Stapleton Intl, ILS RWY 26L, Amdt. 44
Goodland, KS—Renner Fld (Goodland Muni), ILS RWY 30, Amdt. 2
New Orleans, LA—Lakefront, ILS RWY 18R, Amdt. 8
Columbia, MO—Columbia Regional, ILS RWY 2, Amdt. 10

. . . Effective July 19, 1984

Albuquerque, NM—Albuquerque Intl, ILS RWY 8, Amdt. 4
Roswell, NM—Roswell Industrial Air Center, ILS RWY 21, Amdt. 13
Amarillo, TX—Amarillo Intl, ILS RWY 4, Amdt. 20
Brownsville, TX—Brownsville/South Padre Island Intl, ILS RWY 13R, Amdt. 10
El Paso, TX—El Paso Intl, ILS RWY 22, Amdt. 30

§ 97.31 [Amended]

5. By amending § 97.31 RADAR SIAPS identified as follows:

. . . Effective September 27, 1984

Wiscasset, ME—Wiscasset, RADAR-1, Orig., Cancelled
Midland, TX—Midland Regional, RADAR-1, Amdt. 2

. . . Effective September 13, 1984

Fernandina Beach, FL—Fernandina Beach Muni, RADAR-1, Amdt. 2
Harrisburg, PA—Capital City, RADAR-1, Amdt. 10

§ 97.33 [Amended]

6. By amending § 97.33 RNAV SIAPs identified as follows:

. . . Effective August 30, 1984

Houma, LA—Houma-Terrebonne, RNAV RWY 17, Amdt. 1, Cancelled
Houma, LA—Houma-Terrebonne, RNAV RWY 36, Amdt. 2

§ 97.35 [Amended]

7. By amending § 97.35 COPTER SIAPs identified as follows:

. . . Effective August 30, 1984

Houma, LA—Houma-Terrebonne, COPTER VOR/DME 117, Amdt. 1

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(3))

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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on July 27, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

[FR Doc. 84-20375 Filed 8-1-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 for Use in Externally Applied Drugs and Cosmetics; Postponement of Closing Dates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Orange No. 17, D&C Red. No. 19, and D&C Red No. 37 for use as color additives in externally applied drugs and cosmetics. The new closing date will be October 2, 1984. This postponement will provide additional time for determining the applicability of the statutory standard for the listing of noningested color additives to the results of the scientific investigations of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37.

DATES: Effective August 3, 1984, the new closing date for D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 will be October 2, 1984.

FOR FURTHER INFORMATION CONTACT: Gerad McCowin, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5676.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of August 3, 1984, for the provisional listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 for use in externally applied drugs and cosmetics by a final rule published in the Federal Register of June 4, 1984 (49 FR 23040). The agency had previously extended the closing dates for these color additives on several occasions. For a full procedural history of the provisional listing of these color additives, see 48 FR 38814 for D&C Red No. 19 and D&C Red No. 37 and 48 FR 44774 for D&C Orange No. 17.

FDA extended the closing date for the provisional listing of these color additives on these occasions to permit the agency to consider the scientific and legal aspects of the submissions by the petitioner, the Cosmetic, Toiletry and Fragrance Association Inc., in support of the safety of the external uses of these color additives. Although D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 have been shown to be animal carcinogens upon ingestion, the agency believes that somewhat different questions are raised by the request to list these color additives for noningested use. It has taken more time to evaluate the data involved in resolving these questions than the agency anticipated. FDA finds that additional time is still needed to determine the applicability of the statutory standard for the listing of color additives for noningested use to D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37. The regulations set forth below will postpone the August 3, 1984 closing date for the provisionally listed use of these color additives until October 2, 1984. This postponement will also provide additional time for the agency to prepare and to publish **Federal Register** documents setting forth its final decision on the petitions for the permanent listing of these color additives for external use. The continued use of these color additives in externally applied products for the short time needed for the adequate evaluation of the data and for the preparation of **Federal Register** documents that will announce the agency's decision on these color additives will not pose a hazard to the public health.

Because of the short time until the August 3, 1984 closing date, FDA concludes that notice and public procedure on these amendments are impracticable, and that good cause exists for issuing the postponement as a final rule. This final rule will permit the uninterrupted use of these color additives until October 2, 1984. To prevent any interruption in the provisional listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 and in accordance with 5 U.S.C. 553(d)(1) and (3), this final rule is being made effective August 3, 1984.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d))) and under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)] and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOOD, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives,* by revising the closing date for "D&C Orange No. 17," "D&C Red No. 19," and "D&C Red No. 37" in paragraph (b) to read "October 2, 1984."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing,* by revising the closing date for "D&C Orange No. 17," "D&C Red No. 19," and "D&C Red No. 37" in paragraph (d) to read "October 2, 1984."

Effective date. This final rule shall be effective August 3, 1984.

(Secs. 701, 706 (b), (c), and (d) 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: July 10, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-20234 Filed 8-1-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of FD&C Red No. 3 and of FD&C Yellow No. 5 in Cosmetics and Externally Applied Drugs and of Their Lakes in Food and Ingested Drugs; Provisional Listing of FD&C Yellow No. 6 for Use in Food, Drugs, and Cosmetics; Provisional Listing of D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 in Drugs and Cosmetics; Postponement of Closing Dates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing dates for the provisional listing of FD&C Red No. 3 and of FD&C Yellow No. 5 for use in coloring cosmetics and externally applied drugs and of the lakes of these color additives for use in coloring food and ingested drugs; of FD&C Yellow No. 6 for use in food, drugs, and cosmetics; and of D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 for use in drugs and cosmetics. The new closing date for the provisional listing of all of these color additives will be October 2, 1984. This postponement will provide additional time for the agency to determine the applicability of the statutory standard for the listing of color additives to the results of the scientific investigations of FD&C Red No. 3, FD&C Yellow No. 5, FD&C Yellow No. 6, D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33.

DATES: Effective August 3, 1984, the new closing date for FD&C Red No. 3 and its lakes, FD&C Yellow No. 5 and its lakes, FD&C Yellow No. 6, D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 will be October 2, 1984.

FOR FURTHER INFORMATION CONTACT: Gerad McCowin, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5676.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of August 3, 1984, for the provisional listing of FD&C Red No. 3 and of FD&C Yellow No. 5 for use in cosmetics and in externally applied drugs and for the provisional listing of the use of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5 in food and ingested drugs by a rule published in the **Federal Register** of June 4, 1984 (49 FR 23039). Additionally, the agency established the current closing date of August 3, 1984, for the provisional listing of FD&C Yellow No. 6 for use in foods, drugs, and cosmetics and of D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 for use in drugs and cosmetics in that same **Federal Register** document. The agency had previously extended the closing dates for these color additives on several occasions. For a full procedural history of the provisional listing of these color additives, see 48 FR 45237 for FD&C Red No. 3, 48 FR 45760 for FD&C Yellow No. 5, 49 FR 13344 for FD&C Yellow No. 6, 48 FR 42807 for D&C Red No. 8 and D&C Red No. 9, and 48 FR 44773 for D&C Red No. 33.

FDA extended the closing dates for the provisional listing of each of these color additives and of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5 to permit the agency to consider the scientific and legal aspects of the data concerning the safety of their provisionally listed uses. FDA expected that these closing dates would provide time for the agency to prepare and to publish appropriate regulations in the **Federal Register** regarding the agency's final decision of the petitions for the permanent listing of the aforementioned uses of these color additives and of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5.

The review and evaluation of the data relevant to the provisionally listed uses of FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes, FD&C Yellow No. 6, D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 have required more time than anticipated, however. The agency finds that additional time is still needed to determine the applicability of the statutory standard for listing color additives to D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, and FD&C Yellow No. 6 as well as to FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes. This postponement will provide additional time for the agency to prepare and to publish the appropriate **Federal Register** documents setting forth its decision on the petitions for the permanent listing of FD&C Red No. 3 and FD&C Yellow No. 5 for use in coloring cosmetics and externally applied drugs and of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5 for use in coloring food and ingested drugs; for the permanent listing of FD&C Yellow No. 6 for use in food, drugs, and cosmetics; and for the permanent listing of D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 for use in coloring drugs and cosmetics. The continued use of these color additives for the short time needed for the adequate evaluation of the data and for the preparation of the **Federal Register** documents will not pose a hazard to the public health.

Because of the short time until the August 3, 1984 closing date, FDA concludes that notice and public procedure on these amendments are impracticable, and that good cause exists for issuing this postponement as a final rule. This final rule will permit the uninterrupted use of D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, and FD&C Yellow No. 6, as well as FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes until October 2, 1984. To prevent any interruption in the provisional listing of D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, and FD&C Yellow No. 6, as well as FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes and in accordance with 5 U.S.C. 553(d) (1) and (3), this regulation is being made effective on August 3, 1984.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Food, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d))) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOOD, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. § 81.1 *Provisional lists of color additives,* by revising the closing dates for "FD&C Yellow No. 5," "FD&C Yellow No. 6," and "FD&C Red No. 3" in paragraph (a) to read "October 2, 1984" and by revising the closing dates for "D&C Red No. 8," "D&C Red No. 9," and "D&C Red No. 33" in paragraph (b) to read "October 2, 1984."

§ 81.27 [Amended]

2. § 81.1 *Conditions of provisional listing,* by revising the closing dates for "FD&C Yellow No. 5," "FD&C Yellow No. 6," "FD&C Red No. 3," "D&C Red No. 8," "D&C Red No. 9," and "D&C Red No. 33" in paragraph (d) to read "October 2, 1984" and by revising the closing dates for "FD&C Red No. 3" and "D&C Red No. 33" in paragraph (e) to read "October 2, 1984."

Effective date. This final rule is effective August 3, 1984.

(Secs. 701, 706(b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376(b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: July 10, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-20235 Filed 8-1-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Roxarsone

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revising the animal drug regulations to correctly reflect that Hess & Clark currently holds an approved new animal drug application (NADA) providing for use of roxarsone premixes to make complete broiler feeds only. The regulations inadvertently indicate that the firm holds approval for making both broiler and turkey feeds.

EFFECTIVE DATE: August 2, 1984.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4317.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 15, 1974 (39 FR 9932), a document published reflecting approval of Hess & Clark's NADA 92–953. The NADA provided for use of a 10-percent roxarsone premix to make a broiler feed. In the **Federal Register** of July 30, 1975 (40 FR 31933), a document published reflecting approval of Hess & Clark's supplemental NADA 92–593. The supplement provided for use of 20- or 50-percent roxarsone premixes to make the broiler feed. Inadvertently, subsequent amendments to the roxarsone regulation (21 CFR 558.530) indicate that Hess & Clark has approval to make chicken and turkey feeds. This document amends the roxarsone regulation to indicate that Hess & Clark's NADA provides for use of roxarsone premixes in making broiler feeds only.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.530 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.530 *Roxarsone* in paragraph (a)(1) by removing the phrase "and turkey".

Effective date. August 2, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated : July 26, 1984.

Richard A. Carnevale,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 84-20381 Filed 8-1-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Approval of Permanent Program Amendment From the Commonwealth of Virginia Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of a program amendment submitted by Virginia as an amendment to the State's permanent regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment establishes a program for blaster training, examination and certification.

Virginia submitted the proposed program amendment on April 11, 1984. OSM published a notice in the **Federal Register** on April 26, 1984, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (49 FR 17975). The public comment period ended May 25, 1984.

After providing opportunity for public comment and conducting a thorough review of the program amendment, the Director has determined that the amendment meets the requirements of SMCRA and the Federal regulations, and is approving it. The Federal rules at 30 CFR Part 946 codifying decisions concerning the Virginia program are being amended to implement this action.

EFFECTIVE DATE: August 2, 1984.

FOR FURTHER INFORMATION CONTACT: Ralph Cox, Field Office Director, Big Stone Gap Field Office, Office of Surface Mining, P.O. Box 626, Big Stone Gap, Virginia 24219; Telephone: (703) 523–4303.

SUPPLEMENTARY INFORMATION:

I. Background

The Virginia program was conditionally approved by the Secretary of the Interior on December 15, 1981 (46 FR 61088–61115). 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 conditons of approval of the Virginia

program can be found in the December 15, 1981 Federal Register.

II. Submission of Revisions

By letter dated April 11, 1984, Virginia submitted proposed statute and regulations and other material which would establish requirements for the training and certification of blasters working in surface coal mining operations. The proposed modifications include:

- House Bill Number 144.
- Regulations: Sections V816.61 and V817.61 (Use of Explosives; General Requirements) Subchapter VM (Training, Examination, and Certification of Blasters).
- Memorandum of Agreement between the Virginia Department of Conservation and Economic Development and the Virginia Department of Labor and Industry.
- Flow chart for blaster's certification.
- Form CP–180 "DMLR Application for Endorsement of Coal Surface Mining Operations Blaster's Certification."
- Form BOE–1 "Application for Examination for Certification."
- Form BOE–2 "Certification of Work Experience."
- Division of Mines and Quarries booklet "Rules and Regulations Covering Surface Mining Operations."

At the time of the Secretary's approval of the Virginia 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 Virginia program, the Secretary specified that Virginia would be required to adopt such provisions following promulgation of the Federal standards (46 FR 61098, December 15, 1981).

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). The Federal rules require each State to design and implement its own blaster certification program. Under the Federal rules, each State must develop the method of training, examining, and certifying blasters which best meets local needs within the Federal regulatory framework. The Federal rules require training, field experience, and a written examination, and specify certain other requirements.

The Federal rules at 30 CFR 850.12 require the State regulatory authority to develop a program and subject it to OSM as a proposed program amendment within 12 months after the publication date of the Federal rules. The Federal rules at 30 CFR 816.61(c) further provide that no later than 12 months after the State's blaster certification program has been approved by OSM, all blasting operations in the State shall be conducted under the direction of a certified blaster.

On April 26, 1984, OSM published a notice in the Federal Register announcing receipt of the amendment and inviting public comment on whether the proposed amendment was no less effective than the Federal regulations (49 FR 17975). The public comment period ended May 25, 1984. The opportunity to request a public hearing was provided, but none was requested.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendment submitted by Virginia on April 11, 1984, meets the requirements of SMCRA and 30 CFR Chapter VII, as discussed below.

A. General

The Virginia submission included a memorandum of agreement between the Department of Conservation and Economic Development through the Division of Mined Land Reclamation (DMLR) and the Department of Labor and Industry through the Division of Mines and Quarries (DMQ). The memorandum provides the following.

DMLR in cooperation with and assistance from the DMQ shall administer the initial training and recertification testing, pursuant to Subchapter VM of the Virginia regulations, of those individuals currently holding valid blaster certifications with the DMQ.

The DMQ will continue to provide ongoing training for those individuals seeking certification as blasters in the Commonwealth. DMLR will assist DMQ to ensure that the training embodies the minimum requirements set forth in Section V850.13(c) of the Virginia regulations.

The DMLR with cooperation from DMQ will formulate a "Coal Surface Mining Blasting Certification Exam" and will oversee the overall administration of such. DMQ will continue to administer the exam which tests the individual's knowledge of blasting procedures and controls, proper transportation and storage of explosives, and applicable State and Federal rules and regulations governing explosives.

The DMLR will maintain current records of individuals certified as blasters noting the date of certification and expiration of such. The DMLR will also ensure that an individual certified as a blaster is notified at least 60 days prior to expiration of said certification.

The DMQ and DMLR will concurrently notify each other of any violations of application blasting standards by the certified blaster. The DMLR will have sole authority based upon its findings and/or recommendations of DMQ to suspend and/or revoke an individual's blaster certification.

The Director finds that the division of responsibilities proposed for the Virginia blaster certification program is adequate to satisfy the basic requirements within the Federal regulatory framework.

B. Part V850 Training, Examination, and Certification of Blasters

1. Section V850.12 provides that no later than twelve months after approval by the Secretary of the Interior, all blasting operations shall be conducted by a certified blaster who, pursuant to section V850.5, has obtained certification pursuant to the requirements of this rule. Chapter 230 of the 1984 Acts of Assembly which amends section 45.1–256 of the Code of Virginia provides that DMLR shall assume primary responsibility for the program including the conducting of examinations and issuing certificates in accordance with the Virginia regulations. The Director finds these provisions to be no less effective than the Federal regulations at 30 CFR Part 850.

2. Section V850.13 specifies that persons seeking to become blasters may receive training from DMQ. The DMLR through subsequent correspondence has confirmed that DMLR will be affirmative in ensuring that each prospective blaster who is to be certified has received training consistent with the Federal regulations and the Virginia program. The Director finds that the Virginia rule includes all the topics required by 30 CFR 850.13(b) and therefore is no less effective than the Federal rules.

3. Section V850.14 sets forth the requirements necessary for a person to become a certified blaster. The rule requires that a person must: (1) Pass the DMQ written examination covering blasting practices, transportation and storage of explosives, DMQ rules and regulations and blast controls; (2) passed DMLR's Blasters Coal Surface Mining Endorsement Test covering section V850, V816.61–68 and V817.61–68; (3) file an application and furnish proof of experience to the DMQ's Board of Mine Examiners. Applicants shall be

examined by both DMLR and DMQ, at a minimum in the topics set forth in Section V850.13(c).

The Director finds that these provisions are no less effective than 30 CFR 850.14 which sets forth the minimum requirements for examination of candidates for blaster certification.

4. Section V850.15 sets forth the requirements for certification and recertification. Section V850.15(a) provides that certification shall be for a period of five years. Section V850.15(b) provides that a blaster must be recertified every five years by: presenting written proof that the individual has worked in a capacity which demonstrates the blaster's competency during two of the last three years immediately preceding the expiration date; or retaking the DMLR endorsement exam and achieving the required score on the exam.

The Director finds that these provisions are no less effective than the Federal rules at 30 CFR 850.13(a) and 850.13(c).

5. Section V850.15(e) specifies the conditions of certification including the following requirements: (1) A blaster must, upon request by an authorized representative of DMLR, DMQ or OSM, immediately exhibt his or her certificate; (2) a blaster's certification shall not be transferred or assigned; and (3) blasters shall not delegate their responsibility to any individual who is not a certified blaster. Section V850.15(d) provides that certified blasters shall take every reasonable precaution to protect their certificates from loss, theft, or unauthorized duplication. Any such occurrence shall be reported immediately to DMLR.

The Director finds these provisions to be no less effective than 30 CFR 850.15(d) and 850.15(e), which specify requirements for conditions of certification and for the protection of certification.

6. Section V850.15(b) sets forth the provisions concerning suspension and revocation of a blaster's certification. The rule provides that the DMLR, when practicable, following written notice and opportunity for a hearing, and upon a finding of willful conduct by the DMQ Board of Mine Examiners shall, suspend or revoke a blaster's certification for any of the following reasons: (1) Noncompliance with any blasting related order or the DMLR or DMQ; (2) violation of any provision of State or Federal explosives laws or regulations; (3) unlawful use in the workplace of, or current addiction to, alcohol, narcotics or other dangerous drugs; (4) providing false information or a misrepresentation to obtain certification. The rule provides that if advance notice and a hearing opportunity cannot be provided, an opportunity for a hearing shall be provided as soon as practical following suspension, revocation or other adverse action. DMLR through subsequent correspondence assured that upon notice of a suspension or revocation, the blaster shall immediately surrender the suspended or revoked certificate to the State.

The Director finds these provisions no less effective than 30 CFR 850.15(b).

C. Sections V816.61 and V817.61 Use of Explosives: General Requirements

Sections V816.61(c) and V817.61(c) provide that not later than twelve months following the approval by the Secretary of the State's blaster certification program, all blasting operations shall be conducted under the direction of a certified blaster.

Prior to that time all blasting operations shall be conducted by competent experienced persons who understand the hazards involved, and who are certified by the DMQ. The Virginia regulations also require that blaster certification shall be carried by blasters or shall be on file at the permit area during blasting operations; a blaster and at least one other person be present at the firing of a blast; and persons responsible for blasting operations at a blasting site shall be familiar with the blasting plan and site-specific performance standards.

The Director finds these provisions virtually identical and no less effective from the requirements of 30 CFR 816.61(c) and 817.61(c).

IV. Public Comments

Of those Federal agencies invited to comment on the proposed amendments, responses were received from the Army Corps of Engineers, the Mine Safety and Health Administration, the Environmental Protection Agency, and the National Park Service.

The National Park Service, Mid-Atlantic Region recommended that sections V816.61(c)(3) and V817.61(c)(3) be revised as follows: Insert "competent" between "other" and "person" and insert "certified" between "from a" and "blaster". The Director finds that V816.61(c)(3) and V817.61(c)(3) are identical to 30 CFR 816.61(c)(3) and 817.61(c)(3). Therefore, no additional changes are necessary.

The disclosure of Federal agency comments is made pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)i).

There were no other public comments.

V. Director's Decision

The Director, based on the above findings, is approving the April 11, 1984 amendment to the Virginia program. The Director is amending Part 946 of 30 CFR Chapter VII to reflect approval of the above State program modification.

VI. Procedural Requirements

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 will not have a significant economic effect on a substantial number of small entities under the Rugulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will 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 946

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

Dated: July 27, 1984.

J. Lisle Reed,

Acting Director, Office of Surface Mining.

PART 946—VIRGINIA

30 CFR 946.15 is amended by adding a new paragraph (m) as follows:

§ 946.15 Approval of regulatory program amendments.

* * * * *

(m) The following amendment submitted to OSM on April 11, 1984, is approved effective August 2, 1984: Virginia's blaster certification program, as contained in the Virginia regulations at Subchapter VM Part V850; the general

requirements for use of explosives at sections V816.61(c) and V817.61(c); Chapter 230 of the 1984 Acts of Assembly; and all other items as submitted by Virginia on April 11, 1984, and clarified on July 5, 1984.

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

[FR Doc. 84–20501 Filed 8–1–84; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11 84–43]

Marine Event: Lake Havasu Water Ski Show

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule will establish Special Local Regulations for the next two dates in the eight date series of water ski shows at the London Bridge Channel, Lake Havasu City, Arizona. This event was held last year as the "London Bridge Days Water Ski Show", and regulations were published in the **Federal Register** on 29 September 1983 (48 FR 44533). The sponsor has decided to hold this event ("Lake Havasu Water Ski Show") as a continuing series during this year. There was insufficient time to publish proposed rules for the first four dates of this series; therefore, regulations for the first four dates were published in the **Federal Register** on 4 June 1984, and a notice of proposed rule making for the last four dates was published on 4 June 1984.

These regulations are needed to provide for the safety of life and property on navigable waters during the periods set forth.

EFFECTIVE DATE: These regulations become effective on 28 July 1984 and terminate on 11 August 1984.

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Commander (bb), Eleventh Coast Guard District Boating Affairs Office, 400 Oceangate, Long Beach, California 90822, (213) 590–2331.

SUPPLEMENTARY INFORMATION: On 4 June 1984 the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (49 FR 23075). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of this regulation are LTJG Jorge Arroyo, Project Officer, Boating Affairs Office, Eleventh Coast Guard District, and LT Joseph R. McFaul, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Comments

Although no official comments were received concerning these regulations one rental boat operation in the regulated area has expressed his concern over lost revenue during this event. Even though he has not replied directly to the proposed rule making, the Coast Guard will treat his concerns as comments to this rule. The commenter claims lost revenue because potential customers are not allowed to transit to his business or operate in his general vicinity due to the intermittent closure of the area for this marine event. In considering his comment the Coast Guard has made minor changes to the final rule.

The comment period for the final two shows of the series will be extended an additional 30 days to 11 August 1984; this will allow all interested parties ample time to comment as to the effect of this rule on their business. Interested persons wishing to comment may do so by submitting written comments to the office listed under **"FOR FURTHER INFORMATION CONTACT"** in this preamble. Commenters should include their names and addresses, identify this notice CGD11 84–43, and give reasons for their comments. Based on comments received, the regulation may be changed or further permits may not be issued.

Discussion of Proposed Regulation

Lake Havasu Water Ski Club "Lake Havasu Water Ski Shows" conducted three shows this year on the London Bridge Channel on 16, 30 June and 14 July 1984 (the 2 June show was cancelled). Four shows remain on the schedule this year; this regulation will cover the next two shows which will be on 28 July and 11 August 1984. This event involves the use of 35 tournament ski boats used to tow skiers which could pose a hazard to navigation. Therefore, vessels desiring to transit the regulated area may do so only with clearance from a partrolling law enforcement vessel or an event committee boat.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary, since the regulated area will be opened periodically for the passage of vessel traffic. Morever, additional revenue generated by this event as well as increased favorable publicity for the waterfront merchants outweights expected minimal disruptions in business patterns.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects In 33 CFR Part 100

Marine Safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, by adding the following section:

§ 100.35–11–84–44 Lake Havasu Water Ski Show, Lake Havasu, Arizona

(a) *Regulated Area:* That portion of the London Bridge Channel, Lake Havasu City, Arizona commencing approximately 200 yards north of the London Bridge, thence southerly along the channel to approximately 200 yards south of the London Bridge. Event participants may only transit at high speed under the center span of the bridge, other spans may be used to transit at a safe and prudent speed so as to not endanger life or property.

(b) *Effective Date:* The regulated area will be closed intermittently to all vessel traffic from 6:00 PM to 7:30 PM on 28 July and 11 August 1984.

(c) *Special Local Regulations:* (1) No Vessels, other than participants, U.S. Coast Guard operated and employed small craft, public vessels, state and local law enforcement agencies and the sponsor's vessels shall enter the regulated area during the above hours, unless cleared for such entry by or through a patrolling law enforcement vessel, or an event committee boat.

(2) When hailed by U.S. Coast Guard operated and employed small craft, law enforcement agencies and/or the sponsor's vessels patrolling the event area, a vessel shall come to an immediate stop. Vessels shall comply with all directions of the designated Regatta Patrol.

(3) These regulations are temporary in nature and shall cease to be in effect at the end of each period set forth.

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b); 33 CFR 100.35)

Dated: July 27, 1984.

J.I. Maloney,

Captain, U.S. Coast Guard, Commander, Eleventh Coast Guard District, Acting.

[FR Doc. 84-20446 Filed 8-1-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD11 84-66]

Marine Event: NJBA Regatta

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the "NJBA Regatta". This event will be held on 8-9 September 1984, at river mile 179.5 on the Colorado River. The regulations are needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on 8 September 1984 and terminate on 9 September 1984.

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Commander (bb), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, (213) 590-2331.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations. Following normal rule making procedures would have been impracticable. The application to hold this event was not received until 1 July 1984, and there was not sufficient time to publish proposed rules in advance of the event.

Nevertheless, interested persons wishing to comment may do so by submitting written views, data, or arguments. Commenters should include their name and address, indentify this notice (CGD11 84-66) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. The regulations may change in light of comments received.

Economic Assessment and Certification

This final rule is considered to be non-major under Executive Order 12291 on Federal Regulation, and non-significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this rule has been found to be so minimal that further evaluation is unnecessary. Since the impact of this final rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The drafters of this regulation are LTJG Jorge Arroyo, Project Officer, Boating Affairs Office, Eleventh Coast Guard District, Project Officer, and LT Joseph R. McFaul, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Regulation

National Jet Boat Association "NJBA Regatta" will be conducted beginning September 8, 1984, on the Colorado River starting from river mile 179.5. This event will have 200 inboard high speed ski boats 18 to 20 feet in length that could pose hazards to navigation, therefore, vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

List of Subjects in 33 CRF Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Regulations

In consideration of the foregoing Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35 11-84-66 to read as follows:

§ 100.35 11-84-66 NJBA Regatta, Colorado River, Arizona.

(a) *Regulated Area:* The following area may be closed intermittently to all vessel traffic. That portion of the Colorado River, starting at river mile 179.5, thence southerly along the natural flow of the river to Headgate Rock Dam and return to the starting point.

(b) *Effective Dates:* These regulations will be effective from 7:00 AM to 7:00 PM on 8 and 9 September 1984.

(c) *Special Local Regulations:* All persons and/or vessels not registered with the sponsor as participants or official regatta patrol vessels are considered spectators. The "official regatta patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessels assigned to patrol this event.

(1) No spectators shall, block, anchor, loiter in, or impede the through transit of participants or official regatta patrol vessels in the regulated area during the effective dates, unless cleared for such entry by or through an official regatta patrol vessel.

(2) When hailed and/or signaled by horn or whistle by an official regatta patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions of the designated Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(3) All vessels in close enough vicinity shall operate at a safe and prudent speed which will create a minimum wake that will not affect participants.

(4) The Patrol Commander is empowered to forbid and control the movement of vessels in the regulated area. He may terminate the marine event at any time it is deemed necessary for the protection of life and property. He may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b); 33 CFR 100.35))

Dated: July 25, 1984.

J.I. Maloney,

Captain, U.S. Coast Guard, Commander, Eleventh Coast Guard District, Acting.

[FR Doc. 84-20447 Filed 8-1-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD2 84-22]

Special Local Regulations; Pittsburgh Three Rivers Regatta

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the area bounded by mile 01.0, Ohio River, mile 01.0 on the Monongahela River and mile 01.0 on the Allegheny River. Marine events will be held on the days of August 3, 4 and 5, 1984, at Pittsburgh, Pennsylvania. These special local regulations are needed to provide for the safety of life and property on navigable waters during the events.

EFFECTIVE DATE: These regulations will be effective on the following dates; August 3, 4 and 5, 1984.

FOR FURTHER INFORMATION CONTACT: CDR. R.B. Bower, Chief, Boating Technical Branch, Second Coast Guard District, 1430 Olive St., St. Louis, MO 63103 (314) 279-5971.

SUPPLEMENTARY INFORMATION: These special local regulations are issued pursuant to 33 U.S.C. 1233 and 33 CFR 100.35, for the purpose of promoting the safety of life and property on the Ohio, Monongahela and Allegheny Rivers between mile 00.0 and 01.0 on each of these three rivers during the "Pittsburgh Three Rivers Regatta", August 3, 4 and 5, 1984. This event will consist of boat

races, air shows, a boat parade and a fireworks display which could pose hazards to navigation in the area.

Therefore, these special local regulations are deemed necessary for the promotion of safety of life and property in the area during 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 necessity to draft Special Regulations and provide a Coast Guard Patrol Commander were not evident until June 25, 1984, and there was insufficient 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 forth in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

Drafting Information

The drafters of this regulation are BMCM W.L. Giessman, USCGR, Project Officer, Boating Technical Branch, and LT. R.E. Kilroy, USCG, Project Attorney, Second Coast Guard District Legal Office.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35–0221 to read as follows:

§ 100.35–0221 Ohio, Monogahela and Allegheny Rivers, mile 00.0 through 01.0 on each of these three rivers.

(a) *Regulated Area:* The area bounded by mile 01.0 on the Ohio River, mile 01.0 on the Monongahela River and mile 01.0 on the Allegheny River is designated the regatta area, and may be closed to commercial navigation or mooring during the following dates and (local) times: August 3, 8:00 a.m. to 10:00 p.m.; August 4, 8:00 a.m. to 10:00 p.m.; and August 5, 8:00 a.m. to 10:00 p.m.

The above times represent a guideline for possible intermittent river closures not to exceed FOUR (4) hours in duration each. Mariners will be afforded enough time between such closure periods to transit the area in a timely manner.

(b) *Special Local Regulations:* Vessels desiring to transit the regulated 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 (156.8MHZ) when necessary, by the call sign "Coast Guard Patrol Commander".

(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 so 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 regatta area to vessels having particular operating characteristics.

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

(g) This § 100.35–0221 will be effective on the following dates and times: August 3, 8:00 a.m. to 10:00 p.m.; August 4, 8:00 a.m. to 10:00 p.m.; and August 5, 8:00 a.m. to 10:00 p.m. All times listed are local time.

Authority: 33 U.S.C. 407, 411, 1233–1236; 46 U.S.C. 2106–2107, 2302, 4308, 4311 (a) and (c), 49 U.S.C. 1655(b)(1), 33 CFR 100.35, 100.40, 100.50, 49 CFR 1.46(b), 1.46(n)(1)

Dated: July 19, 1984.

R.J. Collins,

Captain, U.S. Coast Guard, Commander, Second Coast Guard District Acting.

[FR Doc. 84–20446 Filed 8–1–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD2 84–23]

Special Local Regulations; Ohio River Festival Regatta

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for Mile 220.0 to 221.0, Ohio River. Marine events will be held on the days of August 11 and 12, 1984, at Portland, Ohio. These special local regulations are needed to provide for the safety of life and property on navigable waters during the events.

EFFECTIVE DATE: These regulations will be effective on the following dates; August 11 and 12, 1984.

FOR FURTHER INFORMATION CONTACT: CDR. R.B. Bower, Chief, Boating Technical Branch, Second Coast Guard District, 1430 Olive St., St. Louis, MO 63103 (314) 279–5971.

SUPPLEMENTARY INFORMATION: These special local regulations are issued pursuant to 33 U.S.C. 1233 and 33 CFR 100.35, for the purpose of promoting the safety of life and property on the Ohio River between mile 220.0 and 221.0 during the "Ohio River Festival Regatta", August 11 and 12, 1984. This event will consist of high speed powerboat races which could pose hazards to navigation in the area.

Therefore, these special local regulations are deemed necessary for the promotion of safety of life and property in the area during 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 necessity to draft Special Regulations and provide a Coast Guard Patrol Commander were not evident until July 2, 1984, when the application was received, and there was insufficient 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 forth in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

Drafting Information

The drafters of this regulation are BMCM W.L. Giessman, USCGR, Project Officer, Boating Technical Branch, and LT. R.E. Kilroy, USCG, Project Attorney, Second Coast Guard District Legal Office.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35—0222 to read as follows:

§ 100.35–0222 Ohio River, mile 220.0 through 221.0

(a) *Regulated Area:* The area between Mile 220.0 and 221.0 Ohio River is designated the regatta area, and may be closed to commercial navigation or mooring during the following dates and (local) times: August 11, 9:00 a.m. to 8:00 p.m.; and August 12, 9:00 a.m. to 8:00 p.m.

The above times represent a guideline for possible intermittent river closures not to exceed three (3) hours in duration each. Mariners will be afforded enough time between such closure periods to transit the area in a timely manner.

(b) *Special Local Regulations:* Vessels desiring to transit the regulated 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 (156.8MHZ) when necessary, by the call sign "Coast Guard Patrol Commander".

(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 so 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 regatta area to vessels having particular operating characteristics.

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

(g) This § 100.35–0222 will be effective on the following dates and times: August 11, 9:00 a.m. to 8:00 p.m.; and August 12, 9:00 a.m. to 8:00 p.m. All times listed are local time.

Authority: 33 U.S.C. 407, 411, 1233–1236; 46 U.S.C. 2106–2107, 2302, 4308, 4311 (a) and (c), 49 U.S.C. 1655(b)(1), 33 CFR 100.35, 100.40, 100.50, 49 CFR 1.46(b), 1.46(n)(1).

Dated: July 19, 1984.

R.J. Collins,

Captain, U.S. Coast Guard, Commander, Second Coast Guard District, Acting.

[FR Doc. 84–20449 Filed 8–1–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD3 83–041]

Drawbridge Operation Regulations; New Jersey Intracoastal Waterway, NJ

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Ocean County, New Jersey, the Coast Guard is changing the regulations governing the County Route 528 highway bridge at Mantoloking, NJ by permitting limited openings from Memorial Day through Labor Day on weekends and holidays. This change is being made because periods of peak vehicular traffic usually coincide with peak vessel openings. This action will accommodate the current needs of vehicular traffic and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on September 4, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668–7994.

SUPPLEMENTARY INFORMATION: On January 26, 1984, the Coast Guard published a proposed rule (49 FR 3211) concerning this amendment. The Commander, Third Coast Guard District also published the proposal as a Public Notice dated February 12, 1984. In each notice interested persons were given until March 12, 1984 to submit comments.

On April 24, 1984, the Coast Guard published a final rule (49 FR 17450) that reorganized the regulations for drawbridges (Part 117 of Title 33 Code of Federal Regulations) to consolidate common requirements and to organize bridge regulations into a more usable format. This final rule follows the revised numbering and format.

Drafting Information

The drafters of these regulations are Ernest J. Feemster, project manager, and Mary Ann Arisman, project attorney.

Discussion of Comments

Regulations permitting openings at 20-minute intervals during peak vehicular and boating periods are being issued at the Route 528 Bridge. This is being done because 20-minute openings were found to be the best compromise between vessel and vehicular traffic and will cause the least inconvenience to affected persons.

The Coast Guard issued temporary regulations at the bridge from July 2 to August 31, 1982 to evaluate bridge openings at 20-minute intervals. Temporary regulations were issued because of a request by the bridge owner, Ocean County, for scheduled openings during peak vessel and traffic periods. Only a few reports of minor inconveniences to vessels were received in comments on the temporary regulations.

The Coast Guard proposed 30-minute opening intervals in the Notice of Proposed Rulemaking for this action to try to respond to reported inconveniences during the temporary regulations. Eight responses on the proposed rule were received: three opposed any change, one supported the proposal, and four respondents preferred openings at 20-minute intervals, instead of the proposed 30-minute intervals. One person opposing the proposed rule felt that no type opening restriction would alleviate traffic "tie-ups", while the other two

persons objected to 30-minute scheduled openings because of perceived hazards to vessels. Twenty-minute openings will respond more favorably to objections made to the proposed rule, and similar regulations in similar situations have proven to reduce traffic congestion without hazarding navigation.

The Route 528 Bridge spans the Intracoastal Waterway at the northern end of Barnegat Bay. The Route 37 Bridge is about three miles southward on the same waterway and has regulations allowing it to open at half-hour intervals during peak vessel opening and vehicular traffic periods. The Route 35 Bridge spans the Intracoastal Waterway about 2½ miles north of the Route 528 Bridge on the Manasquan River (via the Point Pleasant Canal). Regulations are being proposed to permit the Route 35 bridge to open on the hour and half-hour at peak vessel opening and vehicular traffic periods. Based on input gathered thus far, there is general acceptance of these proposed regulations. Therefore, since similar peak vessel opening and traffic periods occur at the three bridges, a 20-minute opening schedule would provide an appropriate "staggered" schedule for vessels needing an opening at two of the bridges. Such openings occur frequently since all three bridges span the New Jersey Intracoastal Waterway.

Peak vehicular traffic crosses the Route 528 bridge at peak boating periods (from about 9 a.m. to 6 p.m.) on weekends and holidays from Memorial Day through Labor Day. Scheduled openings will reduce bridge openings resulting in fewer interruptions to vehicular traffic. Additionally, vehicle operators will be able to schedule movements to avoid bridge opening times.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The regulations will be responsive to vehicular traffic problems and will be minimally restrictive to vessel traffic. Since the Route 528 Bridge is over the Intracoastal Waterway, there are potentially many marinas and other marine facilities which could conceivably be impacted by bridge regulations. However, conversations with marina operators in the immediate bridge vicinity indicate that they will have no objections to these regulations and foresee no detrimental impacts. No other organization, business, entity or person will be unduly impacted either singularly or cumulatively by these final regulations. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended by redesignating the existing § 117.733(b) through (g) as § 117.733(c) through (h), respectively, and adding a new § 117.733(b) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.733 New Jersey Intracoastal Waterway.

* * * * *

(b) The draw of the County Route 528 bridge across Barnegat Bay, mile 6.3 at Mantoloking shall open on signal; except that on Saturday, Sunday, and Federal holidays from Memorial Day through Labor Day from 9 a.m. to 6 p.m., the draw need be opened only on the hour, twenty minutes after the hour, and forty minutes after the hour. The draw shall open at all times as soon as possible for a public vessel of the United States, a vessel in distress, or for a vessel with tow.

* * * * *

(33 U.S.C. 499; 49 CFR 1.46(c)(2); 33 CFR 1.05-1(g)(3))

Dated: July 23, 1984.

P.A. Yost,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 84-20464 Filed 8-1-84; 8:45 am]

BILLING CODE 4910-14-M

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Seaway Regulations, Miscellaneous Amendments

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation and its counterpart agency, The St. Lawrence Seaway Authority of Canada, publish joint Seaway Regulations. As a result of discussions with The St. Lawrence Seaway Authority, it has been determined that a number of the existing regulations needed revision. Therefore the Seaway Corporation has amended 33 CFR Part 401—Subpart A.

EFFECTIVE DATE: August 2, 1984.

FOR FURTHER INFORMATION CONTACT: Frederick A. Bush, General Counsel, (202) 426-3574.

SUPPLEMENTARY INFORMATION:

Background

On April 5, 1984, the Seaway Corporation published in the **Federal Register** (49 FR 13551) proposed amendments to the Seaway Regulations which had been developed jointly with the Canadian Seaway Authority.

No comments were submitted in response to the notice of proposed rulemaking.

However, the St. Lawrence Seaway Authority, after publication in the **Federal Register** on April 5, 1984, requested that the new paragraph (iii) which the Corporation had proposed adding to § 401.7(a)(2) should become a new § 401.39-1 since it was felt the regulation pertained to navigation rather than condition of vessels. This paragraph provides that "every vessel equipped with fenders that are not permanently attached shall raise its fenders when passing a lock gate in Snell or Eisenhower Locks". In view of the fact that the Authority's request is one of form, not substance, the Corporation agrees to grant the Authority's request and the change has been adopted.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

In § 401.13(b), the diameter of hand held lines has been changed from "a minimum diameter of 12.7 mm and a minimum length of 30 m" to "a diameter between 12 mm and 20 mm and a minimum length of 30 m" to improve manageability and safety.

Section 401.18 has been rewritten to indicate that every vessel must be equipped with a steering light located on the centerline at or near the stem of the vessel and clearly visible from the helm, or two steering lights located at equal distances either side of the centerline at the forepart of the vessel and clearly visible from the bridge along a line parallel to the keel. Because of the installation of cranes and other cargo handling equipment on vessels, it had

become impossible to see a steering light located on the bow. Therefore, the revision to this regulation will eliminate that problem.

In § 401.19(b)(2), line 1, the comma has been removed after "leakproof" because it is unnecessary.

In § 401.24, a notation has been added that Office of Management and Budget approval, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35), has been received for application for preclearance forms.

Paragraph (a) of § 401.31 has been revised to indicate that the meeting and passing of vessels will now be governed by the Collision Regulations of Canada and the Navigation Rules International-Inland of the United States because the Rules of the Road for the Great Lakes have been revoked and have been replaced as set forth above by the respective countries.

In paragraph (b) of § 401.31, the reference to "limit of approach signs" has been deleted because these signs no longer exist. Paragraph (b) has been further revised so that no vessel shall meet another vessel within the caution signs at bridges or within any area that is designated as a "no meeting area" by signs erected by the Authority or the Corporation in that area.

In § 401.31(c)(2), the word "or" has been added at the end of the phrase for clarification.

A new regulation, "§ 401.35 Navigation Underway," has been added. This regulation provides that every vessel transiting between C.I.P. 2 and Tibbetts Point in the St. Lawrence River, and between C.I.P. 15 and 16 in the Welland Canal must man the propulsion machinery of the vessel including the main engine control station, and operate the propulsion machinery so that it can respond immediately through its full operating range. This regulation is the result of a number of vessel incidents involving vessel personnel not manning propulsion machinery, thereby adversely affecting the vessel's ability to maneuver.

In § 401.38, wherever the term "guard gate" was previously used, the term has been redesignated "guard gate cut". Since the guard gate has been removed, a new designation was therefore necessary for that particular area because there still remains a requirement to comply with this regulation.

A new § 401.39–1 has been added. As previously noted above, the provisions of this regulation were contained as part of § 401.7(a)(2) in the Proposed Rule of April 5, 1984, but are now set forth as a separate regulation for the reason previously stated. This regulation provides that a vessel shall be equipped with fenders if any structural part of the vessel protrudes so as to endanger Seaway installations. Where fenders are not permanently attached, they must be raised at all times when the vessel passes a lock gate in Snell or Eisenhower Locks. This will reduce the possibility of damage to lock gates by fenders which are not permanently attached.

Sections 401.43 and 401.48 have been revised in the same manner and for the same reason as previously stated for § 401.38.

In § 401.51, (b), the distance between signs has been changed from "between 670 m and 1500 m uptream and downstream from movable bridges at sites other than lock sites" to "between 550 m and 2990 m upstream and downstream from movable bridges at sites other than lock sites". This regulation requires that unless a vessel's approach has been recognized by a flashing signal, the master shall signal the vessel's approach to the bridgemaster by VHF radio when it comes abreast of any of the bridge whistle signs. This change in distance between the signs results from a relocation of these signs.

In § 401.68 and 401.74, a notation has been added that Office of Management and Budget approval, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35), has been received for application for explosives permit and for transit declaration forms.

In schedule I, paragraph (g), a sentence has been added which provides that vessels of 10,000 gross tons or more must have a second main radar system that operates independently of the first. The addition of a second radar system will substantially improve the ability of vessels over 10,000 gross tons to navigate the Saint Lawrence Seaway.

In Schedule II—Table of Speeds, the speed limits in Column III for Eisenhower Lock to Richards Point Lt. 55, for Morrisburg Buoy 84 to Ogden Island Buoy 99, and for Blind Bay 1/2 mile east of Buoy 162 to Deer Island Lt. 186, have been revised from 11 knots to 11.5 knots in order to conform to the procedures used in the conversion of other speed limits contained in the Schedule.

In Appendix I, the reference to 76 feet has been deleted to correct an oversight in that English measurements are no longer used in the Seaway Regulations. The sentence will not read that "The limits in the block diagram are based on vessels with a maximum allowable beam of 23.16 m."

This final rule involves a foreign affairs function of the United States; therefore Executive Order 12291 does not apply to this rulemaking. The Saint Lawrence Seaway Development Corporation certifies that for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), since the impact of this proposal is expected to be minimal, it will not have a significant economic impact on a substantial number of small entities. The Seaway Regulations relate to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators, and therefore any resulting costs will be borne primarily by foreign vessels. Furthermore, the Corporation has determined that this rulemaking is not a major Federal action affecting the quality of the human environment under the National Environmental Policy Act, and therefore an environmental impact statement is not required. Finally, the Seaway Regulations contain certain information collection requirements which have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act (44 U.S.C Chapter 35), as follows: § 401.24 OMB Control No. 2135–0002, § 401.68 OMB Control No. 2135–0004, and § 401.74 OMB Control No. 2135–0003.

PART 401—[AMENDED]

For the stated reasons, the Seaway Regulations are amended as follows:

1. In Section 401.13, paragraph (b) is revised to read as follows:

§ 401.13 Hand lines.

* * * * *

(b) Have a diameter between 12 mm and 20 mm and a minimum length of 30 m.

2. § 401.18 is revised to read as follows:

§ 401.18 Steering lights.

Every vessel shall be equipped with

(a) A steering light located on the centerline at or near the stem of the vessel and clearly visible from the helm; or

(b) Two steering lights located at equal distances either side of the centerline at the forepart of the vessel and clearly visible from the bridge along a line parallel to the keel.

3. In § 401.19, paragraph (b)(2) is revised to read as follows:

§ 401.19 Disposal and discharge systems.

* * * * *

(b) * * *

(2) Retained on board in covered, leakproof containers, until such time as it can lawfully be disposed of.

* * * * *

4. Section 401.24 is amended by adding a reference to the OMB Control No. as follows:

§ 401.24 Application for preclearance.

* * * * *

(Approved by the Office of Management and Budget under control number 2135–0002)

5. Section 401.31, paragraphs (a), (b) and (c)(2) are revised to read as follows:

§ 401.31 Meeting and passing.

(a) The meeting and passing of vessels shall be governed by the Collision Regulations of Canada and the Navigation Ruled International-Inland of the United States.

(b) No vessel shall meet another vessel within the caution signs at bridges or within any area that is designated as a "no meeting area" by signs erected by the Corporation or the Authority at that area.

(c) * * *

(2) Within 600 m of a canal or lock entrance; or

* * * * *

6. Section 401.35, which was formerly reserved, is added to read as follows:

§ 401.35 Navigation underway.

Every vessel transiting between C.I.P. 2 and Tibbetts Point and between C.I.P. 15 and 16 shall

(a) Man the propulsion machinery of the vessel, including the main engine control station; and

(b) Operate the propulsion machinery so that it can respond immediately through its full operating range.

7. Section 401.38 is revised to read as follows:

§ 401.38 Limit of approach to a lock.

A vessel approaching a lock or the guard gate cut shall comply with directions indicated by the signal light system associated with the lock or the guard gate cut, and in no case shall its stem pass the designated limit of approach sign while a red light or no light is displayed.

8. § 401.39–1 is added to read as follows:

§ 401.39–1 Raising fenders.

Every vessel equipped with fenders that are not permanently attached shall raise its fenders when passing a lock gate in Snell or Eisenhower Locks.

9. In the Table in § 401.43, the heading under *Welland Canal* which presently reads *"Guard Gate"* is revised to read *"Guard Gate Cut"* as follows:

§ 401.43 Mooring table.

* * * * *

Welland Canal

	1	2	3	4	5	6	7	Guard Gate Cut	8
Locks:									

10. In the Table in § 401.48, 2. (b) is revised to read as follows:

§ 401.48 Turning basins.

* * * * *

2. * * *

(b) Turning Basin No. 2—Between Lock 7 and the Guard Gate Cut for vessel up to 180 m in overall length.

* * * * *

11. In § 401.51, paragraph (b) is revised to read as follows:

§ 401.51 Signalling approach to a bridge.

* * * * *

(b) The signs referred to in paragraph (a) of this section shall be placed at distances varying between 550 m and 2,990 m upstream and downstream from moveable bridges at sites other than lock sites.

12. Section 401.68 is amended by adding a reference to the OMB Control Nos. as follows:

§ 401.68 Explosives permit.

* * * * *

(Approved by the Office of Management and Budget under control number 2135–0004)

13. Section 401.74 is amended by adding a reference to the OMB Control No. as follows:

§ 401.74 Transit Declaration.

* * * * *

(Approved by the Office of Management and Budget under control number 2135–0003)

14. In Schedule I, paragraph (g) is revised to read as follows:

Schedule I—Vessels Transiting U.S. Waters

* * * * *

(g) Marine radar system for surface navigation. Additionally, vessels of 10,000 gross tons or more must have a second main radar system that operates independently of the first.

* * * * *

15. In Schedule II, Col. III of Items 6., 8., and 10. is revised to read as follows:

SCHEDULE II TABLE OF SPEEDS [1]

From	To	Maximum speed over the bottom, knots	
		Col. III	Col. IV
* * * *	* * * *	*	
6. Eisenhower Lock.....	Richards Point Lt. 55.	11.5	10.5
* * * *	* * * *	*	
8. Morrisburg Buoy 84.	Ogden Island Buoy 99.	11.5	10.5
* * * *	* * * *	*	
10. Blind Bay ½ mile east of Buoy 162.	Deer Island Lt. 186.....	11.5	10.5
* * * *	* * * *	*	

16. In Appendix I, the second paragraph under (b) is revised to read as follows:

Appendix I—Vessel Dimensions

* * * * *

(b) * * *

The limits in the block diagram are based on vessels with a maximum allowable beam of 23.16 m. For vessels that have a beam width less than this and that have dimensions exceeding the limits of the block diagram (measured with the vessel alongside the lock wall), a special permission to transit must be obtained. (Accurate measurements may be required before such permission is granted).

* * * * *

(68 Stat. 93–96, 33 U.S.C. 981–990, as amended and Sections 4, 5, 6, 7, 8, 12 and 13 of Sec. 2 of Pub. L. 95–474, 92 Stat. 1471)

Issued at Washington, D.C. on July 25, 1984.

Saint Lawrence Seaway Development Corporation.

James L. Emery,

Administrator.

[FR Doc. 84–20399 Filed 8–1–84; 8:45 am]

BILLING CODE 4910–61–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 34; A–2–FRL–2644–1]

Approval and Promulgation of Implementation Plans; New York Lead Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: As proposed in the Federal Register on December 21, 1983 (48 FR 56407), this action approves the New York State Implementation Plan (SIP) for lead. The Environmental Protection Agency has found that the New York lead SIP meets all of the applicable requirements under section 110 of the Clean Air Act and 40 CFR Part 51,

"Requirements for preparation, adoption and submittal of implementation plans," and is, therefore, approvable. The New York SIP provides for the attainment and maintenance of the national ambient air quality standards for lead throughout the State.

EFFECTIVE DATE: This action will be effective on September 4, 1984.

ADDRESSES: Copies of the SIP and the accompanying support documents are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air, Programs Branch, Region II Office, Room 1005, Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York 10278

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

Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II, Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION:

I. Background

On October 5, 1978 (43 FR 46246), the Environmental Protection Agency (EPA) promulgated at 40 CFR 50.12 national ambient air quality standards for lead. Both the primary and secondary standards were set at a concentration of 1.5 micrograms of lead per cubic meter of air, averaged over a calendar quarter. As required by section 110 of the Clean Air Act, and the October 5, 1978 promulgation of requirements for State Implementation Plans (SIPs), each State must submit a SIP which provides for attainment and maintenance of the lead standards.

The general requirements for a SIP are outlined in section 110 of the Clean Air Act and EPA regulations at 40 CFR Part 51, Subpart B. Specific requirements for developing a lead SIP are outlined in 40 CFR Part 51, Subpart E. These provisions require the submission of air quality data, emission data, air quality modeling, control strategies for each area exceeding the standards, a demonstration that the standards will be attained within the timeframe specified by the Clean Air Act, and provisions for maintenance of the standards.

On July 5, 1979, the Governor of New York State submitted to EPA the required SIP for the attainment and maintenance of the national ambient air quality standards for lead. A State public hearing was held on this SIP on June 26, 1979. On August 26, 1982 the State submitted to EPA additional information which elaborated on and clarified its proviously submitted document. On June 9, 1983 New York consolidated its two earlier submittals and provided EPA with a draft version of its final SIP document. A final SIP submittal was made on September 21, 1983.

EPA evaluated this final New York lead SIP by comparing it to the requirements for an approvable SIP. As a result of this review, on December 21, 1983 (48 FR 56407) EPA proposed approval of the New York SIP. However, this notice pointed out that final approval would be subject to the submission by New York of certain supplemental information.

Specifically, the following areas of the New York SIP required State action before final approval of the SIP would be possible:

A. A demonstration of attainment of the standards at the RSR Corporation's Orange County secondary lead smelter.

- Submission of a revised analysis which included the impact of fugitive process emissions from this source and used modeling procedures and assumptions regarding emissions that are acceptable to EPA.

B. Revisions to Part 231 of Title 6, Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR 231), "New Source Review in Non-attainment Areas."

- A definition of "major facility" for lead as any stationary source of lead which emits, or has the potential to emit, five tons per year or more of lead or lead compounds measured as lead.
- A definition of "significant net increase" in lead emissions as being a rate increase of 0.6 tons per year of either actual emissions or in the capability to increase emissions.
- The addition of a requirement that fugitive lead emissions, to the extent quantifiable, be entered into the calculation of total emissions from major facilities.

C. Revisions to 6 NYCRR 212, "Process and Exhaust and/or Ventilation Systems," and 6 NYCRR 225–2, "Fuel Composition and Use—Waste Fuel."

- The addition of a requirement that all lead point sources greater than five tons per year or significant increases in emissions at major facilities of 0.6 tons per year or more be analyzed to determine whether a violation of the standards for lead will occur. The analysis is to include fugitive emissions, area source, background, and stack emissions.

D. Revision to 6 NYCRR 257, "Air Quality Standards."

- The addition of reference to the national ambient air quality standards for lead.

On February 16, 1984 the State of New York submitted to EPA the required suplemental information. This supplemental information is addressed in today's notice. Since no public comments were received on EPA's December 21, 1983 proposed approval and New York has made an adequate supplemental submission today's notice is a final rulemaking action to approve the New York lead SIP.

II. New York State's Supplemental Submittal

In response to the requirements for final approval delineated in EPA's notice of proposed rulemaking, the State submitted supplementary information on February 16, 1984. Included in the submittal were the following documents:

- 6 NYCRR 225, "Fuel Composition and Use" (revised June 27, 1983). Part 225 was redesignated as Subpart 225–1, "Fuel Composition and Use—Sulfur Limitations." A new Subpart 225–2, "Fuel Composition and Use—Waste Fuel," was adopted. (These documents were submitted prior to February 16, 1984.)
- 6 NYCRR 231, "New Source Review in Nonattainment Areas" (revised February 16, 1984).
- Air Guide–14, "Process Sources Which Emit Lead of Lead Compounds" (revised February 14, 1984).
- Air Guide–17, "Trade and Use of Waste Fuels for Energy Recovery Purposes" (revised December 1, 1983).

This material, as clarified in consultations between EPA and the State, served to satisfy EPA's requirements for approval of the SIP. New York State's response to each of the issues raised in EPA's notice of proposed rulemaking is summarized below.

A. Demonstration of attainment by the RSR Corporation's Orange County secondary lead smelter.

In its February 16, 1984 submittal, the State presented information supporting its position that fugitive lead emissions, specifically from pig casting operations, are negligible at the RSR facility. The State cited the findings of an EPA site visit (in which no significant fugitive emissions were observed), plant operating practices designed to minimize fugitive emissions during casting, and uncertainly in EPA's emission factor for casting operations,

as evidence that the State's original attainment demonstration was adequate. The State also noted that New York's ambient lead monitoring program includes a monitor which is sited to specifically measures the impact from the RSR plant. Data from this monitor over a three-year period during which the plant was operating at or above 80 percent of capacity (1980, 81, 82), show no measured violations of the ambient lead standard. Moreover, the State submitted updated emission data for the RSR smelter which show that lead emissions form the plant are less than five tons per year. This smelter is, therefore, not a significant source of lead emissions and no attainment demonstration is required by EPA.

EPA's analysis found this information to be sufficient to support the State's position that the attainment demonstration for the RSR plant it originally performed was adequate, and that the RSR Corporation plant is not a significant source of lead emissions. Therefore, further analysis of the RSR smelter's lead emissions as a condition for final approval of the New York SIP is not required.

B. Revisions to 6 NYCRR 231, "New Source Review in Non-Attainment Areas."

EPA has been discussing with New York a variety of issues associated with Part 231, which regulates new source review in nonattainment areas. However, since EPA does not designate attainment or nonattainment areas for lead, Part 231 is not a necessary component of the lead SIP. In order to provide for any future contingencies, however, EPA requested several changes in Part 231 which were designed to make this regulation adequate for review of new lead sources. The State has made necessary changes in Part 231 to accommodate lead as a criteria pollutant but, at the same time, is pursuing additional revisions to Part 231.

EPA did not propose to approve other revisions to Part 231 and, therefore, cannot take final action to do so now. Moreover, EPA is deferring approval of any revisions to Part 231 until all such revisions can be subject to final action. Because any new sources of lead that may arise prior to final action on all revisions to Part 231 will be adequately reviewed otherwise, and the emissions off-set provisions of Part 231 will not be relevant to review of new sources of lead in the foreseeable future, EPA has concluded that final action on revisions to Part 231, including the addition of lead, can be postponed without affecting the current approvability of the lead SIP.

C. Revisions to 6 NYCRR 212, "Process and Exhaust and/or Ventilation Systems," and 6 NYCRR 225–2, "Fuel Composition and Use-Waste Fuel."

In the February 16, 1984 submittal, New York State provided information which demonstrated that all sources with potential emissions of lead greater than five tons per year are adequately covered by the State's new source review program. Subpart 201.4 of Part 201, "Permits and Certificates," requires all sources to obtain a permit to construct prior to construction, with certain exceptions noted in the regulations. The permitting process does not allow construction or modification of any source which will result in the violation of any national ambient air quality standard or federally approved SIP.

All new or modified sources of lead are evaluated for compliance with either 6 NYCRR 212 or 6 NYCRR 225–2, with the exception of refuse incinerators. However, all major sources and modifications, including incinerators and resource recovery plants, are evaluated for compliance with prevention of significant deterioration (PSD) requirements. EPA has determined that any new incinerator with the potential of emitting greater than five tons of lead per year, or any modification to an existing incinerator which would result in a net increase of 0.6 or more tons of lead per year of potential emissions, will be subject to PSD requirements due to the emission of other pollutants (i.e., particulate matter). EPA, therefore, finds the State's program for the review of new lead sources to be adequate.

Application of 6 NYCRR 212 to lead sources is implemented by New York State Air Guide-14, "Process Sources Which Emit Lead or Lead Compounds." Air Guide-14 currently does not explicitly require that fugitive emissions be included in the total lead emissions of a source in determining whether a new or modified lead source is subject to preconstruction review. By a memorandum dated July 5, 1984, EPA has clarified that its policy requires the counting of fugitive emissions in the total lead emissions of a source. In a letter dated July 10, 1984, the State committed to revising Air Guide-14 to conform to EPA requirements within 90 days of the issuance of EPA's policy guidelines. EPA finds this to be adequate assurance that the State's implementation of new source review of lead sources will meet the requirements of EPA's forthcoming policy guidelines.

On October 21, 1983, the New York State Supreme Court overturned 6 NYCRR 225–2 (United Petroleum Association Inc., vs. Henry G. Williams). On January 30, 1984, the Office of the Attorney General of New York filed a Notice of Appeal of the lower court's decision. Under New York State law, the lower court decision was stayed and Subpart 225–2 remains in force until such time as the stay is vacated or the Appellate Division rules in support of the lower court decision. If the stay is vacated, or if Subpart 225–2 is otherwise rescinded, EPA will require the State to provide a replacement new source review program for combustion sources, or demonstrate that its existing program is adequate.

D. Reivsion to 6 NYCRR 257, "Air Quality Standards".

The State of New York certified in its February 16, 1984 submittal that a reference to the national ambient air quality standards for lead will be included in Part 257. The State noted that it does not intend to submit Part 257 as part of the lead SIP. EPA concurs with this decision since Part 201 insures that neither permits to consturct nor certificates to operate will be issued unless the source "will not prevent the attainment or maintenance of any applicable ambient air quality standard." The national ambient air quality standard for lead promulgated by EPA is such an "applicable" standard.

III. EPA's Final Action

Based on its review of the New York lead SIP, the State's February 16, 1984, submittal of suplementary information and its July 10, 1984 commitment letter, EPA finds that the State's submittal adequately provides for attainment of the national ambient air quality standards for lead, and provides for the maintenance of these standards in all areas of the State. Therefore, EPA is approving the New York lead SIP with the understanding that the State will revise its Air Guide 14 by October 5, 1984 to conform to EPA requirements concerning fugitive lead emissions from new and modified sources.

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

Under section 307(b)(2) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of

today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

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

Lists of Subjects in 40 CFR Part 52

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

(Secs. 110 and 301 of the Clean Air Act (42 U.S.C. 7410 and 7601))

Dated: July 26, 1984

William D. Ruckelshaus,

Administrator, Environmental Protection Agency.

PART 52—[AMENDED]

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

Subpart HH—New York

1. Section 52.1670 is amended by adding new paragraph (c)(70) as follows:

§ 52.1670 Identification of plans.

* * * * *

(c) * * *

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(70) A State Implementation Plan for attainment of the lead (Pb) standards was submitted on September 21, 1983. Additional information was submitted in a letter dated February 16, 1984. These submittals included the following:

(i) Revision to Part 225 of Title 6, Official Compilation of Codes, Rules and Regulations of the State of New York.

(ii) Revision to Part 231 of Title 6, Official Compilation of Rules and Regulations of the State of New York.

(iii) Air Guide-14, "Process Sources Which Emit Lead or Lead Compounds."

(iv) Air Guide-17, "Trade and Use of Waste Fuel for Energy Recovery Purposes."

2. Section 52.1679 is amended by removing the table entries for "Part 225, Fuel Composition and Use" and adding new table entries as follows:

§ 52.1679 EPA-approved New York State regulations.

New York State regulation	State effective date	Latest EPA approval date	Comments
*	*	*	*
Subpart 225-1, Fuel Composition and Use-Sulfur Limitations.	Mar. 24, 1979	do	Section 225.3(e) is disapproved (40 CFR 52.1675(d)). Variances adopted by the State pursuant to §§ 225.2(b) and (c), 225.3, and 225.5(c) become applicable only if approved by EPA as SIP revisions (40 CFR 52.1675(e)).
Subpart 225-2, Fuel Composition and Use-Waste Fuel.	July 28, 1983	Aug. 2, 1984	
*	*	*	*

3. Section 52.1681 is added to read as follows:

§ 52.1681 Control strategy: Lead.

As part of the attainment demonstration for lead, the State of New York has committed to rate all sources of lead or lead compound emissions with either an "A" or "B" environmental rating pursuant to 6 NYCRR Part 212.

4. Section 52.1682 is amended by adding to the table the pollutant lead, "Pb," in a new column in the table as follows:

§ 52.1682 Attainment dates for national standards.

* * * * *

Air quality control region and nonattainment area	Pollutant, Pb
New Jersey-New York-Connecticut Interstate:	
City of New York:	
Borough of Manhattan	a.
Borough of Bronx (portion)	a.
Borough of Brooklyn (portion)	a.
Borough of Queens (portion)	a.
Borough of Staten Island (portion)	a.
Remainder of City of New York	a.
City of Yonkers	a.
City of Mount Vernon	a.
County of Nassau (portion)	a.
Remainder of AQCR	
Niagara Frontier Intrastate:	a.
City of Buffalo (portion)	a.
City of Lackawanna (portion)	a.
City of Cheektowaga (portion)	a.
Town of Amherst (portion)	a.
Remainder of AQCR	a.
Southern Tier East Interstate	a.
Champlain Valley Interstate	a.
Southern Tier West Interstate:	
City of Jamestown	a.
Remainder of AQCR	
Genesee Fingerlakes Interstate:	
Monroe County (portion)	a.
Remainder of AQCR	a.
Central New York Interstate:	
County of Onondaga:	a.
City of Syracuse (portion)	a.
Remainder of City of Syracuse	a.
Village of Solvay	a.
Village of East Syracuse	a.
Remainder of County	a.
County of Cayuga	a.
Remainder of AQCR	a
Hudson Valley Interstate:	
County of Albany:	
City of Albany (portion)	a.
City of Watervliet	a.
Town of Colonie (portion)	a.
Remainder of County	a.
County of Columbia	a.
County of Dutchess	a.
County of Greene:	
Town of Catskill (portion)	a.
Remainder of County	a.
County of Orange	a.
County of Putnam	a.
County of Rensselaer:	a.
City of Troy	a.
Remainder of County	a.
County of Schenectady:	
City of Schenectady	a.
Remainder of County	a.
County of Ulster	
County of Saratoga:	a.
Town of Waterford	a.
Town of Clifton Park	a.
Town of Halfmoon	a.
City of Mechanicville	a.
Remainder of AQCR	a

* * * * *

[FR Doc. 84-20298 Filed 8-1-84; 8:45 am]

BILLING CODE 6560-50-M

LEGAL SERVICES CORPORATION

45 CFR Part 1622

Public Access to Meetings Under the Government in the Sunshine Act

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: This final rule makes revisions to the Legal Services Corporation's regulations implementing the Government in the Sunshine Act ("Sunshine Act"). The revisions are made to ensure that the Corporation's regulations adhere more closely to the Sunshine Act and are consistent with provisions in other Corporation regulations.

EFFECTIVE DATE: September 4, 1984.

FOR FURTHER INFORMATION CONTACT: Terry G. Duga, Assistant General Counsel, (202) 272-4010

SUPPLEMENTARY INFORMATION: On May 29, 1984, the Legal Services Corporation published in the **Federal Register** (49 FR 22348) a proposed rule which would revise the Corporation's regulations implementing the Sunshine Act. Interested parties were given thirty days, until June 28, 1984, in which to submit comments on the proposed rule. Six comments were received on or before that date and four comments were received after the close of the comment period. All ten comments were

given full consideration. The final rule contains no modifications in response to those comments.

The only change made between the proposed and final versions is a technical change in paragraph (g) of § 1622.6. The word "significantly" is removed after the word "likely" and inserted after the word "frustrate". This change does not change the substance of the paragraph. It is merely a correction of English usage, the need for which was discovered when the regulation was reviewed for final publication in the Federal Register.

The comments received opposed three basic provisions of the proposed rule contained in §§ 1622.2, 1622.4 and 1622.9.

Section 1622.2 Definitions

The comments received opposed the new definition of the term "public observation". Commentators argued that the definition acted to limit or reduce pubic comment and participation in Board meetings. The definition, however, does not restrict public comment, but merely clarifies the term "public observation". The Sunshine Act does not create any right of participation for observers of meetings. The Corporation's By-laws always have left participation to the invitation of the Chairman of the meeting. The proposed rule provides for an orderly method by which public comment may proceed. Therefore, no change was made in the proposed regulation.

Section 1622.4 Public Announcement of Meetings

Comments received on this section opposed the change in the sending of notices of meetings to the governing bodies of recipients rather than to each recipient of funds. The commentators believed that this change would result in recipients not receiving timely notice of meetings.

The Corporation's primary relationship is with the governing body of a recipient. Therefore, it is appropriate that notice be sent by the Corporation to the governing body. The language of the regulation does not preclude additional notice. No change was made in the proposed regulation.

Section 1622.9 Emergency Proceedings

The comments received on this section opposed the provision for emergency proceedings. The comments argued that the provision violates the Sunshine Act in that the emergency proceedings are a closed meeting and that notice of any change in the place of the meeting must be made seven days prior to the change of the meeting place. Several comments advocated the removal of disruptive members of the audience. Several other comments argued that the provision was too broad in that it neither defined when emergency proceedings could be instituted with sufficient specificity to avoid abuse nor defined who would be allowed to attend the emergency proceedings.

The emergency proceedings provision is intended to allow the Board to conduct Corporation business in that unusual circumstance when the conduct of members of the public renders the Board incapable of conducting its business. The phrase "rendered incapable of conducting a meeting" implies that the disruption is of an extraordinary magnitude such that any attempts at order have failed.

The phrase "representatives of the public and media" ensures that the removed proceedings will be observed by the public, and together with the additional safeguards provided in paragraph (c) of the section, ensures that the meeting is an open meeting within the spirit and letter of the Sunshine Act.

The argument that seven days' notice is required by the Sunshine Act is not well founded. The Sunshine Act provides that for each meeting "the agency shall make public announcement, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by this agency to respond to requests for information about the meetings." 5 U.S.C. 552b(e)(1). This notice requirement applies to the initial setting of the meeting. Indeed, the Sunshine Act provides for meetings on less than one week's notice where the members of the agency determine, by a recorded vote, that agency business requires a meeting to be called at an earlier date. 5 U.S.C. 552b(e)(1). The public announcement requirement under the Sunshine Act is also a requirement under the Corporation's regulations, 45 CFR 1622.4, and should be fulfilled prior to the meeting in which the emergency proceedings are implemented.

The implementation of emergency proceedings is not the setting of a meeting, and does not change the time, date or subject matter of a meeting, nor does it change whether the meeting is open or closed. The implementation of emergency proceedings merely changes the place of the meeting. Under the Sunshine Act, "[t]he time or place of a meeting may be changed following the public announcement required [by 5 U.S.C. 552b(e)(1)] only if the agency publicly announces such change at the earliest practicable time." 5 U.S.C. 552b(e)(2). The public announcement requirements of 5 U.S.C. 552b(e)(1) do not apply to the changes in the place of the meeting made by the implementation of the emergency proceedings provision. Therefore, action taken pursuant to the emergency proceedings provision does not require seven days' prior notice.

The comment suggesting expulsion of disruptive observers implies the use of force. Such action in an already tense atmosphere would cause a confrontational situation that may escalate into violence endangering the safety of non-disruptive observers and the Board members. By moving the meeting from the disruption, the Corporation has elected the least confrontational option that will allow the Board to conduct its business and at the same time adhere to the Sunshine Act.

For the foregoing reasons, the Corporation has made no changes in § 1622.9 in response to comments received.

List of Subjects in 45 CFR Part 1622

Legal services, Government in the Sunshine Act.

For the reasons set out in the preamble, 45 CFR Part 1622 is revised to read as follows:

PART 1622—PUBLIC ACCESS TO MEETINGS UNDER THE GOVERNMENT IN THE SUNSHINE ACT

Sec.

1622.1 Purpose and scope.
1622.2 Definitions.
1622.3 Open meetings.
1622.4 Public announcement of meetings.
1622.5 Grounds on which meetings may be closed or information withheld.
1622.6 Procedures for closing discussion or withholding information.
1622.7 Certification by the General Counsel.
1622.8 Records of closed meetings.
1622.9 Emergency proceedings.
1622.10 Report to Congress.

Authority: Sec. 1004(g), Pub. L. 95–222, 91 Stat. 1619, (42 U.S.C. 2996c(g)).

§ 1622.1 Purpose and scope.

This Part is designed to provide the public with full access to the deliberations and decisions of the Board of Directors of the Legal Services Corporation, committees of the Board, and state Advisory Councils, while maintaining the ability of those bodies to carry out their responsibilities and protecting the rights of individuals.

§ 1622.2 Definitions.

"Board" means the Board of Directors of the Legal Services Corporation.

"Committee" means any formally designated subdivision of the Board established pursuant to § 1601.27 of the By-Laws of the Corporation.

"Council" means a state Advisory Council appointed by a state Governor or the Board pursuant to section 1004(f) of the Legal Services Corporation Act of 1974, 42 U.S.C. 2996c(f).

"Director" means a voting member of the Board or a Council. Reference to actions by or communications to a "Director" means action by or communications to Board members with respect to proceedings of the Board, committee members with respect to proceedings of their committees, and council members with respect to proceedings of their councils.

"General Counsel" means the General Counsel of the Corporation, or, in the absence of the General Counsel of the Corporation, a person designated by the President to fulfill the duties of the General Counsel or a member designated by a council to act as its chief legal officer.

"Meetings" means the deliberations of a quorum of the Board, or of any committee, or of a council, when such deliberations determine or result in the joint conduct or disposition of Corporation business, but does not include deliberations about a decision to open or close a meeting, a decision to withhold information about a meeting, or the time, place, or subject of a meeting.

"Public observation" means the right of any member of the public to attend and observe a meeting within the limits of reasonable accommodations made available for such purposes by the Corporation, but does not include any right to participate unless expressly invited by the Chairman of the Board of Directors, and does not include any right to disrupt or interfere with the disposition of Corporation business.

"Publicly available" for the purposes of § 1622.6(e) means to be procurable either from the Secretary of the Corporation at the site of the meeting or from the Office of Government Relations at Corporation Headquarters upon reasonable request made during business hours.

"Quorum" means the number of Board or committee members authorized to conduct Corporation business pursuant to the Corporation's By-laws, or the number of council members authorized to conduct its business.

"Secretary" means the Secretary of the Corporation, or, in the absence of the Secretary of the Corporation, a person appointed by the Chairman of the meeting to fulfill the duties of the Secretary, or a member designated by a council to act as its secretary.

§ 1622.3 Open meetings.

Every meeting of the Board, a committee or a council shall be open in its entirety to public observation except as otherwise provided in § 1622.5.

§ 1622.4 Public announcement of meetings.

(a) Public announcement shall be posted of every meeting. The announcement shall include: (1) The time, place, and subject matter to be discussed; (2) whether the meeting or a portion thereof is to be open or closed to public observation; and (3) the name and telephone number of the official designated by the Board, committee, or council to respond to requests for information about the meeting.

(b) The announcement shall be posted at least seven calendar days before the meeting, unless a majority of the Directors determines by a recorded vote that Corporation business requires a meeting on fewer than seven days notice. In the event that such a determination is made, public announcement shall be posted at the earliest practicable time.

(c) Each public announcement shall be posted at the offices of the Corporation in an area to which the public has access, and promptly submitted to the **Federal Register** for publication. Reasonable effort shall be made to communicate the announcement of a Board or committee meeting to the chairman of each council and the governing body of each recipient of funds from the Corporation, and of a council meeting to the governing body of each recipient within the same State.

(d) An amended announcement shall be issued of any change in the information provided by a public announcement. Such changes shall be made in the following manner:

(1) The time or place of a meeting may be changed without a recorded vote.

(2) The subject matter of a meeting, or a decision to open or close a meeting or a portion thereof, may be changed by recorded vote of a majority of the Directors that Corporation business so requires and that no earlier announcement of the change was possible.

An amended public announcement shall be made at the earliest practicable time and in the manner specified by § 1622.4 (a) and (c). In the event that changes are made pursuant to § 1622.4(d)(2), the amended public announcement shall also include the vote of each Director upon such change.

§ 1622.5 Grounds on which meetings may be closed or information withheld.

Except when the Board or council finds that the public interest requires otherwise, a meeting or a portion thereof may be closed to public observation, and information pertaining to such meeting or portion thereof may be withheld, if the Board or council determines that such meeting or portion thereof, or disclosure of such information, will more probably than not:

(a) Relate solely to the internal personnel rules and practices of the Corporation;

(b) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C. 552): Provided, That such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular types of matters to be withheld;

(c) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(d) Involve accusing any person of a crime or formally censuring any person;

(e) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) Disclose investigatory records compiled for the purpose of enforcing the Act or any other law, or information which if written would be contained in such records, but only to the extent that production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

(g) Disclose information the premature disclosure of which would be likely to frustrate significantly implementation of a proposed Corporation action, except that this paragraph shall not apply in any instance where the Corporation has already disclosed to the public the content or nature of its proposed action, or where the Corporation is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(h) Specifically concern the Corporation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct,

or disposition by the Corporation of a particular case involving a determination on the record after opportunity for a hearing.

§ 1622.6 Procedures for closing discussion or withholding information.

(a) No meeting or portion of a meeting shall be closed to public observation, and no information about a meeting shall be withheld from the public, except by a recorded vote of a majority of the Directors with respect to each meeting or portion thereof proposed to be closed to the public, or with respect to any information that is proposed to be withheld.

(b) A separate vote of all the Directors shall be taken with respect to each meeting or portion thereof proposed to be closed to the public, or with respect to any information which is proposed to be withheld; except, a single vote may be taken with respect to a series of meetings or portions thereof which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series.

(c) Whenever any person's interest may be directly affected by a matter to be discussed at a meeting, the person may request that a portion of the meeting be closed to public observation by filing a written statement with the Secretary. The statement shall set forth the person's interest, the manner in which that interest will be affected at the meeting, and the grounds upon which closure is claimed to be proper under § 1622.5. The Secretary shall promptly communicate the request to the Directors, and a recorded vote as required by paragraph (a) of this section shall be taken if any Director so requests.

(d) With respect to each vote taken pursuant to paragraph (a) through (c) of this section, the vote of each Director participating in the vote shall be recorded and no proxies shall be allowed.

(e) With respect to each vote taken pursuant to paragraph (a) through (c) of this section, the Corporation shall, within one business day, make publicly available:

(1) A written record of the vote of each Director on the question;

(2) A full written explanation of the action closing the meeting, portion(s) thereof, or series of meetings, together with a list of all persons expected to attend the meeting(s) or portion(s) thereof and their affiliation.

§ 1622.7 Certification by the General Counsel.

Before a meeting or portion thereof is closed, the General Counsel shall publicly certify that, in his opinion, the meeting may be so closed to the public and shall state each relevant exemption. A copy of the certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and the persons present, shall be retained by the Corporation.

§ 1622.8 Records of closed meetings.

(a) The Secretary shall make a complete transcript or electronic recording adequate to record fully the proceedings of each meeting or portion thereof closed to the public, except that in the case of meeting or any portion thereof closed to the public pursuant to paragraph (h) of § 1622.5, a transcript, a recording, or a set of minutes shall be made.

Any such minutes shall describe all matters discussed and shall provide a summary of any actions taken and the reasons therefor, including a description of each Director's views expressed on any item and the record of each Director's vote on the question. All documents considered in connection with any action shall be identified in the minutes.

(b) A complete copy of the transcript, recording, or minutes required by paragraph (a) of this section shall be maintained at the Corporation for a Board or committee meeting, and at the appropriate Regional Office for a council meeting, for a period of two years after the meeting, or until one year after the conclusion of any Corporation proceeding with respect to which the meeting was held, whichever occurs later.

(c) The Corporation shall make available to the public all portions of the transcript, recording, or minutes required by paragraph (a) of this section that do not contain information that may be withheld under § 1622.5. A copy of those portions of the transcript, recording, or minutes that are available to the public shall be furnished to any person upon request at the actual cost of duplication or transcription.

(d) Copies of Corporation records other than notices or records prepared under this Part may be pursued in accordance with Part 1602 of these regulations.

§ 1622.9 Emergency proceedings.

(a) In the event that the Directors are rendered incapable of conducting a meeting by the acts or conduct of any members of the public present at the meeting, the Directors may thereupon determine by a recorded vote of the majority of the number of Directors present at the meeting to remove the meeting to a different location and to invite representatives of the public and media to attend the proceeding at the new location.

(b) The emergency proceedings at the new location shall be recorded by means of an electronic recording adequate to record fully the emergency proceedings, or a transcript of the emergency proceedings shall be made by a certified court reporter.

(c) In the event that the actions of members of the public present at the meeting necessitate action pursuant to § 1622.9 (a), the Corporation shall also

(1) Make a written statement summarizing the proceedings at the emergency proceedings available to the public at the close of the emergency proceedings;

(2) Make the entire transcript or electronic recording produced pursuant to paragraph (b) of this section available for public inspection within a reasonable time after the close of the emergency proceedings. A copy of the transcript or recording shall be furnished to any person upon request at the actual cost of duplication or transcription.

(3) Report the activities of the emergency proceedings at the next scheduled meeting of the Board.

(d) Actions taken pursuant to this section shall not be construed to be actions taken pursuant to § 1622.6 (Procedure for closing discussion or withholding information). Action taken pursuant to this section does not create any right to withhold any information regarding the emergency proceeding or actions taken therein.

§ 1622.10 Report to Congress.

The Corporation shall report to the Congress annually regarding its compliance with the requirements of the Government in the Sunshine Act, 5 U.S.C. 552(b), including a tabulation of the number of meetings open to the public, the number of meetings or portions of meetings closed to the public, the reasons for closing such meetings or portions thereof, and a description of any litigation brought against the Corporation under 5 U.S.C. 552b, including any costs assessed against the Corporation in such litigation.

Dated: July 30, 1984.
Robert D. Frank,
General Counsel.
[FR Doc. 84-20453 Filed 8-1-84; 8:45 am]
BILLING CODE 6820-35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 84-323]

Amendment of the Commission's Rules Concerning Practice and Procedure in the Private Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends rules of practice and procedure in the Private Radio Services. The purpose of these amendments is to standardize treatment of applications in these services and to clarify various other rule provisions.

EFFECTIVE DATE: August 30, 1984.

FOR FURTHER INFORMATION CONTACT:
Robert DeYoung, Private Radio Bureau, (202) 632-7175
Mary Beth Hess, Private Radio Bureau, (202) 634-2443

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Order

In the matter of amendment of Part 1 of the rules concerning practice and procedure in the private radio services.

Adopted: July 12, 1984.
Released: July 24, 1984.

By the Commission. Commissioner Rivera absent.

1. This Order amends Part 1 of the Commission's Rules, Practice and Procedure (47 CFR Part 1), by making changes to several rule provisions which govern the processing of applications in the Private Radio Services.

2. Section 309 of the Communications Act authorizes the Commission to grant an application 30 days from the date of public notice announcing its filing (47 U.S.C. 309). The current rules in the Private Radio Services, however, permit the consolidation of mutually exclusive applications for hearing if filed within 60 days of the date of public notice announcing the initial filing (47 CFR 1.227). Permitting 60 days for consolidations creates a 30-day hiatus between the statutory 30-day public notice period required before grant of an application and the 60-day consolidation period. Through improvements in our application processing procedures, the Commission has been able to process and grant applications in many cases prior to the expiration of the 60-day consolidation period. In order that our Rules reflect our processing procedures, we are changing the consolidation period from 60 days to 30 days so that it runs concurrently with the statutorily mandated 30-day public notice period for the filing of mutually exclusive applications. We are also adding a phrase to this section to clarify the Commission's authority to consolidate applications for random selection proceedings as well as hearings.

3. This Order also clarifies the scope of subpart F of Part 1 (47 CFR 1.901); deletes gender-based references throughout subpart F (47 CFR 1.911, 47 CFR 1.913, 47 CFR 1.918, 47 CFR 1.924, 47 CFR 1.925); modifies the period within which to amend applications (47 CFR 1.918); specifies the place of filing certain applications and other documents (47 CFR 1.227, 47 CFR 1.911, 47 CFR 1.959); deletes references to construction permits, which are not required in the Private Radio Services (47 CFR 1.924, 47 CFR 1.971); standardizes measurement references (47 CFR 1.925); updates licensing categories (47 CFR 1.952) and distribution groups (47 CFR 1.951); and changes the reference to operational-fixed stations on frequencies above 928 MHz (47 CFR 1.924). It also deletes the rule section relating to the time within which stations must be placed in operation because the section is incomplete as written and the time periods stated in the rule are found in the various rule parts relating to the specific services (47 CFR 1.932).

4. Because these are amendments of rules of Commission practice and procedure, the public notice and comment provisions of 5 U.S.C. 553 do not apply (5 U.S.C. 553(b)(3(A). This Order is issued pursuant to § 1.412(b)(5) of the Commission's rules.

5. The amendments to the Commission's rules set forth in the attached Appendix are issued under authority of section 4(i) and 303(r) of the Communications Act of 1934, as amended.

6. Accordingly, it is ordered that Part 1 of the rules is amended as set forth in the attached Appendix, effective August 30, 1984.

7. Regarding questions on matters covered in this document, contact Robert DeYoung (202) 632-7175 or Mary Beth Hess (202) 634-2443.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

Part 1 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 1.227 is amended by revising subparagraph (b)(4) to read as follows:

§ 1.227 Consolidations.

* * * * *

(b) * * *

(4) This subsection applies when mutually exclusive applications are filed in the Private Radio Services or when there are more applications for initial licenses than can be accommodated on available frequencies. In such cases, the applications either will be consolidated for hearing or designated for random selection (See § 1.972) if the later application or applications are received by the Commission's offices in Gettysburg, Pennsylvania in a condition acceptable for filing within 30 days after the release date of public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing or within such other period as specified by the Commission. An application which is substantially amended, (as defined by § 1.962(c)), will, for the purpose of this section, be considered to be a newly filed application as of the receipt date of the amendment.

* * * * *

2. Section 1.901 is revised to read as follows:

§ 1.901 Scope.

In the case of any conflict between the rules set forth in this subpart and the rules for specific services in Parts 80-99, the rules in this subpart shall govern.

3. Section 1.911 is amended by revising paragraph (e) to change the reference from "his" to "the applicant's" and to specify the place of filing applications to read as follows:

§ 1.911 Applications required.

* * * * *

(e) An alien amateur desiring to operate in the United States under provisions of sections 303(1)(2) and 310(a) of the Communications Act of 1934, as amended, and under the terms of a bilateral agreement in force between the applicant's country and the United Staters concluded pursuant to the provisions of Pub. L. 88-313, must make application on FCC Form 610-A.[1]

[1] Form filed as part of original document.

which must be filed with the Commission's offices in Gettysburg, Pennsylvania (Federal Communications Commission, Gettysburg, Pennsylvania 17325). Forms may be obtained from the Secretary, the Commission's offices in Gettysburg, Pennsylvania, any field office of the Commission and, in some instances, from United States missions abroad

4. Section 1.913 is amended by revising paragraph (b) to change gender-based references and paragraph (c) to delete the reference to copies to read as follows:

§ 1.913 Who may sign applications.

* * * * *

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or absence from the United States, or by applicant's designated vessel master when a temporary permit is requested for a vessel. The attorney shall, when applicable, separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's or master's belief only (rather than knowledge), the attorney or master shall separately set forth the reasons for believing that such statements are true.

(c) Only the original of applications, amendments, and related statements of fact need be signed.

* * * * *

5. Section 1.918 is amended by revising paragraph (b), and by revising paragraph (e) to change gender-based references to read as follows:

§ 1.918 Amendment of applications.

* * * * *

(b) Any application may be amended as a matter of right prior to the grant of that application. However, an application which is substantially amended, as defined by § 1.962(c), will be considered a newly filed application as of the date of the filing of the amendment.

* * * * *

(e) The Commission (or the presiding officer, if the application has been designated for hearing) may, upon its own motion or upon motion of any party to a proceeding, order the applicant to amend the application so as to make the same more definite and certain, and may require an applicant to submit such documents and written statements of fact as in its judgment may be necessary.

* * * * *

6. Section 1.924 is amended by revising subparagraphs (a)(1) to change gender-based references, (b)(1), and (b)(2)(vi) to delete references to construction permits, (b)(2)(ii) to change gender-based references and change the reference from "952 MHz" to "928 MHz" for "operational-fixed stations" and (b)(2)(v) is removed and reserved to read as follows:

§ 1.924 Assignment or transfer of control, voluntary and involuntary.

(a)(1) Radio station licenses are not transferable; however, except for those set forth in paragraph (a)(2) of this section, they may be assigned. Licenses may be assigned whenever there is a change of ownership of an authorized radio station, for example, if the radio communication equipment is sold with a business. The new owner must apply for assignment of the existing authorization in accordance with the rules under which the station is authorized.

* * * * *

(b)(1) Application for consent to voluntary assignment of a license, or for consent to voluntary transfer of control of a corporation holding a license, must be filed with the Commission at least 60 days prior to the contemplated effective date of assignment or transfer of control.

* * * * *

(2) * * *

(ii) *FCC Form 402.* For assignment of an authorization for operational-fixed stations in the Private Radio Services using frequencies above 928 MHz (so-called microwave stations). Attached thereto must be a signed letter from proposed assignor stating the assignor's desire to assign the current authorization in accordance with the rules governing the particular service involved.

* * * * *

(v) [Reserved]

(vi) *FCC Form 703.* For consent to transfer control of a corporation holding any type of license.

* * * * *

7. Section 1.925 is amended by revising paragraph (f) to increase the time period for temporary operating authority and to change the gender-based references, and paragraphs (g) and (h) are revised to standardize measurement references to read as follows:

§ 1.925 Application for special temporary authorization, temporary permit, temporary operating authority, or interim amateur permit.

* * * * *

(f) An applicant for a ship radio station license may operate the radio station pending issuance of the ship station authorization by the Commission for a period of 90 days, under a temporary operating authority, evidenced by a properly executed certification made on FCC Form 506-A.

(g) An applicant for a business radio station license utilizing an already authorized facility may operate the radio station for a period of 180 days, under a temporary permit, evidenced by a properly executed certification made on FCC Form 572, after the mailing of a formal application for station license together with evidence of frequency coordination, if required, to the Commission. The temporary operation of stations, other than mobile stations, within the Canadian coordination zone will be limited to stations with a maximum of 5 watts effective radiated power and a maximum antenna height of 20 feet (6.1 meters) above average terrain.

(h) An applicant for a Part 90 radio station license to use the facilities of a multiple licensed base station or Specialized Mobile Radio System may operate the radio station for a period of up to 180 days under a temporary permit evidenced by a properly executed certification of FCC Form 572 after mailing a formal application for station license to the Commission, provided that any control station antennas are 20 feet (6.1 meters) or less above ground or 20 feet or less above a man-made structure (other than an antenna tower) to which affixed. The temporary operation of stations, other than mobile stations, within the Canadian coordination zone will be limited to stations with a maximum of 5 watts effective radiated power and a maximum antenna height of 20 feet above average terrain.

* * * * *

§ 1.932 [Removed]

8. Section 1.932 is removed.

9. Section 1.951 is revised to read as follows:

§ 1.951 How applications are distributed.

Licensing Division. All applications for radio stations are distributed as follows:

(a) Aviation and Marine Branch. (1) Aviation Radio Services applications: Air Carrier Aircraft, Private Aircraft, Airdrome Control, Aeronautical Enroute, Aeronautical Fixed, Operational Fixed (Aviation), Aeronautical Utility Mobile, Radionavigation (Aviation), Flight Test, Flying School, Aeronautical Public Service, Civil Air Patrol, Aeronautical Advisory, Aeronautical Metropolitan, Aeronautical Search and Rescue Mobile, and Aeronautical Multicom.

(2) Marine Radio Services applications: Public Coast Stations, Limited Coast Stations, Stations on Land in the Maritime Radio-determination Service, Fixed Stations associated with the Maritime Mobile Service, Stations operated in the Land Mobile Service for maritime purposes, Stations on Shipboard in the Maritime Services, and Public Fixed Stations in Alaska.

(b) Land Mobile Branch. (1) Industrial Radio Services applications: Business, Forest Products, Industrial Radiolocation, Manufacturers, Motion Picture, Petroleum, Power, Relay Press, Special Industrial and Telephone Maintenance.

(2) Land Transportation Radio Services applications: Motor Carrier, Railroad, Taxicab, and Automobile Emergency.

(3) Public Safety Radio Services applications: Fire, Forestry-Conservation, Highway Maintenance, Local Government, and Police.

(4) Special Emergency Radio Services applications: Medical services, rescue organizations, physically handicapped, veterinarians, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facillties.

(c) General Radio Branch. Amateur, General Mobile, Disaster.

(d) Microwave Branch. Operational fixed point-to-point and point-to-multipoint applications.

10. Section 1.952 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1.952 How file numbers are assigned.

(a) File numbers are assigned to certain categories of applications by the Private Radio Bureau.

(b) File number symbols and service or class of station designators:

Amateur and Disaster Services

Y—Amateur
D—Disaster
R—Races

Aviation Services

A—Aeronautical and fixed group
AA—Aviation auxiliary group
AR—Aviation radionavigation land
AC—Civil Air Patrol

Personal Radio Services

CA—General Mobile Radio Service

Industrial Services

IB—Business
IF—Forest products
IX—Manufacturers
IM—Motion picture
IP—Petroleum
IY—Relay press
IS—Special industrial
IT—Telephone maintenance
IW—Power

Land Transportation Services

LA—Automobile emergency
LI—Interurban passenger
LJ—Interurban property
LR—Railroad
LX—Taxicab
LU—Urban passenger
LV—Urban property

Marine Services

MK—Alaskan group
M—Coastal group
MA—Marine auxiliary group
MR—Marine radiodetermination land

Microwave Services

OF—Private Operational-Fixed Microwave

Public Safety Services

PF—Fire
PO—Forestry conservation
PH—Highway maintenance
PL—Local government
PP—Police
PS—Special emergency

Radiolocation Service

RS—Radiolocation

800 MHz Services

GB—Conventional Business
GO—Conventional Industrial/Land Transportation
GP—Conventional Public Safety/Special Emergency
GX—Conventional Commercial (SMRS)
YB—Trunked Business
YO—Trunked Industrial/Land Transportation
YP—Trunked Public Safety/Special Emergency
YX—Trunked Commercial (SMRS)

900 MHz Paging Services

GS—Private carrier paging systems

11. Section 1.958 is revised to read as follows:

§ 1.958 Defective applications.

(a) Applications will be considered defective if:

(1) The applicant is disqualified by statute.

(2) The proposed use or purpose of the station applied for would be unlawful.

(3) The frequency applied for is not allocated to the service proposed.

(4) The application form is not signed in accordance with § 1.914 of these rules.

(5) The application is not complete with respect to answers, supplementary statements, execution or other matters of a formal character.

(6) The application is not in accordance with the Commission's rules or requirements and is not accompanied either by (i) a petition to amend any rule or regulation with which the application is in conflict, or (ii) a request by the applicant for waiver of any rule or requirement with which the application is in conflict. A request for rule amendment or waiver must show the nature of the amendment or waiver requested and set forth the reasons in support of it. Requests for waiver must state the nature of the waiver or exception desired and set forth reasons in support thereof including a showing that unique circumstances are involved and that there is no reasonable alternative solution within existing rules.

(7) The applicant is requested by the Commission to file any additional documents or information not included in the prescribed form and the applicant fails to comply with the Commission's request.

(b) An application which is defective on its face will not be accepted for filing and will be dismissed.

(c) An application which is accepted for filing, but which is later determined to be defective, will be dismissed.

12. Section 1.959 is revised to specify filing location and to clarify the scope of the rule to read as follows:

§ 1.959 Resubmitted applications.

Any application for frequencies below 470 MHz which has been returned to the applicant for correction will be processed in its original position in the processing line if it is resubmitted and received by the Commission's offices in Gettysburg, Pennsylvania within 60 days from the date on which it was returned to the applicant. Otherwise it will be treated as a new application. An application for frequencies above 470 MHz which has been returned to the applicant will be processed in its orginal position in the processing line if it is resubmitted and received by the Commission's offices in Gettysburg, Pennsylvania within 30 days (45 days outside the continental United States) from the date on which it was returned to the applicant. Otherwise it will be treated as a new application.

13. Section 1.962 is amended by revising paragraph (e) to read as follows:

§ 1.962 Public notice of acceptance for filing; petitions to deny applications of specified categories.

* * * * *

(e) The Commission will issue at regular intervals Public Notices listing

all applications subject to this section which have been received by the Commission in a condition acceptable for filing, or have been returned to an applicant for correction, within the 30-day public notice period. They will relist any application which has been amended substantially since its previous listing, or which has been resubmitted to the Commission, after public notice of the return of the application to an applicant, pursuant to § 1.959. Such acceptance for filing shall not preclude the subsequent dismissal of an application as defective.

* * * * *

14. Section 1.971 is amended by revising subparagraph (a)(3) to delete the reference to construction permits to read as follows:

§ 1.971 Grants without a hearing.

(a) * * *

(3) A grant of the application would not involve modification, revocation, or non-renewal of any existing license.

* * * * *

15. Section 1.972 is amended by revising the undesignated text which follows paragraph (c) and designating it as new paragraph (d) to read as follows:

§ 1.972 Grants by random selection.

* * * * *

(d) Expedited hearing proceedings may be used to apply comparative criteria to determine which applications will be granted, denied or subjected to random selection. The selection percentages, preferences, and probability calculations prescribed in § 1.1621 *et seq.* of this part are not applicable to any system of random selection conducted in the Private Radio Bureau. Following the random selection, the Commission will announce the tentative selectee and determine whether the tentative selectee is qualified to receive the license under the rules applicable to the respective service. Where authorized under § 1.962, Petitions to Deny which have been filed against the tentative selectee before the random selection will be reviewed and processed prior to grant, in accordance with §1.962 and rules applicable to each respective service. If the Commission determines that the tentative selectee has satisfied all requirements, it will grant the application. If it is determined that an initial tentative selectee is not qualified to receive the license grant, another tentative selectee chosen from among the same applicant pool during the same random selection will be designated until a qualified applicant is determined. If the Commission determines that a substantial and material question of fact exists, it will designate the question for hearing. Hearings may be conducted by the Commission or the Chief of the Private Radio Bureau, or, in the case of a question which requires oral testimony for its resolution, an Administrative Law Judge.

[FR Doc. 84-20392 Filed 8-1-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-10; RM-4648]

TV Broadcast Station in Presque Isle, ME; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 62 to Presque Isle, Maine, in response to a petition filed by Allen Weiner. The assignment could provide Presque Isle with its third television service.

DATE: Effective September 18, 1984.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606, Table of Assignments, Television Broadcast Stations (Presque Isle, Maine); MM Docket 84-10, RM-4648.

Adopted: July 10, 1984.

Released: July 13, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making* 49 FR 3221, published January 26, proposing the assignment of UHF TV Channel 62 to Presque Isle, Maine, as its second commercial television assignment. The *Notice* was issued in response to a petition filed by Allen Weiner ("petitioner"). No oppositions to the proposal were received.

2. Presque Isle (population 11,172) [1], in Aroostook County (population 91,331) is located in northern Maine approximately 355 kilometers (222 miles) northeast of Portland, Maine.

3. In his comments to the proposal, petitioner restated the information in the *Notice* which demonstrated the need for an additional television assignment to Presque Isle. Petitioner also reiterated his intention to apply for the channel, if assigned.

4. Canadian concurrence has been obtained for the assignment of Channel 62 at Presque Isle, Maine.

5. We believe that the public interest would be served by assigning UHF Television Channel 62 to Presque Isle, inasmuch as it would provide the community with an opportunity for a second commercial television station. The transmitter site is restricted 5.7 miles west of the city to avoid short-spacing to unused Channel 62 at Shediac, New Brunswick, Canada.

PART 73—[AMENDED]

§ 73.606 [Amended]

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.283 and 0.204 of the Commission's Rules, it is ordered, that effective September 18, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended, as follows:

City: Presque Isle, Maine; Channel No.: 8, *10+, 62+.

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

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-20391 Filed 8-1-84; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1980 U.S. Census.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 40790-4090]

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule.

SUMMARY: NOAA issues an emergency interim rule amending the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahog Fisheries. This rule provides a mechanism under which the Regional Director temporarily may exempt from the management measures fishing activity supporting collection of management information. This rule allows the Regional Director to intitiate a managment information collection program to study the full scope and extent of a bed of surf clams recently discovered on Georges Bank, off the coast of New England, and to avoid restrictions on the inshore fishery.

EFFECTIVE DATE: August 2, 1984, through October 31, 1984.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, Surf Clam Management Coordinator, 617 281–3600, ext. 324.

SUPPLEMENTARY INFORMATION: This emergency interim rule was prepared by the National Marine Fisheries Service (NMFS), with the concurrence of the Mid-Atlantic Fishery Management Council (Council) and the New England Fishery Management Council.

Emergency regulations to amend the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahog Fisheries were published in the **Federal Register** on July 2, 1984, at 49 FR 27156. The emergency regulations set the 1984 annual surf clam quota for the New England Area at 200,000 bushels. Subsequent to that action, significant and extensive beds of surf clams were discovered in the Georges Bank portion of the New England area where a productive commercial fishery commenced. While the beds had been sampled and identified in a limited way by NMFS scientists in previous years, the full extent and potential yield of the area is unknown.

The current surf clam quota for the New England area does not include consideration of any potential contribution of the Georges Bank resource. Harvest from Georges Bank, presently occuring at the rate of 25,000 bushels weekly, will shortly exhaust the bi-monthly and annual quota(s) for the New England area. This action will temporarily exempt fishery vessels in the research program area from the New England surf clam management measures and authorize an intensive and short-term survey of the extent and probable yield of the Georges Bank area fishery. During the period of the authorization, the research program area is defined as that portion of the fishery conservation zone east of 69° W. longitude and south of 42°30′ N. latitude.

Such a survey would be accomplished by a combined effort of those surf clam operators who are willing to participate and the National Marine Fisheries Service. After the survey is completed, the Regional Director will present the results to the Councils so that the Councils can determine what changes to the management program should be made to accommodate any increased abundance of surf clams in the New England Area.

The survey and exemption for the surf clam management measures will be administered by the Regional Director. Vessels fishing in Georges Bank will not, during the survey period, be constrained by fishing time, size limits, trip limit, or quota limitations imposed elsewhere in the New England or Mid-Atlantic Areas.

During the survey period, only vessels which are certified may fish in the Georges Bank area. Certified vessels may not fish for surf clams or ocean quahogs outside of the program area. Any operator may obtain a certification, provided he agrees to and complies with the program's conditions. Vessel operators must receive from and have aboard their vessel a certification before they may fish in the Georges Bank area. Vessel operators may cancel their certifications so as to resume fishing in other areas. Once they cancel the certification, they will not be recertified to participate in the program.

The Regional Director may condition his certification by requiring special treatment of reports, embarkation of observers, and by limiting the times or areas of fishing under the certification. The Regional Director will notify each certified vessel owner of the conditions, or changes in the conditions.

This rule is necessary immediately to address an emergency in the surf clam fishery. The rapid harvest of clams from the Georges Bank threatens the inshore New England area fishery with restriction or closure. Since the Georges Bank resource was not included in the deliberations leading to the setting of the Council quota for the New England area, an immediate survey and assessment, followed by respecification of the New England area management program is required to avoid needless disruption with economic and social consequences.

This rule is being implemented using the emergency authority provided to the Secretary under section 305(e)(20(B) of the Magnuson Fishery Conservation and Management Act. At its meeting on June 20, 1984, the Mid-Atlantic Fishery Management Council by majority vote requested this action. At its meeting on June 27, 1984, the New England Fishery Management Council supported the action unanimously. The Secretary has agreed that the rule should be promulgated immediately.

Classification

The Assistant Administrator has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable law. He has determined that the imminent probability of closure of the New England surf clam fishery and the potential for severe economic dislocation make it necessary to promulgate these regulations immediately.

The Assistant Administrator also finds that the reasons justifying promulgation of these rules on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity to comment upon, or to delay for 30 days the effective date of these emergency regulations, under the provision of section 553(b) and (d) of the Administrative Procedure Act.

The Assistant Adminstrator has determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management program.

This emergency rule is exempt from the normal review procedure of Executive Order 12291 as provided in section 8(a)(1) of that Order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

This action authorizes the Regional Director to establish a limited, short-term, natural resource inventory program conducted with hydraulic clam dredges. Related environmental consequences are limited and short term. As such, the Assistant Administrator has determined that this action is categorically excluded from the requirement to prepare an environmental document, as provided by NOAA Directive 02–10.

This rule does not contain any new collection of information requirement.

This rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior comment.

List of Subjects in 50 CFR Part 652

Fisheries, Fishing.

Dated: July 27, 1984.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 652—[AMENDED]

For the reasons set out in the preamble, NOAA amends 50 CFR Part 652 as set forth below:

1. The authority citation for Part 652 reads as follows:

Authority: 16 U.S.C. 1901 *et seq.*

2. In the Table of Contents, under *Subpart B-Management Measures,* a new § 652.20 is added chronologically to read "Exemption for research program."

3. A new § 652.20 is added to read as follows:

§ 652.20 Exemption for research program.

(a) *General.* The Regional Director, in consultation with the Council, may authorize fishing for surf clams or ocean quahogs not otherwise authorized by this part for the purpose of studying the surf clam and ocean quahog resource in that part of the fishery conservation zone east of 69° W. longitude and south of 42°30′ N. latitude. Vessels conducting such activity under the direction of the Regional Director may be exempt from certain management restrictions contained in this part.

(b) *Notice.* The Regional Director will notify each surf clam and ocean quahog permit holder of the opportunity to participate in the research program authorized under this section. The notice will identify the research area and any conditions applicable to the program.

(c) *Letter of intent.* Any vessel owner or operator wishing to participate in the research program must submit to the Regional Director, a letter of his intent to participate in this activity. Any vessel owner or operator who agrees to the conditions under which the program will occur is eligible to participate.

(d) *Issuance.* The Regional Director will issue a certificate to participate in the research program to any eligible applicant within 30 days of the receipt of a letter of intent. Fishing under the program will not commence until the certification has been received by the applicant and placed aboard the vessel.

(e) *Conditions.* A vessel fishing under the certification may harvest surf clams and ocean quahogs only within the area identified by the Regional Director. The Regional Director may also condition the certification by requiring any or all of the following:

(1) Recordkeeping in approved logbooks;

(2) Embarkation of observers upon request by the Regional Director; and

(3) Area or time restrictions on fishing for surf clams or ocean quahogs within the identified area.

(f) *Duration.* (1) The certification will continue in force until it expires, terminates by request of the owner, or is revoked by the Regional Director.

(2) The certification may be revoked if the Regional Director determines, based on logbook reports, processors reports, vessel inspection or other information, that sufficient information has been collected or that such action is necessary to conserve the resource or avoid economic dislocation within the industry.

(3) Any certification which is terminated or revoked may not be renewed.

(g) *Exclusion.* (1) A vessel may not fish in the program area without the certification as stipulated in § 652.20(d).

(2) Except as provided in this section, New England Area fishing restrictions continue to apply as stipulated at § 652.22(b) (49 FR 27156, July 2, 1984).

(h) *Notices.* The Secretary will publish a notice in the **Federal Register** of any termination of the research program.

(i) *Quota.* Surf clams and ocean quahogs harvested from the research area will not count towards the 1984 annual surf clam quota for the New England Area of 200,000 bushels (July 2, 1984; 49 FR 27156).

(Approved by the Office of Management and Budget under control no. 0648–0016).

[FR Doc. 84–20495 Filed 7–30–84; 5:05 pm]

BILLING CODE 3510–22–M

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50 CFR Part 661

[Docket No. 40453–4053]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Extension of emergency rule.

SUMMARY: The Secretary of Commerce extends for 90 days the emergency regulations issued on May 3, 1984 (49 FR 18853), governing the ocean salmon fisheries off the coasts of Washington, Oregon, and California. The conditions discussed in 49 FR 18853 still exist and require extension of the emergency regulations for an additional 90 days to provide for fair and orderly conduct of the fisheries, treaty Indian needs, and spawning escapement.

EFFECTIVE DATES: Subparts C and D of 50 CFR Part 661 continue in effect from 12:01 a.m. Pacific Daylight Time, July 30, 1984, until midnight Pacific Standard Time, October 28, 1984, at which time Subparts A and B are reinstated.

FOR FURTHER INFORMATION CONTACT: Dr. T.E. Kruse (Acting Director, Northwest Region, NMFS), 206–526–6150; or Mr. E.C. Fullerton (Director, Southwest Region, NMFS), 213–548–2575.

SUPPLEMENTARY INFORMATION: The Administrator of NOAA determined that the emergency rule set forth in 49 FR 18853, which this rule extends for 90 days, was not major and that the resource emergency, which justified the emergency regulations under section 305(e) of the Magnuson Fishery Conservation and Management Act, also constituted an emergency under section 8(a)(1) of Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

(16 U.S.C. 1801 et seq.)

Dated: July 30, 1984

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84–20496 Filed 7–30–84; 5:06 pm]

BILLING CODE 3510–22–M

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50 CFR Part 663

[Docket No. 40453–4053]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Services (NMFS), NOAA, Commerce.

ACTION: Notice of fishing restrictions and request for comments.

SUMMARY: NMFS Issues this notice establishing restrictions to reduce further the levels of fishing for Pacific ocean perch the *Sebastes* complex, (all rockfish except Pacific ocean perch and widow, shortbelly, and *Sebastolobus* rockfishes) taken off the coasts of Washington, Oregon, and California; announcing further reductions in trip limits for widow rockfish and the *Sebastes* complex which will be implemented when landings are projected to reach specified levels; modifying provisions for fishing for groundfish north and south of Cape Blanco in the same trip; and seeing public comment on these actions. The actions are authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan and are necessary to help prevent harvest guidelines or optimum yields for these stocks from being reached before the end of 1984. These actions are intended to lower fishing rates, reduce

the risk of biological stress, and reduce the probability of fishery closure before the end of the year.

DATE: This notice is effective from 0001 (Pacific Daylight Time) August 1, 1984, until modified, superseded, or rescinded. Comments will be accepted through August 16, 1984.

ADDRESSES: Send comments to Dr. T. E. Kruse, Acting Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C1 5700, Seattle, WA 98115; or to Mr. E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731. The aggregate data upon which this notice is based are available for public inspection at the Office of the Director, Northwest Region, at the address above, during business hours until the end of the comment period.

SUPPLEMENTARY INFORMATION:.

Background

The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved (47 FR 6043, February 10, 1982) under the Magnuson Fishery Conservation and Management Act and final implementing regulations were published on October 5, 1982 (47 FR 43964). This action supersedes the provisions published in the **Federal Register** on May 10, 1984 (49 FR 19825) which impose trip limit and trip frequency restrictions for the *Sebastes* complex; sets levels at which further reductions will occur in trip limits for the *Sebastes* complex and widow rockfish; and modifies the trip limit for Pacific ocean perch as allowed by the regulation implementing Amendment 1 to the FMP (49 FR 27518, July 5, 1984), effective July 29, 1984. The size and trip limits for sablefish imposed at 49 FR 598 remain in effect.

As specified in the May notice, the Pacific Fishery Management Council (Council) reviewed the progress of the groundfish fishery at its July meeting. The conditions of biological stress of widow rockfish and the *Sebastes* complex documented at 48 FR 8283 (February 28, 1983) persist; Pacific ocean perch is considered stressed as long as it is managed under the rebuilding schedule. The Council examined current management measures with the intent of avoiding overfishing and extending the fisheries as long as possible throughout the year. The best scientific data available in July 1984 indicate that the rate of landings of widow rockfish, the *Sebastes* complex caught north of Cape Blanco, and Pacific ocean perch caught in the Vancouver and Columbia areas must be reduced to avoid exceeding the 1984 harvest goals for landings of these species.

Widow Rockfish

Council recommendation: The Council recommended no immediate change to the 40,000-pound coastwide trip limit which allows only one landing above 3,000 pounds of widow rockfish per vessel per week. However, when it is determined that 9,200 metric tons (mt) will be taken, a trip limit of 1,000 pounds will be imposed. All landings will be prohibited when the 9,300-mt optimum yield (OY) quota is reached.

Rationale: In 1984, the coastwide OY for widow rockfish is 9,300 mt. A coastwide trip limit of 50,000 pounds was implemented in January 1984, with only one landing above 3,000 pounds allowed per week (49 FR 597, January 5, 1984). In May 1984, the trip limit was reduced to 40,000 pounds (49 FR 19825, May 10, 1984). Further analysis in July 1984 revealed that if landings were not curtailed, OY would be reached and further landings prohibited the first week in October.

In 1983, a 1,000-pound trip limit was imposed in September which resulted in an average catch of 1.4 mt per day. The Council decided, given the uncertainties of the fishery, to impose a 1,000-pound trip limit on widow rockfish when 9,200 mt is reached. This should extend the season several months by virtually eliminating the target fishery while allowing incidental catches to be landed. When the 9,300-mt OY is reached, all further landings are prohibited as specified in § 663.21(b).

Secretarial action: The Secretary of Commerce (Secretary) concurs with the Council's decisions and hereby announces that:

(1) No more than 40,000 pounds (round weight) of widow rockfish may be taken and retained, or landed, per vessel per fishing trip in a one-week period. Only one landing of more than 3,000 pounds (round weight) of widow rockfish may be made in that one-week period. "One-week period" means seven consecutive days beginning 0001 hours Sunday and ending 2400 hours Saturday, local time.

(2) When it is determined that 9,200 mt of widow rockfish will be taken, the Secretary will publish a notice in accordance with § 663.23 establishing a trip limit which prohibits taking and retaining, or landing, more than 1,000 pounds (round weight) or widow rockfish per vessel per trip.

(3) These restrictions apply to all widow rockfish taken and retained in ocean water offshore of, or landed in, Washington, Oregon, and California, regardless of the place of taking.

(4) Landings of widow rockfish in the pink shrimp and spot and ridgeback prawn fisheries are governed by the regulations at 50 CFR 663.28.

Sebastes Complex

Council recommendation: The Council took action on three issues relating to the *Sebastes* complex. First, the Council reduced the size of trip limits, but maintained the provision which gives fishermen their choice of trip frequencies. Accordingly, fishermen may choose between landing the *Sebastes* complex caught north of Cape Blanco once a week not to exceed 7,500 pounds, or once in two weeks not to exceed 15,000 pounds, regardless of the place of landing. As in the current regulations, a 40,000–pound trip limit, with no restriction on trip frequency, applies to fish caught south of Cape Blanco, regardless of the place of landing. Second, the Council reviewed the current regulation which states that any landing containing over 3,000 pounds of the *Sebastes* complex must consist of groundfish caught either north or south, but not on both sides, of Cape Blanco. This provision has been modified to allow fishermen to fish both north and south of Cape Blanco during a fishing trip if the State of Oregon has been so notified; all *Sebastes* taken during such a trip are treated as though they were caught north of Cape Blanco and thus are subject to the 7,500– or 15,000–pound provisions regardless of where they are landed. Third, the Council confirmed its intent to keep landings near the 10,100-mt harvest guideline, and decided that when it is reached, a 3,000-pound trip limit will be imposed.

As in the current regulations, the number of landings of less than 3,000 pounds of the *Sebastes* complex is not restricted regardless of where the fish are caught or landed. Notification to the State of Oregon for fishing on both sides of Cape Blanco is submitted the same way as the current notification for fishing south and landing north of Cape Blanco. The State notification requirements are intended to complement these Federal regulations, and are consistent with them.

Rationale: In 1984, the harvest guideline for the *Sebastes* complex is 10,100 mt, 110 percent of the summed allowable biological catch (ABC) for the species in this complex. In January 1984, trip limits were set at 30,000 pounds once a week, which in May were lowered to 15,000 pounds once a week or 30,000 pounds once every two weeks, depending on the fisherman's preference. (Landings below 3,000 pounds were not restricted.) The Council

examined the progress of the 1984 fishery at its July meeting and found that landings of the *Sebastes* complex caught north of Cape Blanco, although low relative to 1983 rates, would exceed the 10,100-mt harvest guideline before the end of the year. If not further curtailed, landings are projected to reach almost 12,000 mt in 1984. In order to keep landings from exceeding the harvest guideline before the end of the year, the landing rate must be reduced by about fifty percent, to 7,500 pounds once per week or, if the vessel operator prefers and so notifies the appropriate State fishery agency, 15,000 pounds once every two weeks during a given month. However, when it is determined that the 10,100 mt harvest guideline will be reached, trip limits will be reduced to 3,000 pounds to discourage targeting and allow incidentally-caught fish to be landed.

A fifty percent reduction of either trip size or frequency in this already restricted fishery obviously would have severe impacts on the industry. Some fishermen felt that anything less than 15,000 pounds a week would force them out of the fishery; other have operated under market limits of 5,000 pounds. However, this severe cut, especially in conjunction with other restrictions on groundfish, may well force vessels from the fishery or encourage a shift in effort to waters south of Cape Blanco where a more liberal 40,000–pound trip limit applies.

Fishermen targeting on sole complained that the provision restricting fishing for groundfish to only one side of Cape Blanco was forcing them either to abandon a large part of their traditional sole fishing grounds or to discard significant amounts of incidentally-caught *Sebastes*. In response, the Council agreed that fishing for groundfish could be conducted on both sides of Cape Blanco, but only if the vessel operator notified the State of Oregon of his intent, and any *Sebastes* complex in excess of 3,000 pounds landed from such a trip would be treated as fish caught north of Cape Blanco (7,500 pounds once a week or 15,000 pounds once in two weeks), regardless of where the fish were actually caught or landed.

The discard implications of these actions are uncertain. Although a 15,000-pound landing limit would allow retention of *Sebastes* that would have to be discarded under a 7,500-pound limit, the one landing in two weeks provision provides more time for a vessel to pursue other fisheries in which *Sebastes* might be incidentally caught. If this is the case, the number of landings of the *Sebastes* complex of less than 3,000 pounds could increase. Either option will encourage landing the 3,000-pound limit at each opportunity, and thus forces discarding when more than 3,000 pounds are caught. If effort shifts to south of Cape Blanco, fishing pressure and discards will be reduced north of the Cape. The effect on fishing mortality of allowing vessels to fish both sides of Cape Blanco has unclear consequences; although this provision should reduce discards, it also may encourage some targeting so that the northern trip limit is taken.

Note.—Amendment 1 to the FMP, effective July 29, 1984 (49 FR 27518 July 5, 1984), expanded the number of rockfish species which are managed under Federal regulations. As a result, all fish in the Scorpaenidae family which occur seaward of Washington, Oregon, and California are included. The *Sebastes* complex (which now contains other species than are found in the *Sebastes* genus) still is defined as all rockfish managed under the FMP except widow and shortbelly rockfish, Pacific ocean perch, and *Sebastolobus* species.

Secretarial action: The Secretary concurs with the Council's recommendations for management of the *Sebastes* complex and establishes the following restrictions:

(1) General restrictions.

(a) These restrictions apply to all fish of the *Sebastes* complex taken and retained in ocean waters offshore of, or landed in, Washington, Oregon, and California, regardless of the place of taking.

(b) Landings of the *Sebastes* complex in the pink shrimp and spot or ridgeback prawn fisheries are governed by regulations at § 663.28.

(c) There is no limit on the number of landings under 3,000 pounds (round weight) of the *Sebastes* complex allowed per week.

(d) Except as provided in paragraph (3)(d) below, fishing for any groundfish species during a single fishing trip must occur either north or south, but not on both sides, of Cape Blanco (42°50′ N. latitude) if more than 3,000 pounds (round weight) of the *Sebastes* complex is landed from that trip.

(e) It will be presumed that all fish of the *Sebastes* complex which are landed north of Cape Blanco were taken north of Cape Blanco unless compliance with subsection (2)(c) can be demonstrated.

(2) Restrictions on *Sebastes* complex caught south of Cape Blanco.

(a) No more than 4,000 pounds (round weight) of the *Sebastes* complex caught south of Cape Blanco may be taken and retained, or landed, per vessel per fishing trip. There is no limit on the number of landings allowed per week of the *Sebastes* complex caught south of Cape Blanco.

(b) Except as provided in subsection (2)(c) below, no more than 3,000 pounds (round weight) of the *Sebastes* complex may be taken and retained south of Cape Blanco and possessed or landed north of Cape Blanco, per vessel per fishing trip.

(c) Up to 40,000 pounds (round weight) of the *Sebastes* complex caught south of Cape Blanco may be possessed or landed north of Cape Blanco per vessel per fishing trip, with no limit on trip frequency, if the vessel operator notifies the State of Oregon before leaving port on that trip of intent to fish south and possess or land north of Cape Blanco. This notification, submitted by telephone or in writing, should be made to the Oregon Department of Fish and Wildlife at the Marine Regional Office, Marine Science Drive, Bldg. No. 3, Newport, OR 97365 (503–867–4741) or at P.O. Box 5430, Charleston, OR 97420 (503–888–5515 between 8:00 a.m. and 4:30 p.m.; or, at other times, 503–269–50000 or 269–5999).

(3) Restriction on *Sebastes* complex caught north, or both north and south, of Cape Blanco.

(a) Except as provided in subsection (3)(b) below, no more than 7,500 pounds (round weight) of the *Sebastes* complex caught north, or both north and south, of Cape Blanco may be taken and retained, or landed, per vessel per fishing trip in a one-week period. Only one landing of more than 3,000 pounds (round weight) of the *Sebastes* complex may be made per vessel in that one-week period. "One-week period" means seven consecutive days beginning 0001 hours Sunday and ending 2400 hours Saturday, local time.

(b) Notwithstanding the restrictions of subsection (3)(a) above, up to 15,000 pounds (round weight) of the *Sebastes* complex caught north, or both north south, of Cape Blanco may be taken and retained, or landed, per vessel per fishing trip in a two-week period; however, only one landing of more than 3,000 pounds (round weight) of the *Sebastes* complex may be made per vessel in that two-week period, and only if compliance with subsection (3)(c) below can be demonstrated. "Two-week period" means 14 consecutive days beginning at 0001 hours Sunday and ending 2400 hours Saturday, local time.

(c) The restrictions of subsection (3)(b) rather than (3)(a) apply to the taking and retention, or landing, of the *Sebastes* complex north of Cape Blanco if the vessel operator so notifies the fishery agency in the State where the fish will be landed, prior to the month in

which the landing(s) is (are) to occur. Notifications must be in writing to one of the addresses listed at the end of this subsection and are binding for the entire one-month period. "One-month period" means the calendar month beginning on the first day of a calendar month and ending on the last day of the same month. (Contact: Oregon Department of Fish and Wildlife, 506 SW Mill Street, Portland, OR 97201; or, Washington Department of Fisheries, 115 General Administration Building, Olympia, WA 98504).

(d) A vessel operator may fish for groundfish both north and south of Cape Blanco during a single fishing trip only after notifying the State of Oregon of intent to do so before leaving port on that fishing trip. A vessel operator giving such notice is subject to the restrictions of this subsection (3) for the duration of the fishing trip. This notification, submitted by telephone or in writing, should be made to the Oregon Department of Fish and Wildlife at the Marine Regional Office, Marine Science Drive, Bldg. No. 3, Newport, OR 97365 (503–867–4741) or at P.O. Box 5430, Charleston, OR 97420 (503–888–5515 between 8:00 a.m. and 4:30 p.m.; or, at other times, 503–269–5000 or 269–5999).

(e) When it is determined that 10,100 metric tons of the *Sebasts* complex caught north of Cape Blanco will be taken, the Secretary will publish a notice in accordance with § 663.23 establishing a trip limit which prohibits taking and retaining, or landing, more than 3,000 pounds (round weight) per vessel per trip.

Pacific Ocean Perch

Council recommendation: The Council reduced the current trip limit for Pacific ocean perch in the Vancouver and Columbia areas to 20 percent by round weight of all fish on board, not to exceed 5,000 pounds, per vessel per trip.

Rationale: Pacific ocean perch are managed under a 20-year rebuilding schedule designed to bring the stock up to levels that will produce maximum sustainable yield. To accomplish this, OY is set at 950 mt in the Columbia area (43°00′ to 47°30′ N. latitude) and 600 mt in the Vancouver area (47°30′ N. latitude to the U.S.-Canada border); a trip limit of 5,000 pounds or 10 percent (by weight), whichever is greater, was imposed when the FMP was implemented. Several years' experience showed that this trip limit does not assure achievement of OY, or conversely, could allow it to be reached well before the end of the year, forcing closure of the fishery for Pacific ocean perch. Amendment 1 to the FMP (49 FR 27518, July 5, 1984, effective July 29, 1984) allows the trip limit for Pacific ocean perch to be modified.

Landings for Pacific ocean perch are projected to reach OY on the first week of August in the Columbia area and on the third week of October in the Vancouver area if not further curtailed. The Council heard testimony that landings are high in part due to the ability of fishermen to target on and land 5,000 pounds in one-day trip. Wishing to extend the fishery longer into the year and confirming its intent to minimize targeting on Pacific ocean perch until the stock is rebuilt, the Council decided on a 20 percent trip limit, not to exceed 5,000 pounds. The States of Oregon and Washington implemented similar restrictions on July 16, 1984.

Secretarial action: (1) For Pacific ocean perch in the Vancouver and Columbia subareas, no more than 5,000 pounds (round weight) or 20 percent by round weight of all fish on board, whichever is less, may be taken and retained, or landed, per vessel per fishing trip.

(2) These restrictions apply to all Pacific ocean perch taken and retained in ocean waters offshore of, or landed in, Washington, Oregon, and California, regardless of the place of taking.

Inseason Adjustments

Groundfish landings will be reexamined and the Council will consider the need for further action at its September 19–20, 1984, meeting in Portland, Oregon. However, the following actions announced in this notice may be taken without further Council action: a trip limit of 1,000 pounds will be imposed when 9,200 mt of widow rockfish is projected to be reached; a trip limit of 3,000 pounds will be imposed when 10,100 mt of the *Sebastes* complex is projected to be reached; further landings of a species will be prohibited when its OY is projected to be reached. These actions will be announced by the Secretary in the **Federal Register.**

Classification

The determination to impose these fishing restrictions is based on the most recent data available.

These actions are taken under the authority of §§ 663.22 and 663.23, and are in compliance with Executive Order 12291. The actions are covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

Section 663.32 of the groundfish regulations states that the Secretary will publish a notice of action reducing fishing levels in proposed form unless he determines that prior notice and public review are impracticable, unnecessary, or contrary to the public interest. Because of the immediate need to limit the harvest of the *Sebastes* complex, Pacific ocean perch, and possibly widow rockfish, and thereby reduce catch levels which could otherwise result in overharvest and closure of the fisheries, further delay of these actions is impracticable and contrary to the public interest. Anticipated fishing rates at the high levels experienced in the first half of 1984 will unquestionably result in exceeding the OY for Pacific ocean perch and widow rockfish and the harvest guideline for the *Sebastes* complex if additional landings restrictions are not imposed. Prompt action to reduce those fishing rates is necessary to protect these resources and alleviate the necessity for year-end closures. Consequently, these actions are taken in final form effectve August 1, 1984. The States of Oregon and Washington are implementing similar regulations.

These restrictions require no collection of information for purposes of the Paperwork Reduction Act.

The public has had opportunity to comment on these management measures. The public participated in the Groundfish Management Team meeting in June and the Task Force/Groundfish Advisory Subpanel and Council meetings in July that generated the management actions endorsed by the Council and the Secretary. Further public comments will be accepted for 15 days after publication of this notice in the **Federal Register.**

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing.

(16 U.S.C. 1801 *et seq.*)

Dated: July 27, 1984.

William G. Gordon,

Assistant Administrator for Fisheries, (LDH) National Marine Fisheries Service.

[FR Doc. 84-20430 Filed 8-1-84; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 674

[Docket No. 40453-4053]

High Seas Salmon Fishery off Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA issues this notice closing the commercial fishery for chinook salmon in the fishery conservation zone (FCZ) off Southeastern Alaska and restricting the

commercial fishery for other salmon species to specified areas of the FCZ. This action is necessary to ensure, for conservation reasons, that the harvest of chinook salmon does not exceed the year's quota of 246,000 fish. It is intended to prevent the overharvest and reduce the accidental hooking of chinook salmon while allowing the commercial harvest of other species of salmon to continue. This action complements similar actions taken by the State of Alaska for the commercial salmon fisheries in its waters.

DATE: This notice is effective at midnight Alaska Daylight Time (ADT), July 30, 1984, and will expire at midnight ADT September 20, 1984, when the regular season closure takes effect. Public comments on this notice are invited until August 29, 1984.

ADDRESSES: Send comments to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. During the 30-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m. ADT weekdays) at the NMFS Alaska Regional Office, Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Aven M. Anderson (Fishery Management Biologist, NMFS), 907–586–7229.

SUPPLEMENTARY INFORMATION: Salmon fishing in the FCZ off Alaska is managed under the Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude (FMP), developed and amended by the North Pacific Fishery Management Council (Council) and implemented by NOAA through regulations appearing at 50 CFR Part 674 (46 FR 33041, June 26, 1981; 46 FR 57229, November 3, 1981). Section 674.23 describes procedures to adjust seasons and areas. Section 674.23 was amended on April 22, 1983 (48 FR 17358), to allow the Secretary of Commerce to issue notices to achieve any specific harvest level that he determines necessary for conservation and management that is within the range of optimum yield for chinook salmon.

At its meeting February 3–4, 1984, the Council recommended to the Regional Director that the 1984 harvest of chinook salmon be a number of fish at the low end of the 243,000–272,000 optimum yield range. Therefore, for 1984, a harvest goal of 246,000 chinook salmon, which consists of an expected contribution of 3,000 Alaskan hatchery-produced chinook added to the low end of the optimum yield range of 243,000 chinook from other sources, was established (49 FR 27522, July 5, 1984). The Alaska Board of Fisheries adopted an identical harvest guideline.

On the basis of this information, the Secretary has decided to close the entire FCZ off the coast of Southeastern Alaska to any further commercial harvesting of chinook salmon during 1984. Further, he has decided to close to commercial fishing for all salmon species an area of the FCZ containing the Outer Fairweather Grounds, where chinook salmon occur abundantly. This closure should reduce considerably the incidental hooking of chinook and the resulting number of those fish that will die from being hooked and released. He leaves open the remaining areas of the FCZ to the commercial harvest of salmon species other than chinook until the scheduled closure of the fishing season at midnight on September 20, 1984, although there will likely be a 10-day closure of the fishery in mid-August to allow more coho salmon to escape the fishery.

The entire area of the FCZ is closed to commercial fishing for chinook salmon. In addition, the area known as the Outer Fairweather Grounds is closed to commercial fishing for *all* salmon species. This area is roughly rectangular and is bounded on the north by Loran C line 7960–Y–29800, on the south by Loran C line 7960–Y–29150, shoreward by Loran C line 7960–X–14660, and seaward by Loran C line 7960–X–14400, as shown on NOAA chart #16016. We are using these Loran C lines as boundaries at the request of the fishermen. The area also is defined by lines connecting the following points:
58°46.7′ N. lat., 138°54.5′ W. long.;
58°15.9′ N. lat., 137°21.5′ W. long.;
57°50.0′ N. lat., 138°19.5′ W. long.;
58°24.5′ N. lat., 139°48.8′ W. long.; and
58°46.7′ N. lat., 139°54.5′ W. long.

The closures will become effective after this notice has been filed for public inspection with the Office of the Federal Register and has been published for 48 hours through procedures of the Alaska Department of Fish and Game under § 674.23(b)(2). Section 674.23(b)(3) allows public comments on this notice to be submitted to the Regional Director for 30 days following the effective date. If comments are received, the Secretary will reconsider the necessity of this closure and will publish another notice in the **Federal Register** either confirming this notice's continued effect, modifying it, or rescinding it.

Other Matters

The Assistant Administrator has determined that the chinook salmon stocks harvested in Southeast Alaska will be subject to harm unless this notice takes effect promptly. The Agency, therefore, finds that it would be impracticable and contrary to the public interest to provide a prior opportunity for public comment or to delay for 30 days the effective date of this notice under the provisions of 5 U.S.C. 553 (b) and (c).

This action is taken under the authority specified at 50 CFR 674.23 and complies with Executive Order 12291. It is not subject to the requirements of the Regulatory Flexibility Act. It does not contain any collection of information request as defined in the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 674

Fisheries.

(16 U.S.C. 1801 *et seq.*)

Dated: July 30, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84–20497 Filed 7–30–84; 5:06 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 49, No. 150
Thursday, August 2, 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 Ch. IV

Crop Insurance Regulations—Various Commodities; Sunset Review Dates

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of Sunset Review Dates.

SUMMARY: This notice provides, for the information of interested parties, the "Sunset Review" dates for all regulations for insuring crops promulgated by the Federal Crop Insurance Corporation (FCIC) as required by the provisions of Executive Order No. 12291 "Improving Government Regulations" (February 17, 1981). The notice is provided as a service to the general public under the authority of the Federal Crop Insurance Act, as amended, by listing each regulation, the date it was last published, the Code of Federal Regulations citation number, the **Federal Register** volume and page number, and the projected Sunset Review date.

DATE: August 2, 1984.

ADDRESS: Any comments or suggestions on this notice 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: Executive Order No. 12291 requires in part that no regulation be permitted to exist in force for more than 5 years without being reviewed under criteria established in the Executive Order, and USDA criteria established in Departmental Regulation 1512–1, implementing the Executive Order.

The Federal Crop Insurance Corporation has for many years conducted a review of each of the crop insurance regulations every 1 or 2 years in order to provide for necessary changes brought about by farming practices, harvest dates, etc. Therefore, FCIC is in full accord with the requirement for a "Sunset Review" date for each of its regulations.

Accordingly, FCIC hereby publishes the sunset review date for each of its regulations for insuring crops contained in 7 CFR 400, *et seq.*, as follows:

CFR citation	Regulation name	Date last published	FR citation	Sunset review date
7 CFR 400 A	Late Planting Agreement Option	Feb. 21, 1984	49 FR 6319	Oct. 1, 1987.
7 CFR 400 B	IYCP Regulations	Nov. 30, 1983	48 FR 53993	Sept. 1, 1987.
7 CFR 400 C	Standards for Approval; Agency Sales & Service Agreement.	Dec. 13, 1982	47 FR 55886	Jan. 1, 1988.
7 CFR 400 D	Application for Crop Insurance	Feb. 21, 1984	49 FR 6316	Jan. 10, 1988.
7 CFR 400 E	Hail and Fire Exclusion Option	Reserved		
7 CFR 400 F	Contract Price Election Agreement Option	Reserved		
7 CFR 400 G	Standards for Approval; Reinsurance Agreement	June 1, 1984	49 FR 22758	Mar. 1, 1989.
7 CFR 400 H	OMB Control	Mar. 2, 1984	49 FR 7795	N/A.
7 CFR 402	Raisins	July 23, 1984	49 FR 29559	Apr. 1, 1988.
7 CFR 403	Peaches	Dec. 14, 1983	48 FR 55547	Do.
7 CFR 404	W. U.S. Apples	Jan. 16, 1984	49 FR 1676	Do.
7 CFR 408	E. U.S. Apples	Feb. 21, 1984	49 FR 6320	Do.
7 CFR 409	AZ-CALIF. Citrus	Feb. 21, 1984	49 FR 6326	Do.
7 CFR 410	Florida Citrus	Feb. 21, 1984	49 FR 6330	Jan. 1, 1988.
7 CFR 411	Grape	June 27, 1984	49 FR 26189	Apr. 1, 1988.
7 CFR 413	Texas Citrus	Jan. 6, 1984	49 FR 867	Do.
7 CFR 414	Forage Seeding	Feb. 21, 1984	49 FR 6334	Jan. 1, 1988.
7 CFR 415	Forage Production	Jan. 16, 1984	49 FR 1881	Apr. 1, 1988.
7 CFR 416	Pea	Feb. 3, 1984	49 FR 4187	Do.
7 CFR 417	Sugarcane	May 29, 1984	49 FR 22248	Do.
7 CFR 418	Wheat	Feb. 21, 1984	49 FR 6338	Feb. 1, 1987.
7 CFR 419	Barley	Feb. 6, 1984	49 FR 4359	Do.
7 CFR 420	Grain Sorghum	Dec. 13, 1983	48 FR 55411	Apr. 1, 1988.
7 CFR 421	Cotton	Jan. 6, 1984	49 FR 871	Do.
7 CFR 422	Potato	Feb. 28, 1984	49 FR 7213	Do.
7 CFR 423	Flax	Feb. 1, 1984	49 FR 3965	Do.
7 CFR 424	Rice	Feb. 3, 1984	49 FR 4191	Do.
7 CFR 425	Peanut	Feb. 21, 1984	49 FR 6344	Do.
7 CFR 426	Combined Crop	Feb. 29, 1984	49 FR 7351	Do.
7 CFR 427	Oat	Mar. 28, 1984	49 FR 11801	Feb. 1, 1987.
7 CFR 428	Sunflower	Feb. 21, 1984	49 FR 6349	Apr. 1, 1988.
7 CFR 429	Rye	Oct. 22, 1979	44 FR 60709	Oct. 1, 1984.
7 CFR 430	Sugar Beet	May 29, 1984	49 FR 22252	Apr. 1, 1988.
7 CFR 431	Soybean	June 27, 1984	49 FR 26192	Do.
7 CFR 432	Corn	May 16, 1984	49 FR 20632	Do.
7 CFR 433	Dry Bean	Feb. 21, 1984	49 FR 6353	Do.
7 CFR 434	Tobacco, Dollar	July 2, 1984	49 FR 27121	Do.
7 CFR 435	Tobacco, Quota	June 27, 1984	49 FR 26197	Do.
7 CFR 436	Tobacco, Guaranteed	June 28, 1984	49 FR 26551	Do.
7 CFR 437	Sweet Corn, Canning & Freezing	May 29, 1984	49 FR 22256	Do.
7 CFR 438	Tomato, Canning and Processing	July 2, 1984	49 FR 27125	Do.
7 CFR 439	Almond	Feb. 1, 1984	49 FR 3969	Do.
7 CFR 440	Texas Citrus Tree	Apr. 6, 1984	49 FR 13671	Do.
7 CFR 441	Table Grape	June 28, 1984	49 FR 26555	Do.
7 CFR 442	Prevented Plng.	Dec. 13, 1983	48 FR 55418	Do.
7 CFR 443	Hybrid Seed	Feb. 21, 1984	49 FR 6358	Dec. 1, 1987.

CFR citation	Regulation name	Date last published	FR citation	Sunset review date
7 CFR 444	Fresh Tomato	Feb. 1, 1984	49 FR 3973	Apr. 1, 1988.
7 CFR 445	Pepper	Jan. 31, 1984	49 FR 3825	Do.
7 CFR 446	Walnut	July 2, 1984	49 FR 27129	Apr. 30, 1989.
7 CFR 447	Popcorn	Apr. 10, 1984	49 FR 14078	Sept. 1, 1988.

Done in Washington, D.C., on: July 25, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: July 25, 1984.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-20404 Filed 8-1-84; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 442

[Amendment No. 1]

Prevented Planting Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Withdrawal of proposed rule.

SUMMARY: On November 24, 1982, the Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking at 47 FR 53025 to amend the Prevented Planting Regulations (7 CFR Part 442), effective with the 1983 and succeeding crop years, to clarify the meaning of the term "Prevented Planting Date." This notice is published to withdraw that notice of proposed rulemaking because the proposed action is no longer necessary

The proposed change stated above, however, has been incorporated and finalized in a document published on December 13, 1983, 48 FR 55418 as Amendment No. 2. In view of this, FCIC is vacating Amendment No 1 and there will be no Amendment No. 1.

DATE: This withdrawal is effective on August 2, 1984.

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: On November 24, 1982, FCIC published a notice of proposed rulemaking in the **Federal Register** at 47 FR 53025. The proposed rulemaking was designated as Amendment No. 1 to the Prevented Planting Insurance Regulations (7 CFR Part 442). The document proposed to amend the Prevented Planting Regulations (7 CFR Part 442) to clarify the meaning of the term "Prevented Planting Date", or that date considered by FCIC as the latest date that crop insurance is available under such regulations on any spring-planted crop in the county, except tobacco.

This action was deemed necessary due to FCIC's possible development of a Late Planting Agreement Option, effective with the 1983 and succeeding crop years, which may have extended the final planting date under such option when adverse weather prevents planting of the insured crop. The intended effect of this proposed rule was to provide for the extension of the prevented planting date in 7 CFR Part 442 when the insured selects the late planting agreement option.

Subsequent action was not taken on the proposed rule because development of the option to include any extended date or final date under any late planting agreement option was included in Amendment No. 2 as outlined above. Therefore, this action is no longer appropriate.

For the reasons stated above, the notice of proposed rulemaking (Amendment No. 1 to the Prevented Planting Regulation—7 CFR Part 442) published on November 24, 1982, at 47 FR 53025 is hereby withdrawn.

Done in Washington, D.C., on July 9, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: July 24, 1884.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-20405 Filed 8-1-84; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 1076

Milk in the Eastern South Dakota Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain provisions of the Eastern South Dakota Federal milk order. The provisions relate to the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. Suspension of the provisions was requested by a cooperative association representing most of the producers supplying the market to prevent uneconomic movements of milk. The proposed suspension would be for the period of August 1984 through February 1985.

DATE: Comments are due not later than August 9, 1984.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington D.C. 20250, (202) 447-2089.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Eastern South Dakota marketing area is being considered for August 1984 through February 1985:

In § 1076.13. paragraphs (c)(2) and (3).

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington D.C. 20250, not later than 7 days from the date of publication of this notice in the **Federal Register**. The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include August 1984 in the suspension period.

The comments that are received will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would remove for August 1984 through February 1985 the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. The order now provides that a cooperative association may divert up to 35 percent of its total member milk received at all pool plants or diverted therefrom during the months of August through February. Similarly, the operator of a pool plant may divert up to 35 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) during the months of August through February.

The proposed suspension was requested by Land O'Lakes, Inc., a cooperative association that supplies most of the market's fluid milk needs and handles most of the market's reserve milk supplies. The basis for the request is the cessation in 1983 of bottling operations by a major distributing plant on the market. As a result, Land O'Lakes' deliveries to regulated distributing plants under the Eastern South Dakota order have declined approximately 33 percent during the first six months of 1984. Land O' Lakes indicated that they have associated some producer milk formerly pooled on the Eastern South Dakota market with the Upper Midwest pool, but that producer milk on the Eastern South Dakota market had declined less rapidly than have deliveries to distributing plants. Consequently, the cooperative expects its reserve milk supplies during August 1984 through February 1985 to exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations. In the absence of the suspension, the cooperative expects that some of the milk of its member producers who regularly have supplied the fluid market would have to be moved, uneconomically, first to pool plants and then to nonpool manufacturing plants in order to continue producer status for such milk during August 1984 through February 1985.

Land O' Lakes points out that in the absence of diversion limits, the order's supply plant shipping requirements assure adequate performance on the part of the market's milk suppliers.

List of Subjects in 7 CFR Part 1076

Milk marketing orders, Milk, Dairy products.

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

Signed at Washington D.C., on: July 27, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84–20466 Filed 8–1–84; 8:45 am]
BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84–NM–64–AD]

Airworthiness Directives; Airbus Industrie Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD) that would require the installation of an additional clamp on the feeder fuel line located inside each engine pylon of certain Airbus Industrie Model A300 B2 and B4 series airplanes. Fatigue cracks have been discovered in these fuel lines. These cracks, if not prevented, can lead to rupture of the fuel lines and create a fire hazard.

DATES: Comments must be received no later than September 22, 1984.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France, or may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington; telephone (206) 431–2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments invited

Interested persons are invited to participate in the making of the

proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84–NM–64–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The French Civil Aviation Authority (DGAC) has, in accordance with existing provisions of a bilateral agreement, notified the FAA of cracks in the feeder fuel lines located inside the engine pylons of Airbus Industrie Model A300 airplanes. Cracks in the fuel lines can lead to rupture of the fuel lines, which can create a fire hazard. These cracks are due to vibration. Airbus Industrie Service Bulletin A300–28–039 prescribes installation of clamps and mountings to dampen the vibrations.

This airplane model is manufactured in France and type certificated in the United States under the provisions § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the installation of a clamp and mounting on the fuel lines located inside each engine pylon.

It is estimated that 28 U.S. registered airplanes would be affected by this AD, that it would take approximately 18 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Repair parts are estimated at $250 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators would be $27,160. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 B2 and B4 series airplanes, serial numbers as listed in the service bulletin, certificated in all categories. To prevent rupture of the feeder fuel lines located inside the engine pylons, accomplish the following, unless previously accomplished:

A. Prior to the accumulation of 4,000 hours total time in service or within the next 120 days after the effective date of this AD, whichever occurs later, install an additional clamp on the feeder fuel line located inside each engine pylon in accordance with the accomplishment instructions of Airbus Industrie Service Bulletin A300–28–039, Revision 2, dated December 17, 1981.

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

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

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Airbus Industrie Model A300 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTRACT."**

Issued in Seattle, Washington on July 24, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–20378 Filed 8–1–84; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 812 3061]

Sun Refining and Marketing Company; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Philadelphia, Pa. corporation, among other things, to honor the lifetime warranty on its "True Blue Lifetime Battery" (TBLT). The company would be required to notify consumers who received a replacement battery without a lifetime warranty, that their original lifetime warranty rights would be reinstated. Further, when fullfilling warranty obligations, the company would be required to provide replacement batteries that have the same technical and performance characteristics as the TBLT battery. The order would also require the company to notify its dealers and distributors that it is reinstating the TBLT lifetime warranty and provide them with instructions for honoring the warranty.

DATE: Comments must be received on or before October 1, 1984.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Lemuel W. Dowdy, FTC, H–238, Washington, D.C. 20580. (202) 523–3911.

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

List of Subjects in 16 CFR Part 13

Warranties, Batteries, Trade practices.

Before Federal Trade Commission

[File No. 812–3061]

Agreement Containing Consent Order To Cease and Desist

In the Matter of Sun Refining and Marketing Company, a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Sun Refining and Marketing Company, a corporation, hereinafter sometimes referred to as proposed respondent, and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Sun Refining and Marketing Company, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Sun Refining and Marketing Company, is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its office and principal place of business located at 1801 Market Street, Philadelphia, Pennsylvania 19103.

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

3. Proposed respondent waives:

(a) Any further procedural steps;

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

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

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint and related materials pursuant to § 2.34 of the Commission's Rules, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

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

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission, pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

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

Order

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

A. "Lifetime Warranty"—A warranty which obligates respondent to provide continuous free replacements for any battery that fails to accept and hold a charge as long as the purchaser owns the vehicle in which the original battery was installed.

B. "TBLT battery"—A battery sold under the brand name "True Blue Lifetime Battery" and which carried a warranty entitled "Lifetime Battery Warranty" or "Full Lifetime Warranty."

I

It is ordered that respondent Sun Refining and Marketing Company, a corporation, its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any automotive battery in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Failing to perform any written warranty obligation under the "Lifetime Battery Warranty" or the "Full Lifetime Warranty" or any other warranty offering continuous replacements for a failed battery and from failing to replace any such battery under any such warranty if it has failed while the purchaser owns the car in which the original battery was installed;

Provided that, nothing in this order, including Part II shall prevent respondent from requesting purchasers of batteries carrying a "Lifetime Battery Warranty" or a "Full Lifetime Warranty" or any other warranty offering continuous replacements for failed batteries to agree to a modification of the warranty so long as: (1) The purchasers are notified in writing that a modification of the written warranty terms is being sought; (2) the purchasers are notified that they have the option of not agreeing to the modification and may continue with existing warranty coverage if they desire (such option shall be stated clearly and conspicuously in the same notification that informs the purchasers that a modification is being sought); (3) the purchasers are notified of all changes in warranty coverage that would occur should the modification be accepted, including, but not limited to, changes in warranty duration, changes in what respondent as warrantor will do in the event of a defect in or failure of the warranted product, and changes in what items or services the purchasers must pay for or provide or which the warrantor will not pay for or provide. No modification of the terms of any such warranty shall take effect unless and until the purchaser agrees in writing to such modification.

II

It if further ordered that:

A. Respondent, it successors and assigns, shall ascertain the name and address of each consumer who, according to the company's warranty files:

1. Purchased a TBLT battery; and
2. Replaced said battery (when the battery failed to accept and hold charges) with a battery of respondent that did not carry a lifetime warranty.

B. Within thirty (30) days after the date of service of this order, respondent, its successors and assigns, shall mail, by first class mail, address correction requested, to each consumer identified in Part II. A. of this order:

1. A notice (Attachment A of this order) that respondent, its successors and assigns, is reinstating the original lifetime warranty for consumers who still own the vehicle in which the original TBLT battery was installed; and
2. A self-addressed stamped post card (Attachment B of this order) which requests that the consumer provide information which will be used to determine whether he or she still owns the vehicle in which the original TBLT battery was installed.

The front of the envelope used for each such mailing shall clearly and conspicuously state: "IMPORTANT WARRANTY INFORMATION ENCLOSED."

C. Within thirty (30) days after receiving each such post card as described in Part II. B. 2 of this order indicating that the consumer still owns the vehicle in which the original TBLT battery was installed and that the model year of the vehicle is 1980 or earlier, respondent, its successors and assigns, shall mail, by first class mail, with a cover letter (Attachment C of this order), a lifetime warrantly certificate that, as long as the consumer owns the vehicle in which the original battery was installed, may be used to obtain a free battery to replace any battery that fails to accept and hold a charge. The front of the envelope used for each such mailing shall clearly and conspicuously state: "IMPORTANT WARRANTY INFORMATION ENCLOSED."

D. For each consumer who was sent a notice and a post card pursuant to Part II. B. above, but whose notice was returned by the U.S. Postal Service for any reason, respondent, its successors and assigns, shall within sixty (60) days after the mailing pursuant to Part II. B:

1. Search its credit card files and other records to obtain a current address for such consumer; and
2. Re-mail to such current address, by first class mail, that notice and post card.

The front of the envelope used for each such mailing shall clearly and conspicuously state: "IMPORTANT WARRANTY INFORMATION ENCLOSED."

E. Within thirty (30) days after receiving any post card mailed pursuant to Part II. D. 2 indicating that the consumer still owns the vehicle in which in the original TBLT battery was installed and that the model year of the vehicle is 1980 or earlier, respondent, its successors and assigns, shall mail, by first class mail, with a cover letter (Attachment C of this order), a lifetime warranty certificate that, as long as the consumer owns the vehicle in which the original battery was installed, may be used to obtain a free battery to replace any battery that fails to accept and hold a charge. The front of the envelope used for each such mailing shall clearly and conspicuously state: "IMPORTANT WARRANTY INFORMATION ENCLOSED."

F. For each consumer who presents evidence that:

1. He or she purchased a TBLT battery;
2. When that TBLT battery failed, it was replaced with one of respondent's batteries that did not carry a lifetime warranty; and
3. He or she still owns the vehicle in which the original TBLT battery was installed.

respondent, its successors and assigns, within thirty (30) days after receiving such evidence, shall mail by first class mail to that consumer:

1. A notice that respondent, its successors and assigns, is reinstating the original lifetime warranty (such notification shall be stated in clear and conspicuous language); and
2. A lifetime warranty certificate that as long as the consumer owns the vehicle in which the original battery was installed may be used to obtain a free battery to replace any battery that fails to acccept and hold a charge.

The front of the envelope used for such mailing shall clearly and conspicuously state: "IMPORTANT WARRANTY INFORMATION ENCLOSED."

III

It is further ordered that:

A. If respondent, its successors and assigns, replaces any failed battery as required by Parts I and II of this order, the replacement battery shall be at least of the same grade and group size as the original battery, meaning a battery having at least the same technical and performance characteristics as the original battery.

B. Within thirty (30) days after the date of service of this order, respondent, its successors and assigns, shall provide written notice to every dealer and distributor who sells respondent's automotive batteries, stating that the lifetime warranty has been reinstated for purchasers of TBLT batteries and shall apply to replacement batteries installed after date of service of this order and giving a copy of the notices sent to consumers pursuant to Part II of this order and a set of instructions and procedures to be observed by respondent's dealers and distributors who are called upon to replace batteries having a lifetime warranty.

IV

It is further ordered that:

A. Respondent shall notify the Commission at least thirty (30) days prior to any proposed change such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any change in the corporation which may affect compliance obligations arising out of the order.

B. Respondent, for a period of three (3) years from the date of service of this order, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying all records reflecting respondent's compliance with this order, including the following:

1. Copies of the notices required by Part II of this order, and all responses to such notices; and
2. Copies of the notices required by Paragraph B of Part III of this order; and
3. Records concerning each request from consumers for service, repair or money adjustments covered by this order pursuant to any lifetime warranty and the disposition of each such request.

C. Within one-hundred and twenty (120) days after the date of service of this order, respondent shall file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

Attachment A—Notice to Former True Blue Lifetime Battery Owners

As part of an agreement with the Federal Trade Commission, Sun Refining and Marketing Company (Sunoco) is offering lifetime warranty certificates to eligible purchasers of True Blue Lifetime (TBLT) batteries. If you qualify for a certificate, you will be able to get continuous free replacements for your battery whenever it fails to accept and hold a charge. You will be able to get free replacement batteries as long as you own the car in which the TBLT battery was first installed.

To qualify for the lifetime warranty certificate, you must have purchased a TBLT battery that failed and was replaced by a Sunoco battery that did not have a lifetime warranty. Our records indicate that this happened to you. In addition, you must still own the car in which the TBLT battery was first installed.

If you meet these qualifications, please complete the attached postage-paid card and return it. Please allow 45 days for delivery of your certificate. Remember, *the only way* to receive a certificate is to complete and return the attached card.

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

Attachment B—Application For Lifetime Warranty Certificate

Name ———————
Street Address ———————
City ———— State ———— Zip ——
Date of original TBLT purchase*
————
Date battery was replaced * ————
Make, model, year, and license plate number of car in which TBLT was installed:

———————————————

Signature ———————

* If you do not know the exact date, an approximate date is acceptable.

(Allow approximately 45 days for delivery.)

Attachment C

Dear ———————:

Here is your lifetime warranty certificate. This certificate is good only for the car in which the original TBLT battery was installed. If, at any time in the future, your battery fails to accept and hold a charge, you can use this certificate to get a new battery, free, from participating Sunoco/DX dealers or distributors. All you have to do is give the Sunoco/DX dealer or distributor the lifetime warranty certificate. Sunoco then will send you a new warranty certificate which you can use to obtain additional free replacement batteries for the car in which the original TBLT battery was installed.

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

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Sun Refining and Marketing Company ("Sun Refining").

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

A complaint prepared for issuance by the Commission along with the proposed order alleges that Sun Refining has violated section 5 of the Federal Trade Commission Act by failing to honor its lifetime warranty obligations for the True Blue Lifetime Battery ("TBLT battery"). Sun Refining sold TBLT batteries from 1975 through 1979. The complaint alleges that under the warranty provided with TBLT batteries, Sun Refining promised to provide continuous free replacement batteries for any battery that failed to accept and hold a charge as long as the purchaser owns the automobile in which the original TBLT battery was installed.

According to the complaint, TBLT purchasers who sought warranty service after July 15, 1980 did not receive their full rights under that warranty. Instead, consumers were given the option of receiving: (1) One True Blue 50 ("TB–50") battery with a 50-month pro-rata warranty, or (2) a refund of the purchase price of the TBLT battery. If these options were unacceptable, consumers were told to contact Sun Refining's manager of customer relations. TBLT purchasers were not given the option of retaining their right to free replacements in the future.

Part I of the order requires Sun Refining to honor its lifetime warranty obligations in connection with TBLT batteries or any other automotive battery that offers a lifetime warranty. Alternatively, the company could modify its warranty obligations if it receives knowing and written consent from consumers. Consumers who do not agree, in writing, to modify the warranty would retain their complete rights under the original warranty. The purpose of this Part of the order is to ensure that Sun Refining honors its lifetime warranties in the future.

The order also requires Sun Refining to reinstate the lifetime warranty for TBLT battery purchasers who received TB–50 replacement batteries and still own the car in which the original TBLT battery was installed. Part II of the order contains the procedures and timetables for Sun Refining to follow when reinstating the warranty. First, Sun Refining must review its warranty files to determine the names and addresses of all TBLT battery purchasers who received TB–50 batteries when they sought warranty service after July 1980. Next, the company must send each of those consumers: (1) A letter explaining that Sun Refining is reinstating the lifetime warranty and setting forth the terms of eligibility; and (2) a postage-paid postcard that eligible consumers must complete and return to Sun Refining. The front of the envelope used to send out notification packages must state: "IMPORTANT WARRANTY INFORMATION ENCLOSED." Sun Refining will send a lifetime warranty certificate to each consumer who returns a postcard indicating that he or she still owns the car in which the original TBLT battery was installed. Consumers can use this certificate to obtain continuous free replacement batteries as long as they still own the car in which the original TBLT battery was installed. Attachments A, B, and C to the order contain copies of the required notifications.

If the U.S. Postal Service returns any notification package, Sun Refining must search its credit card files. Sun Refining must remail the letter and postcard to each consumer for whom a more current address is found. Consumers who return postcards that indicate that they still own the car in which the original TBLT battery was installed would receive a lifetime warranty certificate. The purpose of this provision is to reach consumers who have moved from the address found in the company's warranty records.

The order also requires that Sun Refining reinstate the TBLT warranty for all consumers who present evidence that they: (1) Purchased TBLT batteries; (2) received a TB–50 replacement battery; and (3) still own the car in which the original TBLT battery was installed. This provision is intended to extend lifetime warranty coverage to eligible consumers whose names and

addresses are not included in the company's warranty files.

Part III of the order concerns procedures for providing warranty service after the order takes effect. First, Sun Refining must provide its dealers and distributors with notice that the TBLT lifetime warranty has been reinstated and instructions for honoring the warranties. In addition, all replacement batteries provided under the order must have the same technical and performance characteristics as the original TBLT battery.

Finally, the order requires Sun Refining to provide the Commission with 30 days' notice of corporate changes; to retain records of compliance with this order for 3 years; and to file a compliance report within 120 days after service of the complaint and order.

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

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 84-20443 Filed 8-1-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-23-84]

Information Returns With Respect to Energy Grants and Financing; of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to information returns with respect to energy grants and financing. Changes to the applicable tax law were made by section 230(b) of the Crude Oil windfall Profit Tax Act of 1980. The proposed regulations provide rules to be followed by persons who administer a Federal, State, or local program a principal purpose of which is to provide subsidized energy financing (as defined in section 44C(c)(10)) or grants for projects designed to conserve or produce energy.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 1, 1984. The amendments are proposed to be effective for financing and grants made after December 31, 1983.

ADDRESS: Send comments and request for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-23-84), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Beverly A. Baughman of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1). They are necessary to implement section 203(b) of the Crude Oil Windfall Profit Tax Act of 1980 which added section 6050D, relating to information returns with respect to energy grants and financing, to the Internal Revenue Code of 1954.

These regulations are proposed to be issued under the authority contained in Code sections 6050D and 7805 (94 Stat. 259, 26 U.S.C. 6050D; 68A Stat. 917, 26 U.S.C. 7805).

Proposed § 1.6050D-1 provides rules relating to the information that is required to be furnished on Form 6497 (the information return relating to subsidized energy financing and nontaxable grants for projects designed to conserve or produce energy) and Forms 1099-G (the information return relating to taxable grants). Forms 6497 and 1099-G are required to be filed with the Internal Revenue Service Center designated in the form's instructions by the last day of February following the calendar year for which the return (reporting payments made during such calendar year) is required.

The proposed regulations require that returns be filed for each calendar year beginning after December 31, 1983. Forms 6497 and 1099 have been available for filing for prior years. (See Announcement 83-1, 1983-2 I.R.B. 29.) Although these proposed regulations do not so require, in cases where payers and administrators have adequate records for 1981, 1982, or 1983, the Service requests that they file the appropriate forms for those years.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

The reporting requirement contained herein has been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on the requirement should be sent to the Office of Information and Regulatory Affairs of OMB, Attn: Desk Officer for Internal Revenue Service, New Executive Office Bldg., Washington, D.C. 20503. The Internal Revenue Service requests persons submitting comments to OMB to also send copies of the comments to the Service.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Furthermore, pursuant to U.S.C. 605(b) the Secretary of the Treasury has certified that this rule, if issued, will not have a significant economic impact on a substantial number of small entities. A Regulatory Flexibility Analysis is therefore not required under the Regulatory Flexibility Act (5 U.S.C. 605(b)).

Drafting Information

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

Lists of Subjects in 26 CFR 1.6001-1—1.6109-2

Income taxes, Administrative practice and procedure, Filing requirements.

Proposed Amendments to the Regulations

PART 1—[AMENDED]

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. A new § 1.6050D-1 is added immediately after § 1.6050B-1, to read as follows:

§ 1.6050D-1 Information returns relating to energy grants and financing.

(a) *Requirement of reporting.* Every person who administers a Federal, State, or local program a principal purpose of

which is to provide subsidized energy financing (as defined in section 44C(c)(10)(C) and the regulations thereunder) or grants for projects designed to conserve or produce energy shall make an information return for each calendar year beginning after December 31, 1983. That return shall be made on Form 6497 or, in the case of taxable grants, on Form 1099–G. (The latter form is prescribed pursuant to section 6041 as well as section 6050D.) The return shall include the following information:

(1) The name, address, and taxpayer identification number of each taxpayer receiving financing or a grant made under such program during the calendar year;

(2) The aggregate amount of financing and grants received by the taxpayer under the program during the calendar year;

(3) In the case of returns for financing or nontaxable grants, the name of the program under which the financing or grants are made; and

(4) Any other information that is required by the form.

For purposes of this section, the term "person" means the officer or employee having control of the program, or the person appropriately designated for purposes of section 6050D and this section.

(b) *Time and place for filing.* Returns required to be made under this section shall be filed with the Internal Revenue Service Center designated in the instructions for Form 6497 or 1099–G by the last day of the first February following the calendar year for which the return (reporting payments made during such calendar year) is required.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–20498 Filed 8–1–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

Permanent State Regulatory Program of Texas

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

ACTION: Proposed suspension of rulemaking and extension of deadline for program amendment.

SUMMARY: OSM is announcing procedures for a public comment period on the suspension of a previously proposed rulemaking and a request submitted by the State of Texas to modify the deadline for Texas to resubmit rules governing a blaster training, examination and certification program as required by the Federal regulations at 30 CFR Part 850.

On March 1, 1984, the State of Texas submitted to OSM an amendment to its approved regulatory program. OSM announced procedures for a public comment period and a public hearing on the amendment in the **Federal Register** on March 23, 1984 (49 FR 10943). The proposed amendment concerned blaster training, examination and certification.

On June 25, 1984, Texas requested that OSM grant an extension of time for the development of a blaster training, examination and certification program and suspend the current rulemaking on this subject.

All States with regulatory programs approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) are required to develop and adopt a blaster certification program by March 4, 1984. Section 850.12(b) of OSM's regulations provides that the Director, OSM, may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause. OSM is proposing to modify the deadline for Texas to develop and adopt its blaster program. This notice sets forth the dates and locations for submission of written comments.

DATE: Comments not received by 4:00 p.m. September 4, 1984 will not necessarily be considered.

ADDRESSES: Written comments should be mailed or hand delivered to: Mr. Robert L. Markey, Field Officer Director, Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, Room 3432, 333 West 4th Street, Tulsa, Oklahoma 74103.

See **"SUPPLEMENTARY INFORMATION"** for addresses where copies of the Texas request and administrative record on the Texas program are available.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Markey, Director, Tulsa Field Office, Office of Surface Mining, Room 3432, 333 West 4th Street, Tulsa, Oklahoma 74103. Telephone: (918) 581–7927.

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies of the Texas request, the Texas program and the administrative record on the Texas 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, Tulsa Field Office, 333 West 4th Street, Room 3432, Tulsa, Oklahoma 74103, Telephone: (918) 581–7927

Office of Surface Mining, 1100 "L" Street, NW., Room 5124, Washington, D.C. 20240, Telephone: (202) 343–7896

Surface Mining Reclamation Division, Railroad Commission of Texas, Capitol Station, P.O. Drawer 12967, Austin Texas 78711, Telephone: (512) 475–8715.

On March 4, 1983, OGM 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). Section 850.12 of these regulations stipulates that the regulatory authority in each State with an approved program under SMCRA 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 at 30 CFR Part 850, whichever is later. In the case of the Texas program, the applicable date is 12 months after publication date of OGM's rule, or March 4, 1984.

On March 1, 1984, Texas submitted an amendment to its approved regulatory program which was intended to implement the Federal requirements for a blaster training, examination and training program. OSM published a proposed rule soliciting public comment on the amendment on March 23, 1984, in the **Federal Register** (49 FR 10943).

In its subsequent review of the proposed amendment, OSM identified several deficiencies and pointed these out to the State.

On June 25, 1984, OSM received a letter from Texas which requested a six month extension of the deadline for submission of a blaster program in order that Texas might adequately address and respond to the issues raised by OSM. Texas requests the six month extension in order to prepare documentation on the issues raised by OSM and to prepare any necessary revisions to the program. Texas also requested suspension of the current rulemaking on this subject.

OSM is seeking comment on the State's request for additional time to develop and adopt a blaster certification program. Section 850.12(b) of the Federal regulations provides that the Director, OSM, may approve an extension of time for a State to develop and adopt a

program upon a demonstration of good cause.

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 would 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 943

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

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

Dated: July 27, 1984.

J. Lisle Reed,

Acting Director, Office of Surface Mining.

[FR Doc. 84–20500 Filed 8–1–84; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 950

Permanent State Regulatory Program of Wyoming

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

ACTION: Proposed rule.

SUMMARY: OSM is proposing to modify the deadline for Wyoming to (1) promulgate rules governing the training, examination and certification of blasters, and (2) develop and adopt a program to examine and certify all persons who are directly reponsible for the use of explosives in a surface coal mining operation. Wyoming requested a six month extension of time for the development of a blaster certification program. All States with regulatory programs approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) are required to develop and adopt a blaster certification program by March 4, 1984. Section 850.12(b) of OSM's regulations provided that the Director, OSM, may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause.

DATE: Comments must be received by September 4, 1984, at the address below, no later than 5:00 p.m.

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

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) 328–5830.

SUPPLEMENTARY INFORMATION: 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). Section 850.12 of these regulations stipulates that the regulatory authority in each State with an approved program under SMCRA 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 at 30 CFR Part 850, whichever is later. In the case of Wyoming, the applicable date is 12 months after publication of the Federal rules or April 14, 1984.

The State of Wyoming submitted to OSM a request for a six month extension until October 14, 1984, to submit final rules addressing the blaster certification program. The Wyoming Department of Environmental Quality, Land Quality Division, the regulatory authority for Wyoming program, advised OSM that the State requires the additional time in order to develop the blaster certification program in conjunction with the office of the Wyoming Mine Inspector and Western Wyoming College and to execute a "Memorandum of Understanding" with both parties.

Therefore, OSM is seeking comment on the State's request for additional time to develop and adopt a blaster certification program. Section 850.12(b) of OSM's regulations provides that the Director, OSM, may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause.

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 exempted 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.). The rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would 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 950

Coal mining, Intergovernment relations, Surface mining, Underground mining.

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

Dated: July 27, 1984.

J. Lisle Reed,

Director, Office of Surface Mining.

[FR Doc. 84–20499 Filed 8–1–84; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11 84-68]

Marine Event: Marina del Rey Offshore Powerboat Race

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will establish special local regulations during the "Marina del Rey Offshore Powerboat Race". This event will be held on 16 September 1984, offshore between Marina del Rey, Santa Monica, King Harbor and Palos Verdes, California. Through this action the Coast Guard intends to ensure the safety of spectators and participants on navigable waters during the event.

DATE: Comments must be received on or before September 4, 1984.

ADDRESSES: Comments should be mailed to Commander (bb), Eleventh Coast Guard District, 400 Oceangate Blvd. Long Beach, CA 90822. The comments will be available for inspection and copying at the Union Bank Bldg., Suite 901, 400 Oceangate, Long Beach, California. Normal office hours are between 7:30 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Commander (bb), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, Tel: (213) 590-2331.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Commenters should include their name and address, identify this notice (CGD11 84-68) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The regulations may change in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this regulation are LTJG Jorge Arroyo, Project Officer, Boating Affairs Office, Eleventh Coast Guard District and LT Joseph R. McFaul, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Proposed Regulation

The California Offshore Powerboat Racing Association is sponsoring the "Marina del Rey Offshore Powerboat Race". This event will be conducted offshore the South Bay beaches of San Monica Bay on 16 September 1984. This event will have approximately 40 special offshore class powerboats ranging from 19 to 40 feet in length. These vessels can travel at speeds in excess of 100 mph which could pose a hazard to navigation, therefore, these regulations are needed to ensure the safety of spectators and participants on navigable waters during the event.

Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary, since the regulated area will be opened periodically for the passage of vessel traffic.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, by adding the following section:

§ 100.35-11 84-68 Marina del Rey Offshore Powerboat Race, Santa Monica Bay, California

(a) *Regulated Area:* The following area may be closed intermittently to all vessel traffic. That portion of Santa Monica Bay from Santa Monica Pier to Bouy R "8TL" of the San Pedro Channel Northbound Coastwise Traffic Lane and extending up to 3 miles offshore.

(b) *Effective Dates:* These regulations will be effective from 9:00 a.m. to 3:00 p.m. on 16 September 1984.

(c) *Special Local Regulations:* All persons and/or vessels not registered with the sponsor as participants or official regatta patrol vessels are considered spectators. The "official regatta patrol" consists of any Coast Guard, public, State or local law enforcement and/or sponsor provided vessels assigned to patrol this event.

(1) No spectators shall, block, anchor, loiter in, or impede the through transit of participants or official regatta patrol vessels in the regulated area during the effective dates, unless cleared for such entry by or through an official regatta patrol vessel.

(2) When hailed and/or signaled by horn or whistle by an official regatta patrol, a spectator shall come to an immediate stop. Vessels shall comply with all directions of the designated Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(3) All vessels in close enough vicinity shall operate at a safe and prudent speed which will create a minimum wake that will not affect participants.

(4) The Patrol Commander is empowered to forbid and control the movement of vessels in the regulated area. He may terminate the marine event at any time it is deemed necessary for the protection of life and property. He may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b); 33 CFR 100.35)

Dated: July 25, 1984.

J. I. Maloney,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. 84-20456 Filed 8-1-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD11 84-65]

Marine Event: Miller High Life Thunderboat Regatta

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will establish special local regulations during the "Miller High Life Thunderboat Regatta", a series of unlimited hydroplane races to be held at Mission Bay, California. This rule will be in

effect from September 14 to 16, 1984. Through this action the Coast Guard intends to ensure the safety of spectators and participants on navigable waters during the event.

DATE: Comments must be received on or before September 4, 1984.

ADDRESSES: Comments should be mailed to Commander (bb), Eleventh Coast Guard District, 400 Oceangate Blvd., Long Beach, CA 90822. The comments will be available for inspection and copying at the Union Bank Bldg., Suite 901, 400 Oceangate, Long Beach, California. Normal office hours are between 7:30 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Commander (bb), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, Tel: (213) 590-2331.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Commenters should include their name and address, identify this notice (CGD11 84-65) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The regulations may change in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rule making process.

Drafting Information

The drafters of this regulation are LTJG Jorge Arroyo, Project Officer, Boating Affairs Office, Eleventh Coast Guard District and LT Joseph R. McFaul, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Proposed Regulation

Thunderboats Unlimited of San Diego, Inc. is sponsoring the "Miller High Life Thunderboat Regatta" which will be conducted in Mission Bay, California beginning September 14, 1984. This event will have 20 unlimited hydroplanes participating, which could pose a hazard to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary, since the regulated area will be opened periodically for the passage of vessel traffic.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a sustantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, by adding the following section:

§ 100.35-11 84-65 Miller High Life Thunderboat Regatta, Mission Bay, CA

(a) *Regulated Area:* The following area will be closed intermittently to all vessel traffic. That enclosed portion of Fiesta Bay in Mission Bay, CA starting at 32 degrees 47'32"N., 117 degrees 13'00" W.; thence due west to 117 degrees 13'25" W.; thence along the eastern shoreline of Crown Point to the Vacation Isle Bridge; thence south along the bridge to Vacation Isle; thence along the eastern shoreline of Vacation Isle to 32 degrees 46'18" N., 117 degrees 14'01" N.; thence southeasterly to 32 degrees 46'14" N., 117 degrees 13'43" W.; thence along the western shoreline of Fiesta Island to 32 degrees 47'20" N., 117 degrees 13'00" W.; thence due north to the starting point.

(b) *Effective Dates:* These regulations will be effective from 9:00 AM to 5:00 PM on September 14 to 16, 1984.

(c) *Special Local Regulations:* All persons and/or vessels not registered with the sponsor as participants or official regatta patrol vessels are considered spectators. The "official regatta patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessels assigned to patrol this event.

(1) No spectators shall, block, anchor, loiter in, or impede the through transit of participants or official regatta patrol vessels in the regulated area during the effective dates, unless cleared for such entry by or through an official regatta patrol vessel.

(2) When hailed and/or signaled by horn or whistle by an official regatta patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions of the designated Patrol Commander. Failure to do so may result in explusion from the area, citation for failure to comply, or both.

(3) All vessels in close enough vicinity shall operate at a safe and prudent speed which will create a minimum wake that will not affect participants.

(4) The Patrol Commander is empowered to forbid and control the movement of vessels in the regulated area. He may terminate the marine event at any time it is deemed necessary for the protection of life and property. He may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b); 33 CFR 100.35)

Dated: July 25, 1984.

J.I. Maloney,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. 84-20454 Filed 8-1-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD11 84-67]

Marine Event: Ventura Offshore Powerboat Race

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will establish special local regulations during the "Ventura Offshore Powerboat Race". This event will be held on September 23, 1984, offshore between Ventura, Rincon Beach and Channel Islands Harbor, California. Through this action the Coast Guard intends to ensure the safety of spectators and participants on navigable waters during the event.

DATE: Comments must be received on or before September 4, 1984.

ADDRESSES: Comments should be mailed to Commander (bb), Eleventh Coast Guard District, 400 Oceangate Blvd. Long Beach, CA 90822. The comments will be available for inspection and copying at the Union Bank Bldg., Suite 901, 400 Oceangate, Long Beach, California. Normal office hours are between 7:30 a.m. and 3:30 p.m., Monday through Friday, except

holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Commander (bb), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, Tel: (213) 590–2331.

SUPPLEMENTARY INFORMATION: Interest persons are invited to participate in this rule making by submitting written views, data, or arguments.

Commenters should include their name and address, identify this notice (CGD11 84–67) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The regulations may change in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rule making process.

Drafting Information

The drafters of this regulation are LTJG Jorge Arroyo, Project Officer, Boating Affairs Office, Eleventh Coast Guard District and LT Joseph R. McFaul, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Proposed Regulation

The California Offshore Powerboat Racing Association is sponsoring the "Ventura Offshore Powerboat Race". This event will be conducted in the Santa Barbara Channel, offshore from Rincon Beach to Channel Islands on September 23, 1984. This event will have approximately 40 special offshore class powerboats ranging from 19 to 40 feet in length. These vessels can travel at speeds in excess of 100 mph which could pose a hazard to navigation, therefore, these regulations are needed to ensure the safety of spectators and participants on navigable waters during the event.

Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary, since the regulated area will be opened periodically for the passage of vessel traffic.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, by adding the following section:

§ 100.35–11 84–67 Ventura Offshore Powerboat Race, Santa Barbara Channel, California.

(a) *Regulated Area:* The following area may be closed intermittently to all vessel traffic: That portion of Santa Barbara Channel from Rincon Beach to Channel Islands Harbor and extending up to 3 miles offshore.

(b) *Effective Dates:* These regulations will be effective from 9:00 a.m. to 3:00 p.m. on September 23, 1984.

(c) *Special Local Regulations:* All persons and/or vessels not registered with the sponsor as participants or official regatta patrol vessels are considered spectators. The "official regatta patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessels assigned to patrol this event.

(1) No spectators shall, block, anchor, loiter in, or impede the through transit of participants or official regatta patrol vessels in the regulated area during the effective dates, unless cleared for such entry by or through an official regatta patrol vessel.

(2) When hailed and/or signaled by horn or whistle by an official regatta patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions of the designated Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(3) All vessels in close enough vicinity shall operate at a safe and prudent speed which will create a minimum wake that will not affect participants.

(4) The Patrol Commander is empowered to forbid and control the movement of vessels in the regulated area. He may terminate the marine event at any time it is deemed necessary for the protection of life and property. He may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b); 33 CFR 100.35)

Dated: July 25, 1984.

J. I. Maloney,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. 84–20455 Filed 8–1–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD13 84–11]

Drawbridge Operation Regulations; East Fork Hoquiam River at Hoquiam, WA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Grays Harbor County Department of Public Works, the Coast Guard is considering adding regulations governing the Panhandle Bridge across the East Fork Hoquiam River, mile 0.7, at Hoquiam, Washington, to provide that the draw need not open. This proposal is being made because of a steady decrease in requests for opening the draw and because no requests have been made to open the draw since 1982. This action should relieve the bridge owner of the burden of having a person constantly available to open the draw and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before September 17, 1984.

ADDRESS: Comments should be submitted to and are available for examination and copying from 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays, at the office of the Commander (oan), Thirteenth Coast Guard District, Room 3564, 915 Second Avenue, Seattle, Washington 98174. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch, (Telephone: (206) 442–5864).

SUPPLEMENTARY INFORMATION:

Summary Information

Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and

give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Thirteenth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in the light of comments received.

Drafting Information

The drafters of this notice are: John E. Mikesell, project officer, and Lieutenant Aubrey W. Bogle, project attorney.

Discussion of the Proposed Regulations

The Panhandle Bridge across the East Port Hoquiam River at mile 0.7 was constructed with a vertical lift span. No specific regulations were ever established to cover operation of the bridge. In the absence of specific regulations, the bridge has been required to open on call for the passage of vessels as provided for by general regulations covering the operation of drawbridges. Navigation on the waterway traditionally has consisted of log towing. This activity has declined in recent years and ceased altogether in 1982. The bridge has not opened for the passage of vessels since that time and there is little likelihood that log towing will resume in the future. In order to avoid the expense of providing a drawtender and maintaining operating equipment for a bridge that does not open, the Grays Harbor County Department of Public Works has requested the Coast Guard's permission to maintain the bridge in the closed position and not open it for the passage of vessels. We gave notice of the request in our Local Notice to Mariners and requested comments from potentially affected waterway users. No comments were received.

Other than the Grays Harbor County Department of Public Works, there are no known businesses including small entities, that would be affected by the proposed change. There are only minimal impacts on navigation or other interests. Therefore, an economic evaluation has not been prepared for this action. The Grays Harbor County Department of Public Works would benefit because the proposed rule would relieve them of the burden of maintaining the machinery and having a person available to open the draw.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed 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). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposed to amend Part 117 of Title 33 Code of Federal Regulations, by adding a new § 117.1047(e) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.1047 Hoquiam River.

* * * * *

(e) The draw of the Grays Harbor County highway bridge across the East Fork Hoquiam River, mile 0.7, need not open for the passage of vessels. However, the draw shall be returned to an operable condition within six months after notification from the Commander, Thirteenth Coast Guard District to take such action.

(33 U.S.C. 499; 49 U.S.C 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05(g)(3))

Dated: July 16, 1984.

H.W. Parker,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 84–20451 Filed 8–1–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD 08–84–02]

Drawbridge Operation Regulations; Tchefuncta River, LA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development and the Town of Madisonville, the Coast Guard is considering a change to the regulations governing the State Route 22 swing span bridge across the Tchefuncta River, mile 2.5, at Madisonville, St. Tammany Parish, Louisiana by permitting the number of openings to be limited between 5 a.m. and 8 p.m. daily. This proposal is being made because periods of peak vehicular traffic have increased and the number of vessels transiting the bridge has decreased. This action should accommodate the needs of vehicular traffic and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before September 17, 1984.

ADDRESS: Comments should be submitted to and are available for examination from 9:00 a.m. to 3:00 p.m., Monday through Friday, except holidays, at the office of the Commander, Eight Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, Room 1115, 500 Camp Street, New Orleans, Louisiana 70130. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Perry F. Haynes, Chief, Bridge Administration Branch, at the address given above, or telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: Interested parties are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamp, self-addressed postcard or envelope.

The Commander, Eight Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Rose A. Payne, Project Manager, and Steve Crawford, General Attorney, District Legal Office.

Discussion of Proposed Regulations

Navigation through the bridge consists almost exclusively of pleasure craft with only an occasional tug, towed barge or commercial fishing vessel. Vertical clearance of the swing span in the closed position is 6.2 feet above mean high water at the west rest pier fender and 1.5 feet above mean high water at the pivot pier fender. A special feature is the opening provided under the west approach span for passage of small boats, without opening the bridge. Data

submitted by the Louisiana Department of Transportation and Development indicate that:

(1) For the period 24 April through 14 May 1984, the average number of vehicles crossing the bridge per hour, seven days a week (including holidays), between 5:00 a.m. and 8:00 p.m. was 81, 169, 237, 274, 308, 363, 380, 399, 397, 410, 431, 452, 425, 380 and 320, respectively. Comparatively, the variation between the weekly crossings and the weekend crossings for the same period was insignificant, except between the hours of 5:00 a.m. and 8:00 a.m. with an average of 35% fewer crossings occurring on the weekend for that period.

(2) For the period 1 April through 31 August 1983, the average number of bridge openings per hour, seven days a week (including holidays), between 5:00 a.m and 8:00 p.m. was 0.06, 0.24, 0.3, 0.4, 0.62, 0.8, 0.99, 1.14, 1.26, 1.16, 1.07, 1.08, 0.92 and 0.73, respectively, with insignificant variations occurring during the weekend.

Our records show that State Route 22 is the only east/west thoroughfare within a 10 mile radius, servicing the Town of Madisonville and several smaller townships in the vicinity. Statistics show an average 10% increase per year in the number of vehicles using the route, as compared to a diminishing number of bridge openings over the past three years. Bridge openings for 1981 thru 1983 were 556, 408 and 327, respectively.

As indicated, the number of vehicles crossing the bridge has increased annually while vessel use has decreased. Extensive residential development now underway in the Madisonville area is expected to generate a significant increase in the volume of vehicular traffic over the bridge, with an increase to a much lesser degree in the number of pleasure craft that will use the bridge.

Based on the comparative data and other information provided, the Coast Guard feels that the proposed regulation should provide relief to overland peak traffic, while still meeting the reasonable needs of navigation without any significant economic impact.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulations and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. As explained above, the number of vehicles crossing the bridge has increased annually while vessel use has decreased. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by adding a new § 117.500 to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.500 Tchefuncta (Chefuncta) River.

The draw of the State Route 22 bridge, mile 2.5, Madisonville, shall open on signal; except that, from 5:00 a.m to 8:00 p.m., the draw need open only on the hour.

(33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: July 23, 1984.

W.H. Stewart,

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

[FR Doc. 84-20452 Filed 8-1-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[CGD3-84-26]

Security Zone; New London Harbor, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal to enlarge Security Zone "B" in the Thames River, New London Harbor, New London, CT by extending it 100 feet into the channel thereby decreasing the width of the channel from 600 feet to 500 feet in the vicinity of the Electric Boat Division Shipyard. The enlargement is necessary in order to create a 100 foot "buffer zone" between the navigable channel and the pierheads at the Electric Boat Division Shipyard which will safeguard U.S. Naval and other vessels from sabotage or other subversive acts, accidents, or other incidents of a similar nature while moored at the shipyard.

DATES: Comments must be received on or before September 17, 1984.

ADDRESSES: Comments should be mailed to Commander (mpv-p), Third Coast Guard District, Governors Island, New York, NY 10004. The comments and other materials referenced in this notice will be available for inspection and copying at the Port and Vessel Safety Branch office, Building 301, Governors Island, New York, NY. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. R. F. Valderrama, Ports and Waterways Specialist, Commander (mpv-p), Third Coast Guard District, at (212) 668-7179.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3-84-26) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. The rule may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Mr. R. F. Valderrama, Ports and Waterways Specialist, Project Officer for Commander (mpv-p), Third Coast Guard District, and Mrs. M. A. Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Proposed Regulation

At present, Security Zone "B" extends along the eastern boundary of the New London Harbor main shipping channel. The pierheads at the Electric Boat Division Shipyard also adjoin the channel. This configuration dictates that U.S. Naval vessels moor directly adjacent to the New London Harbor main shipping channel. These waters adjacent to the Electric Boat Division Shipyard piers are frequently traversed by commercial vessels, both domestic and foreign, and by pleasure craft. Unauthorized vessels could, through intent or ignorance, come very close to vessels moored within the security zone, and pose a threat to the safety and

security of military interests of the United States.

This regulation proposing the enlargement of the waterside boundary of Security Zone "B" and the creation of a "buffer zone" is therefore necessary in order to limit access by water to U.S. Naval vessels moored at the Electric Boat Division Shipyard.

This proposed enlargement of Security Zone "B" at its maximum extent of 100 feet into the channel will effectively decrease the width of the channel from 600 feet to 500 feet in the vicinity of the Electric Boat Division Shipyard. This decrease in channel width is not expected to have any significant impact on vessls transiting the New London Harbor main shipping channel.

Only those persons or vessels associated with United States Naval or Coast Guard operations, or those vessels owned by, under hire to, or performing work for the Electric Boat Division, or those vessels authorized by Captain of the Port New London would be allowed to enter or remain within Security Zone "B" and its proposed enlargement.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary.

The proposed enlargement of Security Zone "B" will only slightly encroach upon the shipping channel and will encompass a relatively small water area adjacent to the piers at the Electric Boat Division Shipyard. Although the channel is frequently traversed by commercial vessels, naval vessels, and pleasure craft, the economic impact is expected to be minimal since, in practice, a majority of vessels steer well clear of the 100 feet of channel directly adjacent to the Electric Boat Division Shipyard piers. The remaining 500 feet of channel will adequately and safely accommodate all deep draft users. On the western side of the channel, a turning basin and deep water outside the channel provide extra sea room for shallow draft users.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Lists of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Proposed Regulation

PART 165—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 165 of Title 33, Code of Federal Regulations, by revising § 165.302(a)(2) to read as follows:

§ 165.302 New London Harbor, Connecticut-security zone.

(a) * * *

(2) Security Zone B. The waters of the Thames River west of the Electric Boat Division Shipyard enclosed by a line beginning at a point on the shoreline at 41°20'22.1" N., 72°04'52.8" W.; then west to 41°20'28.7" N., 72°05'03.5" W.; then to 41°20'53.3" N., 72°05'6.6" W.; then to 41°21'03" N., 72°05'06.7" W.; then due east to a point on the shoreline at 41°21'03" N., 72'05'00" W.; then along the shoreline to the point of beginning.

* * * * *

(50 U.S.C. 191; E.O. 10173; and 33 CFR 6.04–6)

Dated: July 30, 1984.

P.A. Yost, Jr.,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 84–20463 Filed 8–1–84; 8:45 am]

BILLING CODE 4910–14–M

VETERANS ADMINISTRATION

38 CFR Part 19

Mandatory Collection of Social Security Numbers From VA Home Loan Applicants

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Veterans Administration (VA) is proposing to amend its regulation which governs the collection and safeguarding of social security numbers in veterans benefits matters. The revised regulation is designed to assure compliance with the Privacy Act and the Debt Collection Act of 1982.

DATES: Coments must be received on or before September 4, 1984. It is proposed to make these amendments effective 30 days after publication as a final regulation.

ADDRESS: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until September 18, 1984.

FOR FURTHER INFORMATION CONTACT: George D. Moerman (202) 389–3042.

SUPPLEMENTARY INFORMATION: Section 4 of Pub. L. 97–365, (96 Stat. 1749), the Debt Collection Act of 1982, requires each Federal agency administering an "included Federal loan program" to require any person applying for a loan under such program to furnish such person's taxpayer identifying number, which in the case of an individual is the social security number. Section 7 of Pub. L. 97–365 authorizes the Secretary of the Treasury, upon written request, to disclose to the head of the Federal agency administering any "included Federal loan program" whether or not an applicant for a loan under such program has a tax deliquent account. An "included Federal loan program" is defined as any program under which the United States or a Federal agency makes, guarantees, or insures loans, and with respect to which there is in effect a determination by the Director of OMB (Office of Management and Budget), published in the Federal Register, that the disclosure will substantially prevent or reduce future delinquencies under such program. OMB has made this determination with respect to the VA loan guaranty program (47 FR 57595, December 27, 1982).

Title 38, Code of Federal Regulations, § 1.575(b), currently authorizes collection and safeguarding of social security numbers in connection with payment of certain compensation and pension benefits. It is proposed to amend this section to also authorize mandatory collection, with appropriate safeguards, of social security numbers from applicants for VA-guaranteed home loans under the provisions of chapter 37 of title 38, United States Code. When an individual applies for a VA-guaranteed loan, his or her social security number will be requested and when obtained will be furnished to the Internal Revenue Service for screening against their files of delinquent taxpayers. Loan applications from individuals refusing to provide their social security number will not be approved. Loan applications from individuals who are reported by the Internal Revenue Service as being delinquent taxpayers may have their loan applications rejected. Loan applications from individuals who are reported as nondelinquent taxpayers

will be processed in accordance with all existing credit underwriting standards.

Section 1.575(c) provides safeguards on the use of social security numbers and limits their use and disclosure to specified instances when required by law. It is proposed to amend this section to include disclosure to the Internal Revenue Service to determine whether the applicant is a delinquent taxpayer as an additional allowable disclosure. No other new disclosures of social security numbers are contemplated at this time.

The law is intended to increase the efficiency of Government-wide efforts to collect debts owed the United States and to provide additional procedures for the collection of those debts. This proposed regulatory amendment is designed to enable social security numbers to be used in that effort.

The Administrator hereby certifies that these proposed regulation changes, if adopted, will not have a significant economic impact on any small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. sections 601–612. The proposed amendments will affect only individuals who are delinquent taxpayers seeking Federal credit assistance through the VA loan guaranty program. Small businesses, small organizations and small government jurisdictions will not be affected by these regulations. Pursuant to 5 U.S.C. section 605(b), these regulations are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The proposed amendments have been reviewed pursuant to Executive Order 12291 and have been found to be nonmajor regulations. The proposed regulation changes will not impact on the public or private sectors as major rules. They will not have an annual effect on the economy of $100 million or more, and will not cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; nor will they have other significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

(Catalog of Federal domestic Assistance Program Numbers 64.114 and 64.119)

These amendments are proposed under authority granted to the Administrator by sections 210(c), 1803(c), and 1819(g) of title 38, United States Code.

List of Subjects in 38 CFR Part 1

Administrative Practice and Procedure, Claims, Employment, Government Employees, Freedom of Information and Privacy, Government Property.

By direction of the Administrator.

Approved: June 7, 1984.

Everett Alvarez, Jr.,

Deputy Administrator.

In 38 CFR Part 1, GENERAL, § 1.575 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1.575 Social security numbers in veterans' benefits matters.

* * * * *

(b) The VA may require mandatory disclosure of a claimant's or beneficiary's social security number (including the social security number of a dependent of a claimant or beneficiary) on necessary forms as prescribed by the Administrator, as a condition precedent to receipt or continuation of receipt of compensation (where affected by outside income) or pension payable under the provisions of Chapters 11, 13, and 15 of Title 38, United States Code. The VA may also require mandatory disclosure of an applicant's social security number as a condition for receiving loan guaranty benefits under chapter 37 of title 38, United States Code. (Pub. L. 97–365, sec. 4)

(c) A person requested by the VA to disclose a social security number shall be told, as prescribed by § 1.578(c), whether disclosure is voluntary or mandatory. The person shall also be told that the VA is requesting the social security number under the authority of Title 38, United States Code, that it will be used in the administration of veterans' benefits in the identification of veterans or persons claiming or receiving VA benefits and their records, that it may be used to determine whether a loan guaranty applicant has been identified as a delinquent taxpayer by the Internal Revenue Service, and that such taxpayers may have their loan applications rejected, and that it may be used to verify social security benefit entitlement (including amounts payable) with the Social Security Administration and, for other purposes where authorized by both Title 38, United States Code and the Privacy Act of 1974, (Pub. L. 93–579), or, where required by another statute. (Pub. L. 97–365, sec. 4)

[FR Doc. 84-20438 Filed 8-1-84; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 393

[BMCS Docket No. MC-79; Notice No. 84-5]

Minimum Cab Space Dimensions

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: The FHWA is withdrawing an advance notice of proposed rulemaking (ANPRM) concerning the establishment of minimum cab space dimensions for commercial motor vehicles that are operated in interstate or foreign commerce. This action is being taken because the FHWA has determined that rulemaking is not necessary at this time, and partly because of enactment of section 411 of the Surface Transportation Assistance Act of 1982, which restricts the States from imposing tractor length limitations.

The FHWA anticipates that future designs of tractor-trailer combinations will provide for longer tractors, with a corresponding increase in interior cab space.

DATE: This withdrawal is effective August 2, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426–9767, or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 426–0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: An advance notice of proposed rulemaking (ANPRM) was published in the Federal Register on February 14, 1978 (43 FR 6273). Information and public comment were requested regarding a possible addition to the Federal Motor Carrier Safety Regulations (FMCSR). A minimum cab size would have been required for commercial motor vehicles used in intlerstate or foreign commerce.

At that time, there was a need to reassess the safety impact of restrictions imposed by certain States on overall commercial motor vehicle length. It was understood that a restriction of the overall length of a tractor-trailer combination could have a negative effect on the amount of cab space allotted to the driver. The intent of the rulemaking was to discover what influence these restrictions had on the driver's safe operation of the vehicle.

The International Brotherhood of Teamsters (IBT) and the Professional Driver's Council (PROD) stated that manufacturers had shortened the wheel base and cab dimensions of the tractor to increase the length of the trailer. Both organizations contended that this type of tractor-trailer combination caused the following problems:

1. Excessive weight on the steering axle;
2. Improper fifth wheel placement;
3. Deterioration of driver comfort and safety;
4. Reduced accessibility to the engine for inspection and maintenance;
5. Increased difficulty in entering and exiting the cab, thereby increasing the likelihood of slips and falls;
6. Unavailable space to alter the shape of the cab for purposes of reducing wind resistance and improving fuel economy;
7. Unsafe and uncomfortable sleeping accommadations for driver relay teams;
8. Short wheel bases and high fifth wheel offsets that adversely affect operating safety; and
9. Overloading of front tires.

The ANPRM asked for public comment on the subject areas concerning the shortened cab, driver performance, and safety of operation. Additional areas included fifth-wheel placement in the cab-over-engine (COE) vehicle configuration, the COE's effect on steering axle weights, and the COE's effect on vehicle maintenance.

Vehicle Length Restrictions

The ANPRM was based in part of the National Highway Safety Advisory Committee's report of March 1977 concerning vehicle length restrictions.[1] The commitee wrote that the states usually set a restriction on the overall length of tractor-trailer combinations, and not on the trailer portion of the vehicles. The committee described how this affected vehicle design:

> As a result of the overall length limits and the economic advantages of increased space for cargo, trucks have been designed so as to maximize the cargo-carrying capacity (sometimes at the expense of the size of the occupant compartment) while staying within the limits set for axle weight, gross weight, and overall length.[2]

The committee believed that the overall length restrictions could cause safety problems in the future if the trend towards longer trailers continued. The committee made the following recommendations:

> The Department [of Transportation] should recommend to the appropriate State authorities that they establish length regulations that specifically limit the length of trailers (or cargo-carrying portions) rather than merely setting a single limit for the overall length of heavy trucks.[3]

Docket Comments

Twenty-four commenters responded to the ANPRM. Nine commenters supported a regulation that specifies minimum cab space dimensions. These commenters included the IBT, National Transportation Safety Board, Private Truck Council of America, Inc., Mobil Oil Corporation, and five drivers who are experienced in driving tractors equipped with the shorter cab.

The reason quoted most by the drivers for a regulation was that the shorter cab offers an uncomfortable ride and the drivers need more room. Another reason quoted by three of the drivers was that these tractors have the fifth-wheel positioned too far forward, thereby placing excess weight on the steering axle.

Ten commenters opposed either any minimum cab space regulation or at least the immediate promulgation of such a regulation. These commenters were the Motor Vehicle Manufacturer's Association (MVMA), the American Trucking Associations, Inc. (ATA), six vehicle manufacturers, the State of Illinois, and the United Parcel Service. The MVMA commented that more research was needed to (1) determine if there is an actual need for a regulation concerning cab space, (2) discover if accidents are related to cab size, and (3) develop objective criteria for a regulation concerning cab space. In general, the ATA and MVMA believe that a need for a regulation has not been established and that additional research is needed before a rule can be properly developed.

The manufacturers commented that they continue to work to provide the driver with additional space. They believe that competition among manufacturers will continue the trend towards increased driver comfort. Ford Motor Company, for example, stated that all the manufacturers are now offering vehicles with increased room for the truck driver.

The MVMA commented that vehicles are properly designed for fifth wheel placement. They wrote that the customer must load the vehicle according to the manufacturer's gross axle weight ratings. United Parcel Service commented on this issue:

> The design of the COE tractor imposes greater weight on the steering axle than would exist on most conventional tractors, but this additional weight poses no safety or handling problems.
>
> It is the fleet experience of the United Parcel Service that if the axle, tires, wheels and suspension are designed for the load, and properly maintained, operation will be safe, comfortable and trouble-free.[4]

Nine commenters strongly favored a relaxation in the State length laws governing commercial motor vehicles. These commenters included the IBT, MVMA, the Private Truck Council of America, Inc., Mobil Oil Corporation, Mack Trucks, Inc., Wilson Freight Co., and three drivers. The commenters favored either an increase in the overall length of the vehicles or proposed that length limits be placed only on the cargo-carrying portion of the vehicles. The IBT and MVMA recommended that length laws apply only to the trailer portion of the vehicle allowing flexibility in the design and length of the tractor. The majority of the nine commenters believed that many of the problems concerning shortened cab space could be solved through a change in State length laws.

Research

In view of the responses to the ANPRM, the FHWA decided to visit various vehicle manufacturers in the United States. Visits were made to eight manufacturers of heavy duty vehicles.[5]

The results of the study found that the manufacturers were aware of driver complaints concerning cab dimensions. The manufacturers were planning designs to increase the space in cabs to make the driver's environment more comfortable. The manufacturers reported that State length limits acted as design barriers to improving interior cab space.[6]

The manufacturers indicated that the data available on human body measurement were outdated or did not contain enough information. They believed that additional research was needed on the measurements of present-day truck drivers.[7] The study indicated that body dimensions can vary, and over a much wider range with the introduction of women into the truck driver population.[8]

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[1] National Highway Safety Advisory Committee, "Vehicle Length Restrictions," 1977, DOT HS 802 377. A copy of this report is in the public docket and is available for review.

[2] Ibid., p. 2.

[3] Ibid., p. 6.

[4] Comments of United Parcel Service to BMCS Docket No. MC-79, July 14, 1978, p. 4. These comments are in the public docket and are available for review.

[5] Morrison, D.W., "Interior Cab Dimensions of Heavy Duty Motor Vehicles," February, 1980, Federal Highway Administration. A copy of this report is in the public docket and is available for review.

[6] Ibid., pp. 1–2.

[7] Ibid., pp. 58–59.

[8] Ibid., pp. iii.

The Department of Transportation joined with industry associations to assist the Society of Automotive Engineers (SAE) in an effort to enhance the data on body measurements for truck drivers. Canyon Research Group, Inc., under the direction of the SAE, measured truck drivers with the intent of providing data manufacturers could use in designing the interior dimensions of tractor cabs.[9]

Canyon indicated that the dimensions of body height and weight are related to almost all other body dimensions.[10] The study found that seat positions of a truck driving population can be estimated once the population's height and weight distribution are known.[11] Further work is being done as part of the present study to provide additional information on the body measurements of women truck drivers.

Surface Transportation Assistance Act of 1982

On January 6, 1983, the Surface Transportation Assistance Act of 1982 (STAA) (Pub. L. 97–424, 96 Stat. 2097) became law. States are precluded from setting overall length limits on combination vehicles by imposing a length limit on a tractor. For the first time, semitrailer and trailer lengths in commercial motor vehicle operations on certain highway systems are regulated at the Federal level. Section 411 of the Act also prohibits States from establishing, maintaining, or enforcing a length limitation of less than 48 feet on the semitrailer portion of a tractor-semitrailer combination. Further, the States may not set a limitation of less than 28 feet on the length of any semitrailer or trailer of a tractor-semitrailer-trailer combination. The commercial vehicles affected are those operated on the Interstate System and on qualifying Federal-Aid Primary System highways.

The FHWA anticipates that Section 411 of the STAA will have a beneficial effect on tractor size and interior cab dimensions. Tractor length will increase. Vehicle manufacturers will continue to design cabs with a goal of providing maximum space for the driver. Motor carriers will be free to specify the fifth wheel placement best suited to their particular operations.

Conclusions

The FHWA has determined that the need for minimum cab space regulations has not been demonstrated at this time. The vehicle manufacturers are working to provide more space for the truck driver, and research has been initiated to assure accurate anthropometric measurements of the driver in the cab. Most importantly, the STAA has lifted the barrier on the design of longer tractors and larger driver compartments. Motor carriers and drivers may use the tractor-trailer combination that best suits their operational needs.

In view of the information set forth in this notice, it has been determined that rulemaking action concerning minimum cab space dimensions is not necessary at this time. Therefore, Docket No. MC–79, Minimum Cab Space Dimensions, is hereby closed.

The FHWA has determined that this document, by terminating future regulatory action, contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation.

List of Subjects in 49 CFR Part 393

Highway safety, Motor carriers, Motor vehicle safety.

(49 U.S.C. 3102; 49 CFR 1.48 and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety.)

Issued on: July 26, 1984.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 84–20398 Filed 8–1–84; 8:45 am]

BILLING CODE 4910–22–M

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[9] Sanders, Mark S., "U.S. Anthropometric and Truck Work Space Data Survey," January, 1983, Canyon Research Group, Inc., p. 2. A copy of this report is in the public docket and is available for review.

[10] Ibid., p. 149.

[11] Ibid., p. 145.

Notices

Federal Register
Vol. 49, No. 150
Thursday, August 2, 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

Forest Service

Intermountain Region; Caribou National Forest Grazing Advisory Board Meeting

The Caribou National Forest Grazing Advisory Board Committee will meet at the Soda Springs City Park at 9:00 a.m., August 27, 1984.

The meeting will consist of a field tour of cattle and sheep grazing ranges on the Cache Division of the Montpelier Ranger District with a meeting during the day to develop and discuss recommendations for the management of allotment and the range betterment fund. Agenda items for the tour will include: (1) Update of the Forest Plan; (2) operation of the Board; (3) discussion of the 1984 and 1985 range betterment funds; (4) private land boundary fences; (5) progress with (Dyers Woad) noxious weed treatment; (6) early grazing by cattle on deer winter range; (7) grazing coordination with timber harvest and roads; and (8) nonuse situation on sheep allotments.

Lunch will be provided for Forest and Advisory Board members on the tour. A more specific tour agenda will be provided to members on the tour day.

The meeting will be open to the public. Interested persons other than committee members and Forest Service personnel desiring to attend the field trip should furnish their own transportation and lunch. During the last stop of the trip, there will be a short meeting to finalize recommendations and to receive oral statements and answer any questions from the public. Written statements may be filed at any time for the Board's consideration.

The meeting will terminate at Soda Springs City Park about 4:00 p.m. Summary minutes of the tour, meeting, and board recommendations will be maintained in the Forest Supervisor's office in Pocatello and will be available for public review within 30 days following the meeting.

Dated: July 24, 1984.

Frank G. Beitia,

Acting Forest Supervisor.

[FR Doc. 84-20403 Filed 8-1-84; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

West Fork of Big Creek Watershed, IA, and MO; Availability of Decision To Proceed With Installation

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of a record of decision.

SUMMARY: Paul F. Larson, responsible Federal official for projects administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001-1008, in the State of Missouri, is hereby providing notification that a record of decision to proceed with the installation of the West Fork of Big Creek Watershed project is available. Single copies of this record of decision may be obtained from Paul F. Larson at the address shown below.

FOR FURTHER INFORMATION CONTACT: Paul F. Larson, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri 65202, telephone 314/875-5214.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. State and local review procedures for Federal and federally assisted programs and projects are applicable)

Dated: July 24, 1984.

Paul F. Larson,

State Conservationist.

[FR Doc. 84-20469 Filed 8-1-84; 8:45 am]

BILLING CODE 3410-16-M

Rush Creek Watershed, TX; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on 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 Rush Creek Watershed, Comanche, Eastland and Brown Counties, Texas.

FOR FURTHER INFORMATION CONTACT: Billy C. Griffin, State Conservationist, Soil Conservation Service, W.R. Poage Federal Building, 101 South Main, Temple, Texas 76501-7682, telephone 817-774-1214.

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, Billy C. Griffin, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns the installation of two remaining structural measures in a plan for flood control and watershed protection. The planned project included 13 floodwater retarding structures, one multiple-purpose structure and accelerated technical assistance for land treatment.

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 Billy C. Griffin.

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. 10.904, Watershed Protection and Flood Prevention Program. Executive Order 12372 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects is applicable)

Dated: July 25, 1984.

Billy C. Griffin,

State Conservationist.

[FR Doc. 84-20470 Filed 8-1-84; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Senior Executive Service; Performance Review Board Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Economic and Statistical Affairs Senior Executive Service (SES) Performance Appraisal System:

Barbara Bailar
Kenneth M. Brown
Joseph F. Caponio
John E. Cremeans
Frank de Leeuw
Lucy A. Falcone
George Jaszi
C.L. Kincannon
Frederick T. Knickerbocker
Daniel B. Levine
Martin Marimont
Jerome Mark
Charles A. Waite
Katherine K. Wallman
Allan H. Young

Edward A. McCaw,

Executive Secretary, Economic and Statistical Affairs, Performance Appraisal System.

[FR Doc. 84-20406 Filed 8-1-84; 8:45 am]
BILLING CODE 3510-BS-M

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments; Iowa State University, et al.

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. 20230. 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. 84-235. Applicant: Iowa State University, Ames Laboratory—USDOE, 152 Spedding Hall, Ames, IA 50011.

Instrument: Low Energy Electron Loss Spectrometer with Accessories. Manufacturer: Leybold-Heraeus, West Germany.

Intended use: Further studies of Si-H_2 bonds in hydrogenated amorphous silicon with the following objectives:

(1) To investigate the bonding characteristic of SiH_2 at interfaces and surfaces using low energy electron loss spectroscopy.

(2) Investigate the effects of various substrate materials on the SiH_2 interface concentration.

(3) Determine the orientation of Si-H_2 bonds relative to the surface of the film.

(4) To probe bonding changes as a dopant is introduced into the film.

(5) Probe amorphous compounds such as a SiC and aGeC and identify not only types of bonds but homogeneity throughout the material.

(6) Complete study of the surface phonons of A1N.

(7) Study plasmon in A1N and observe possible changes in plasmon frequencies with film orientations.

Application received by Commissioner of Customs: June 25, 1984.

Docket No. 84-237. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Instrument: Microscope System for Reflected Lights. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use: These are accessories to be used with an existing Universal Microscope to perform relected light microscopy. The microscope will be used to identify, measure and count solid aerosol particles consisting of polystyrene latex spheres, CsI and alumina. These particles will be generated with various aerosol generators, and will be collected on sampling devices and filters. The purpose of the experiments is to determine the collection efficiencies of these items, which are currently being used to collect radioactive fission product aerosols produced during nuclear reactor accident simulations. Application received by Commissioner of Customs: June 25, 1984.

Docket No. 84-239. Applicant: University of Virginia, Charlottesville, VA 22903. Instrument: Induced Electromagnetic Conductivity Profiling Meter. Manufacturer: Geonics Limited, Canada. Intended use: Studies of salt water intrusion into surface and near surface aquifers in coastal Virginia to determine the geometry and extent of the salt water interface so that potable water supplies may be better managed. Educational purposes—Train graduate students in groundwater hydrology. It will also be used in thesis and dissertation research on groundwater. Application received by Commissioner of Customs: June 25, 1984

Docket No. 84-242. Applicant: The Veterans Administration Medical Center, 5000 W. National Avenue, Wood, IL 53193. Instrument: Particle Zeta Meter (Particle Electrophoresis Apparatus), Model Mark II. Manufacturer: Rank Brothers, United Kingdom. Intended use: Determine the electrophoretic mobility or zeta potential of particles, usually crystals and biologically active crystals. The instrument measures the degree of migration of crystals in an ionic solution in an electric current. These measurements are critical in an understanding of how crystals intract with biologic membranes in disease. The studies use electrophoretic mobilities to control the experimental conditions and to effectively reduce and analyze the experimental data. Specific studies to be conducted include the quantification of crystal-membrane induced membranolysis using human and animal cell types including, but not limited to red blood cells, peripheral polymorphonuclear leukocytes, macrophages, kidney brush border epithelial cells, and synthetic membrane vesicle liposomes. Application received by Commissioner of Customs: June 25, 1984.

Docket No. 84-243. Applicant: Virgina Commonwealth University, Medical College of Virginia, Department of Physiology and Biophysics, 1101 E. Marshall St., Box 551, Richmond, VA 23298. Instrument: Voltage clamp/patch clamp amplifier, Model EPC-7. Manufacturer: List Electronic, West Germany. Intended Use: Studies of electrical activity of isolated single heart cells and patches of membrane derived from those cells. Experiments will be conducted to determine membrane permeabilities in single cells and single channel conductances in isolated membrane patches from the same cell. Application received by Commissioner of Customs: June 25, 1984.

Docket No. 84-244. Applicant: Southern Illinois University, Carbondale, Carbondale, IL 62901. Instrument: Gas Chromatograph, Mass spectrometer, Model MS 80 with Accessories. Manufacturer: Kratos Analytical Instruments, United Kingdom. Intended use: Research purposes:

(1) Mass Spectrometer studies on coal, coal-derived materials and metallic complexes.

(2) Mass spectrometry studies on synthetic and biological molecules primarily carbohydrates, peptides, nucleotides and combinations of these functional groups.

(3) Miscellaneous and routine mass spectrometry uses on small molecule identification.

Application received by Commissioner of Customs: June 15, 1984.

Docket No. 84–245. Applicant: University of New Mexico, Department of Geology, Albuquerque, NM 87131. Instrument: Isotope Ratio Mass Spectrometer, Model Delta E. Manufacturer: Finnigan MAT, West Germany. Intended use: Studies of low temperature materials including iron oxides, carbonates, clays, sulfates, sulfides, organic matter and water. Ancient temperatures and environments of formation, sources of water, paleoclimatic change, water-rock interaction and diagenesis are among the phenomena to be studied using these materials. The experiments to be conducted will include:

(1) Determination of fractionation factors for hydrogen and oxygen isotopes between iron oxides and water.

(2) Measurement of the hydrogen and/or oxygen isotope composition of iron oxides from a wide variety of natural environments.

(3) Hydrogen and oxygen isotope measurements on groundwater, surface water and precipitation.

(4) Measurements of hydrogen, carbon and oxygen isotope ratios of organic matter (especially carbohydrates such as cellulose).

Application received by Commissioner of Customs: June 25, 1984.

Docket No. 84–246. Applicant: Smithsonian Institution, Conservation Analytical Laboratory, Washington, DC 20560. Instrument: Gas Chromatograph Mass Spectrometer Data System, Model 8230. Manufacturer: Finnigan MAT, GmbH, West Germany. Intended use: The instrument will be used for organic analysis of a variety of organic materials, including materials of archaeological and historic artifacts, such as paint media, dyes, waxes, proteins, gums, resins, varnishes and plastics, and materials used in, on and around museum objects such as consolidants, adhesives, varnishes and waxes. The material properties and phenomena investigated range from straightforward identification to studies of the causes and mechanisms of degradation and corrosion. Application received by Commissioner of Customs: June 29, 1984.

(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. 84–20441 Filed 8–1–84; 8:45 am]

BILLING CODE 3510–DS–M

Application for Duty-Free Entry of Scientific Instrument; Yale University, et al.

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. 20230. 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. 84–226. Applicant: Yale University, 272 Whitney Avenue, P.O. Box 6666, New Haven, CT 06511. Instrument: Magnetic Spectrograph. Manufacturer: Danfysik-Roskilde, Denmark. Intended use: The instrument will be used in conjunction with a MP-tandem Van de Graaff nuclear accelerator in a wide variety of nuclear physics experiments to make high precision measurements of the energy and momentum of particles produced in nuclear reactions. In many of these experiments coincide measurements will be made which necessitate the large solid-angle feature of this new design. The overall objective of these experiments is to advance the understanding of the structure of excited nuclear states, including the degree to which it is possible to identify and study complex cluster configurations in such states. Application received by Commissioner of Customs: June 26, 1984.

Docket No. 84–227. Applicant: Virginia Polytechnic Institute and State University, VA–MD Regional College of Veterinary Medicine, Southgate Drive, Blacksburg, VA 24061. Instrument: Electron Microscope, Model JEM–100 CX with SEGZ Side Entry Goniometer with Accessories. Manufacturer: JEOL, Ltd., Japan. Intended use: Study of the structure of virus, bacteria biological cells and tissues including reproductive organs and the phenomena associated with reproductive problems; the various parasites such as tapeworm and various pathogenic microorganisms such as Burcella, rickettsia, hemorrhagic enteritis virus and their interaction with host cells. The principal objectives of experimental work relate to a better understanding of various types of disease, with particular reference to the development of reproductive problems and cancer and to the underlying biological mechanisms affected. Educational purposes—Teaching electron microscopy techniques in the course "Electron Microscopy for Biomedicine." Application received by Commissioner of Customs: June 26, 1984.

Docket No. 84–228. Applicant: Columbia University, Department of Biological Sciences, 500 Fairchild, New York, NY 10027. Instrument: Electron Microscope, Model JEM–1200 EX with SEG–10 Eucentric Side Entry Goniometer State and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: Study a variety of biological problems, in particular, problems concerned with the structure and development of nerve cells in many different animal species. Nerve tissue will be prepared in somewhat different ways for examination. The problems to be studied include but are not limited to the following:

(1) Genetic analysis of nematode nerve cell differentiation, with an emphasis on touch sensory cells and their microtubular arrays.

(2) Postembryonic development of chemosensory cells in the antennae of the moth and of their central connections in the brain.

(3) The molecular structure of the acetylcholine receptor, in particular the organization of the five subunits of the complex, their native state in cell membranes of electric organs in elasmobranches.

(4) The androgen regulation of neuromuscular function in the vocal organs of the amphibian *Xenopus laevis*.

Application received by Commissioner of Customs: June 26, 1984.

Docket No. 84–229. Applicant: Iowa State University, Ames Laboratory, U.S.D.O.E., 139 Spedding Hall, Ames, IA 50011. Instrument: Superconducting Magnet System, Model 360–89 with Accessories. Manufacturer: Oxford Instruments, United Kingdom. Intended use: Basic research studies of metal alloys, metal-hydrogen alloys and metal hydride systems, amorphous silicon hydrides and deuterides. The intrinsic electronic structure of these materials will be studied. The location and motion of hydrogen, dueterium oxygen and possibly nitrogen will be investigated.

These materials will be studied to determine their basic electronic and physical properties such as electronic density-of-states, diffusion coefficients and activation energies. Application received by Commissioner of Customs: June 26, 1984.

Docket No. 84–230. Applicant: Smithsonian Institution, Astrophysical Observatory, 60 Garden Street, Cambridge, MA 02138. Instrument: Automated Electron Microprobe System, Model JXA–733. Manufacturer: JEOL, Inc., Japan. Intended use: Microscopic examinations of lunar and meteoritic materials in which the microscopic features are imaged, chemically analyzed, and precisely measured, using electron-beam induced x-ray and electron excitation. The objective of this study is to increase knowledge of the processes occurring in a very early solar nebula and of the earliest planet-forming processes and their sequelae. Application received by Commissioner of Customs: June 26, 1984.

Docket No. 84–232. Applicant: Lebanon Valley College, Garber Science Center, Annville, PA 17003. Instrument: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West German. Intended use: Educational purposes—The instrument will be used in several courses at different grade levels and with various levels of sophistication within the biology department. These courses include:

1. General Biology (Biology 111)—Acquaint students with the principles of cellular biology, histology, microscopy, micro-biology, genetics and evolution.

2. Comparative Vertebrate Histology and Microtechnique (Biology 305)—Designed to acquaint the students with the microscopic anatomy of several vertebrates as well as to familiarize them with various microscopic techniques.

3. Introduction to Electron Microscopy—Expose the students to an in-depth study of scanning and transmission electron microscopic techniques.

4. Independent Study (Biology 500)—Provide students a chance to pursue some research interest under the guidance of a faculty member.

Application received by Commissioner of Customs: June 25, 1984.

Docket No. 84–233. Applicant: The University of Michigan, Biophysics Research Division, 2200 Bonisteel Boulevard, Ann Arbor, MI 48109. Instrument: Evacuable Fourier Transform Infrared Spectrometer. Manufacturer: Bomem, Inc., Canada. Intended use: Study of many problems in synthetic and biological macromolecular vibrational spectroscopy. The goal of the research program is to achieve a sufficiently detailed analysis of the vibrational spectra of macromolecules so as to permit an understanding of their three-dimensional structure, and thereby their properties and functions. This is accomplished by combining normal mode analyses with experimental infrared and Raman studies, using the extent of agreement between predicted and observed frequencies as an indication of the validity of the proposed structures. Application received by Commissioner of Customs: June 26, 1984.

Docket No. 84–234. Applicant: University of South Carolina, Department of Geology, Columbia, SC 29208. Instrument: Isotope Ratio Mass Spectrometer, Model SIRA 24. Manufacturer: VG Isogas, United Kingdom. Intended use: Studies of the following materials:

a. Minute quantities of calcium carbonate found in microfossils and sedimentary rocks.

b. Minute quantities of organic matter in both living organisms and sedimentary rocks.

c. Other mineral phases such as phosphate, silicate and sulfates found in sedimentary rocks.

d. Hydrocarbons found in petroleum fractions.

The purpose of studying these materials will be to investigate the following: (a) The paleoceanographic and paleoclimatic history of various oceanic regions including the Mediterranean Sea, Gulf of Mexico, Antarctic Ocean and various ancient ocean basins, (b) the use of stable isotopic fingerprinting in the investigation of trophic dynamics and food web relationships in modern marine ecosytems, (c) the origin and diagenesis of modern and ancient sedimentary organic matter, (d) processes involved in the alteration of mid-ocean ridge basalts and ophiolite complexes, (e) the formation of soil carbonates, (f) the diagenesis of biogenic silica in marine sediments and (g) the growth histories and paleobiological implications of shell structure in modern and fossile molluscs. Application received by Commissioner of Customs: June 26, 1984.

(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. 84–20442 Filed 8–1–84; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–007]

Certain High Capacity Pagers From Japan; Preliminary Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on certain high capacity pagers from Japan. The review covers the three known manufacturers and/or exporters of this merchandise to the United States and the period November 1, 1982, through August 31, 1983.

Where company-supplied information provided in response to our questionnaire was inadequate, we used the best information available for assessment and estimated antidumping duties cash deposit purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 2, 1984.

FOR FURTHER INFORMATION CONTACT: Michael Galbraith or Robert J. Marenick, Office of Compliance International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–1130/5255.

SUPPLEMENTARY INFORMATION:

Background

On August 16, 1983, the Department of Commerce ("the Department") published in the Federal Register an antidumping duty order on certain high capacity pagers from Japan (48 FR 37058) and announced its intent to conduct an administrative review. As required by section 751 of the Tariff At of 1930 ("the Tariff Act"), the Department has not conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of all tone-only high capacity pagers, 3,000 or more of which can be operated in a paging system on a single radio frequency channel. This merchandise is currently classifiable under items 685.24 (solid-state (tubeless) radio receivers), 685.2475 (radio receivers above 30 MHz, but not over 40 MHz), 685.2480 (receivers above 400 MHz, but not over 1000 MHz), and 685.7031 (other sound signalling

apparatus) of the Tariff Schedules of the United States Annotated.

The review covers the three known manufacturers and/or exporters of certain Japanese high capacity pagers to the United States and the period November 1, 1982, through August 31, 1983.

Two firms, Nippon Electric Company, Ltd. and Oi Electric Company, failed to provided adequate responses to the Department's questionnaire. For those non-responsive firms, the Department used the best information available for assessment and estimated antidumping duties cash deposit purposes. The best information available is the most recent rate for each firm.

One firm, Matsushita Communication Industrial Co., did not ship this merchandise to the United States during the period. The Department used the most recent rate for that firm to establish its estimated antidumping duties cash deposit rate.

Prelliminary Results of the Review

As a result of or review, we preliminarily determine that the following margins exist for the period November 1, 1982, through August 31, 1983:

Manufacturer/Exporter	Margin (percent)
Matsushita Communication Industrial Co.	[1]109.06
Nippon Electric Company, Ltd.	70.35
Oi Electric Company	89.97

[1]No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, dumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required for those firms. For any future entries from a new exporter not covered in this or prior reviews, whose first shipments of certain Japanese high capacity pagers occurred after August 31, 1983, and who is unrelated to any reviewed firm, a cash deposit of 89.97 percent shall be required. These deposit requirements are effective for all shipments of certain Japanese high capacity pagers entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: July 25, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-20407 Filed 8-1-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-070]

Kraft Condenser Paper From France; Final Results of Administrative Review and Revocation of Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review and Revocation of Antidumping Finding.

SUMMARY: On March 8, 1984, the Department of Commerce published preliminary results of its administrative review and intent to revoke the antidumping finding on kraft condenser paper from France. The review covers the one known manufacturer and exporter of this merchandise to the United States, Papeteries Bollore, S.A., and the period September 1, 1982, through May 6, 1983.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results and intent to revoke. We received no comments. Based on our analysis, the final results of our review are the same as the preliminary results, and we revoke the antidumping finding on kraft condenser paper from France.

EFFECTIVE DATE: August 2, 1984.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On March 8, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 8651) the preliminary results of its administrative review and intent to revoke the antidumping finding on kraft condenser paper from France (44 FR 54696, September 21, 1979). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of kraft condenser paper, meaning capacitor tissue or condenser paper containing 80 percent or more by weight chemical sulphate or soda wood pulp based on total fiber content. This merchandise is currently classifiable under items 252.4000, 252.4200, and 252.3080 of the Tariff Schedules of the United States Annotated.

The review covers the one known manufacturer and exporter of this mechandise to the United States, Papeteries Bollore, S.A., and the period September 1, 1982, through May 6, 1983, the date of our tentative determination to revoke the finding.

Final Results of Review and Revocation

We invited interested parties to comment on the preliminary results and intent to revoke. We received no comments or requests for a hearing. Based on our analysis, the final results of our review are the same as those presented in the preliminary results. For the reasons set forth in the preliminary results, we are satisfied that there is no likelihood of resumption of sales at less than fair value. Accordingly, we revoke the antidumping finding on kraft condenser paper from France. This revocation applies to all unliquidated entries of French Kraft condenser paper entered, or withdrawn from warehouse, for consumption on or after May 6, 1983.

The Department shall instruct the Customs Service not to assess dumping duties on all appropriate entries.

This administrative review, revocation, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-20408 Filed 8-1-84; 8:45 am]

BILLING CODE 3510-DS-M

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held August 28, 1984, 9:30 a.m., Herbert C. Hoover Building, Room 7808, 14th Street and Constitution Avenue, NW., Washington, D.C. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

Agenda

1. Introduction of members and guests.
2. Opening remarks by the Chairman.
3. Presentation of papers or comments by the public.
4. Update from DOC on the establishment of the Foreign Availability Division.
5. Discussion of the FAAD questions to DOC General Counsel.
6. Definition of U.S. origin of licensed technology.
7. Discussion of the deregulation of West-West trade based on foreign availability.
8. New business.
9. Action items underway.
10. Action items due at next meeting.

Executive Session

11. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meeting and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202-377-4217. For further information or copies of the minutes contact Margaret A. Cornejo 202-377-2583.

Dated: July 30, 1984.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 84-20440 Filed 8-1-84; 8:45 am]

BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Advisory Committee; Open Meeting

A meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held August 28, 1984, 1:00 p.m., Herbert C. Hoover Building, Room 7808, 14th Street and Constitution Avenue, NW., Washington, D.C. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

Agenda

1. Opening remarks by the Subcommittee Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of:
   a. Post-COCOM notification procedures,
   b. Distribution license rule,
   c. Automated processing system,
   d. Applications and backlog statistics,
   e. Guidelines for licensing officers.
4. Report on cost benefit study.
5. Discussion with Department of Energy representatives.
6. New business.
7. Action items underway.
8. Action items due at next meeting.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Margaret A. Cornejo, (202) 377-2583.

Dated: July 30, 1984.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 84-20439 Filed 8-1-84; 8:45 am]

BILLING CODE 3510-10-M

National Oceanic and Atmospheric Administration

Announcement of Flower Garden Banks as an Active Candidate for Possible National Marine Sanctuary Designation; Intent To Prepare a Draft Management Plan and Environmental Impact Statement for the Proposed Flower Garden Banks National Marine Sanctuary

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: NOAA is naming the East and West Flower Garden Banks in the Gulf of Mexico an Active Candidate for potential designation as a national marine sanctuary and will proceed with subsequent steps in the evaluation process. The site, located 123 miles (198 km) due south of Sabine Pass, Texas, was placed on the National Marine Sanctuary Program Site Evaluation List (SEL) on August 4, 1983 (48 FR 35568). The sanctuary study area is approximately 44 square miles which represents the area within the 100-meter isobath (less than 328 feet) surrounding the two Banks. Placement on the SEL is a prerequisite to further consideration of a site as a national marine sanctuary. Before a site may be selected as an Active Candidate, Program regulations (at § 922.30(c)) provide that preliminary consultation be undertaken to seek comments and request information on the proposed site. A notice initiating preliminary consultation on Flower Garden Banks as an Active Candidate for possible National Marine Sanctuary designation was published in the Federal Register on May 4, 1984 (49 FR 19094). A press release was also sent out to all relevant media contacts. Comments were solicited until June 4, 1984.

Forty-one comments were received. All commenters except one supported listing the Flower Garden Banks as an active candidate and proceeding with our evaluation. NOAA has reviewed the comments submitted and evaluated the site in accordance with the criteria specified in section 922.30 of the regulations for the National Marine Sanctuary Program.

Selection of a site as an Active Candidate formally triggers the National Environmental Policy Act (NEPA) process; NOAA will begin to prepare a draft management plan and a draft environmental impact statement.

FOR FURTHER INFORMATION CONTACT:
Dr. Nancy Foster, Chief, Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 3300 Whitehaven Street, NW., Washington, D.C. 20235 (202)634–4236.

SUPPLEMENTARY INFORMATION:

Selection Procedures

Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431–1434, authorizes the Secretary of Commerce to designate ocean waters as national marine sanctuaries to protect their distinctive conservation, recreational, ecological or esthetic values. The final regulations for the National Marine Sanctuary Program (48 FR 24296 (1983), *to be codified* at 15 CFR Part 922) establish two procedural evaluation states prior to a site being designated as a national marine sanctuary: The Site Evaluation List (SEL) and the List of Active Candidates. The SEL represents NOAA's preliminary working list, serving as a pool from which sites are drawn for consideration as a national marine sanctuary. Each site on the SEL has been identified as a highly qualified marine area by a regional resource evaluation team.

The Gulf of Mexico Regional Resource Evaluation Team consisted of: Dr. Thomas Bright, Department of Oceanography, Texas A&M University, College Station, Texas; Dr. William McIntire, Center for Wetland Resources, Louisiana State University, Baton Rouge, Louisiana; Dr. David Gettleson, Continental Shelf Associates, Tequesta, Florida; and Dr. James Ray, Shell Oil, Houston, Texas. Flower Garden Banks was placed on the SEL on August 4, 1983 (48 FR 35568).

Evaluating a site for placement on the List of Active Candidates represents the next stage in the national marine sanctuary designation process. Prior to selecting a site as an Active Candidate, NOAA seeks preliminary consultation in the Federal Register and local media on the site. NOAA published a notice initiating preliminary consultation in the Federal Register on May 4, 1984 (49 FR 19094). A press release was sent to the relevant media at the same time. Based on the comments received and the evaluation of the site in accordance with the criteria specified in § 922.30 of the regulations for the National Marine Sanctuary Program, NOAA has decided to make the site an Active Candidate. Selection of a site as an Active Candidate formally triggers the National Environmental Policy Act (NEPA) environment impact analysis process and NOAA begins preparation of a draft management plan and draft environmental impact statement. Subsequent steps include a public hearing, preparation of a final environmental impact statement, and a recommendation of approval to the Secretary of Commerce and the President. Opportunities for comment exist throughout this process and will be announced in the Federal Register, the local media, and other appropriate channels.

In evaluating the Flower Garden Banks for Active Candidate consideration, the regulations, at § 922.30(b)(1)–(5), provide that the following five factors be considered:

(1) A primary reason for considering a site for marine sanctuary designation is the area's high natural resource and human use values. When selecting an active candidate, NOAA considers the site's relative contribution to the Program's mission and goals;

(2) A consideration of the immediacy of need for sanctuary designation based on the present or potential threats to resources, and the vulnerability of the resources. Consideration will also be given to the cumulative effect of various human activities that individually may be insignificant;

(3) An evaluation of the benefits to be derived from sanctuary designation, including an assessment of the site's natural resource and human use values, the adequacy of existing management or regulatory regimes for protecting these resources, and the effectiveness of NOAA's proposed management program.

(4) A consideration of the present feasibility of sanctuary designation in light of the sanctuary's size, requirements for managing the site, program staffing, and fiscal constraints; and

(5) An initial consideration of the economic impacts and benefits of sanctuary designation, including a consideration of the range of public and private uses which may be consistent with sanctuary designation.

The importance of the Flower Garden Banks relative to these selection factors, as well as comments on these criteria, are discussed in detail below.

Past History

On April 13, 1979, NOAA published proposed regulations (44 FR 22081) and a draft environmental impact statement (DEIS) on the proposed designation of the East and West Flower Garden Banks as a national marine sanctuary. To bring the sanctuary proposal into line with the then revised Program regulations, NOAA placed the Flower Garden Banks on the List of Active Candidates on October 31, 1979 (44 FR 62552).

Due to public comments on the DEIS and input from Cooperating Agencies (the Department of the Interior, the Environmental Protection Agency, and the Department of Energy), in accordance with the Council on Environmental Quality regulations (40 CFR 1501.6), NOAA revised the original proposed regulations and reproposed them on June 30, 1980 (45 FR 33530). Previous restrictions on hydrocarbon operations were revised to conform with the lease stipulations imposed by the Minerals Management Service within the Department of the Interior. As a result of public comments on the reproposed regulations, further action on the site was suspended in late 1980. A final EIS was not prepared.

On April 26, 1982 (47 FR 17845), NOAA announced its decision to remove the site from the List of Active Candidates and to withdraw the DEIS. One of the major reasons for this action was that a Coral Fishery Management Plan (FMP) for the Gulf of Mexico was about to be implemented. It was expected that the FMP would regulate vessel anchoring on the Banks, the one remaining unresolved issue identified in the DEIS and through public comment. The final FMP was approved, but the proposed regulations implementing the FMP (48 FR 39255 (1983)) do not include the "no anchoring" provision for vessels on the Banks. Within the East and West Flower Garden Banks Habitat Area of Particular Concern (the area of each Bank shallower than the 50 fathom (300 foot) isobath), the proposed regulations provide only the following restrictions: (1) fishing for coral is prohibited except as authorized by permit and (2) bottom longlines, traps, pots, and bottom trawls may not be fished (see 50 CFR 938.22(a)(1)&(2) at 48 FR 39255, 39260 (1983)).

Natural Resources

The East and West Flower Garden Banks are located 123 miles (198 km) south of Sabine Pass, Texas, on the outer edge of the continental shelf. They are approximately 16 miles (25 km) apart and represent the northernmost thriving, shallow-water, tropical coral reef community in the Gulf of Mexico. The formation of the Banks is related to the upward intrusions of salt plugs from deeply buried deposits. Both Banks are surrounded by clear waters up to 325–390 feet (100–120m) deep. The living reefs rise from a depth of 148 feet (45m) to a crest at 66 feet (20m).

The midpoints of the Banks in latitude/longitude are 27°55'07.44" N.; 93°36'08.49" W. for the East Bank; and 27°52'14.21" N.; 93°48'54.79" W. for

the West Bank. The study area boundary follows the 100-meter (328 foot) isobath around each midpoint. The study area conforms to the Minerals Management Service's "no activity zone" (the 100-meter isobath) as agreed to in 1979 in discussions between NOAA and the other Cooperating Agencies. It encompasses a total of 44 mi^2 (114 km^2).

Flower Garden Banks support the most ecologically complex and biologically productive reef communities on the Texas-Louisiana Outer Continental Shelf. Over 200 species of benthic invertebrates and more than 100 fish species inhabit the East and West Banks. Many of the inhabitants have not been recorded elsewhere in the northern Gulf of Mexico. Above the 50 meter depth, both Banks are covered with thriving coral reef communities which, except for the lack of shallow-water soft corals, are good examples of the reef building (*Diploria-Montastrea-Porites*) coral community so common on reefs in the Caribbean. Because of their prominent relief, the Banks are bathed almost perpetually (at least to depths over 70m) by clear warm ocean waters.

The ecology of Flower Garden Banks is of special interest. The composition, diversity and vertical distribution of benthic communities on the Banks is strongly influenced by the physical environment in which it is found. Epibenthic populations are distinguishable into as many as six (6) interrelated biotic zones, including *Diploria-Montastrea-Porites* zone.

The Flower Gardens are relatively pristine and are isolated in the northern Gulf. Commercial fishing is common along the edges of the Banks. Because of its distance from shore, however, the area does not attract many recreational divers.

The Banks are believed to be an important nursery area for brown shrimp and, therefore, are important to the commercial shellfishing industy. As noted above, the Gulf of Mexico and the South Atlantic Fishery Management Councils have developed a Coral Fishery Management Plan designed to protect the Flower Gardens and other coral resources within the Gulf.

A great potential for scientific research exists. The majority of research performed thus far has been conducted by Texas A&M University. The first phase of study involving collection dives, transect surveys and submersible reconnaissance is nearing completion. This phase has yielded descriptive, systematic and quantitative data on coral species. Other major groups, such as sponges and seaweeds, remain to be identified taxonomically. Community-structure investigations completed thus far have revealed valuable data on biological zonation. These initial studies will provide the foundation for more comprehensive systems-oriented research. Sedimentological studies at Flower Gardens are providing insight into the geological history of the Gulf of Mexico basin and the formation of the land and oceans.

Summary of Comments

On May 4, 1984, NOAA through the **Federal Register** (49 FR 19094) and notices in the relevant media, solicited comments on listing Flower Garden Banks as an Active Candidate for possible designation as a National Marine Sanctuary. A total of 41 comments were received. Commenters included Federal and state agencies, representatives of the oil and gas industry, representatives of the fishery industry, environmental and public interest groups, and members of the public. All comments received are on file at the Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235. The comments are available for review at that office.

No commenters opposed listing the Flower Garden Banks as an Active Candidate and proceeding with our evaluation, although Exxon stated that such an evaluation is probably unnecessary and at best premature.

Active Candidate Selection Criteria: NOAA's Evaluation of the Flower Garden Banks

These selection criteria are found in the final regulations for the National Marine Sanctuary Program (15 CFR 922.30(b)(1)-(5) at 48 FR 24297 (1983)):

(1) *Site's relative contribution to the Program's mission and goals.* The Program's mission provides that "designated sanctuaries should be illustrative of the nation's marine areas" (see § 922.1(a)). The Flower Garden Banks represent a diverse coral reef community within the northern Gulf of Mexico. Thus, not only is the site significant regionally, but since there are no other designated or proposed national marine sanctuaries within the Gulf, the Flower Garden Banks would fill a substantial niche in the national system. They offer a special combination of recreational, research and interpretive opportunities otherwise unrepresented by existing sites. While two coral reef areas along the Florida reef tract are already established as sanctuaries, they contain representative bank reefs that differ substantially from the nonconnected topographical highs represented by the East and West Flower Gardens. The site will yield educational benefits unlike those of a typical nearshore, shallow water reef so familiar to the general public. By adhering to the existing Minerals Management Service stipulations on hydrocarbon activities, and ensuring a balance of human uses, the multiple compatible use goal of the National Marine Sanctuary Program can be fully realized.

(2) *Consideration of the immediacy of need for sanctuary designation.* Current information indicates that anchor damage by large commercial vessels continues at the Flower Garden Banks resulting in significant damage to the living coral communities. At this time, information on such damage is only available from various researchers performing monitoring studies for oil and gas companies in the vicinity of the Banks. Substantial damage to the reefs from large anchors has been reported by Dr. Thomas Bright, Texas A&M University (Personal Communication, March 30, 1984). The continued, cumulative effects of such activities to the resources are also likely to be significant. As part of the development of the EIS and Management Plan, formal documentation of such occurrences and the extent of damage will be prepared as the EIS is developed.

Other Federal regulatory authorities are not sufficient to protect the Banks from this type of anchor damage. Existing Minerals Management Service stipulations, which establish a "no anchoring zone" are not applicable to vessels not engaged in actual oil and gas activities at the Banks. Further, as discussed above, the prohibition of reef anchoring by vessels over 100 feet in length has been eliminated from the proposed regulations implementing the final Coral Reef Fishery Management Plan, which applies to the Gulf of Mexico.

Title III of the Marine Protection, Research and Sanctuaries Act provides that sanctuary regulations be applied "in accordance with recognized principles of international law . . ." (16 U.S.C. 1432 (g)). In a letter to Dr. Nancy Foster, Chief of the Sanctuary Programs Division, the Department of State advises: "The Department [of State] believes that the United States does have jurisdiction to prohibit anchoring in the area, except for anchoring required by *force majeure*" (Letter from Edmund E. Wolfe, Deputy Assistant Secretary for Oceans and Fisheries Affairs to Dr. Nancy Foster, Chief, Sanctuary Programs Division, April 19, 1984).

(3) *Benefits to be derived from sanctuary designation.* Flower Garden Banks has outstanding natural resource values; the resources may be subject to substantial damage caused by anchors. Establishment of a sanctuary would allow the United States to protect these resources by prohibiting anchoring on the Banks. A national marine sanctuary at the Flower Garden Banks also offers the opportunity to continue and expand ongoing research at the Banks and to establish a broad-based national and regional educational program focused in the significance of the Banks. Such a sanctuary offers the potential for encreasing the public's awareness of the Gulf of Mexico marine environment and coral reefs in particular.

(4) *Feasibility of sanctuary designation in terms of size, requirements for management, staffing, and fiscal constraints.* The Flower Garden Banks is small (44 mi^2) and geographically discrete. Although the area is relatively distant from the mainland making periodic surveillance difficult, it is unlikely that any proposed managment scheme will require intensive onsite efforts. Because of the nature of the proposed sanctuary (*i.e.*, low intensity human use levels), NOAA's staffing requirements and fiscal commitments are not expected to be major. Interagency cooperation with the Departments of State, the Interior, Transportation (the U.S. Coast Guard), and the Environmental Protection Agency will be an important aspect of sanctuary management. Since there are oil gas operators in the vicinity, their participation will be solicited to ensure more cost-efficient and effective general management operations.

(5) *Initial consideration of the economic impacts and benefits of sanctuary designation.* At this initial stage of the evaluation, indications are that designation would have no adverse economic impacts. If the proposal does not prohibit large vessels from anchoring on the Banks, such vessels currently doing so will be inconvenienced. Other than any inconvenienced vessels, designation of Flower Garden Banks is unlikely to have any adverse economic or regulatory impacts on existing or potential users. NOAA proposes to follow the existing oil and gas stipulations established by the Minerals Management Service.

Designation would offer certain benefits particularly in terms of coordinating and promoting research efforts, enhancing public awareness of the Bank's value and ensuring a management framework for long-term protection of the Bank's resources.

A thorough analysis of the economic impacts resulting from sanctuary designation will be conducted as part of the designation process.

Subsequent Actions

NOAA intends to prepare a draft environmental impact statement and draft management plan on the designation of the area as a National Marine Sanctuary. A scoping meeting will be held in the affected area prior to preparation of the draft management plan and draft environmental impact statement. A public hearing on the DESI will be conducted. A final environmental impact statement and management plan will be prepared. After the final environmental impact statement and management plan are completed, NOAA makes a recommendation to the Secretary of Commerce and to the President to designate the sanctuary. The site-specific management plan specifies goals and objectives for the proposed sanctuary; implementation of the plan is analyzed in the environmental impact statement. The opportunity for public and government agency response will be provided throughout the designation process by notice in the **Federal Register** and the local media.

Dated: July 30, 1984.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 84-20487 Filed 8-1-84; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishing a Federally Funded Research and Development Center (FFRDC)

The Deparment of Defense, in compliance with the procedures of OFPP Policy letter No. 84-1, "Federally Funded Research and Development Centers" (April 4, 1984), announces its intention to designate the Logistic Management Institute an FFRDC to perform research, studies, and analyses in the area of logistics and weapon systems acquisition. Such work includes research and analyses to: (1) Reduce costs and increase the effectiveness of military procurement, materiel management, logistics and manpower support activities and other related areas; (2) formulate and recommend changes in DOD policy relating to acquisitions and support of weapons systems and other defense resources requirements; (3) develop mathematical models and other management tools for the evaluation of logistics and manpower plans and materiel requirements, and (4) appraise the readiness of the Armed Forces.

Dated: July 27, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 84-20427 Filed 8-1-84; 8:45 am]

BILLING CODE 3810-01-M

Changes in Per Diem, Travel and Transportation Allowance

AGENCY: Per Diem, Travel and Transportation Allowance Committee.

ACTION: Publication of Changes in Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 124. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 124 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: August 1, 1984.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 124 to the Heads of the Executive Departments and Establishments

Subject: Table of Maximum Per Diem Rates in Lieu of Subsistence for United States Government Civilian Officers and Employees for Official Travel in Alaska, Hawaii, the Commonwealth of Puerto Rico and possessions of the United States

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and

Establishments from the Deputy Secretary of Defense dated 17 August 1966, subject: Executive Order 11294, August 4, 1966, "Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status" in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702 (a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 123 except for the cases identified by asterisks which rates are effective on the date of this Bulletin.

3. Each Department or establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak[1]	$15.00
Anaktuvuk Pass	140.00
Anchorage	100.00
Atqasuk	215.00
Barrow	139.00
Bethel	138.00
Coldfoot	122.00
College	100.00
Cordova	124.00
Deadhorse	131.00
Dillingham	103.00
Dutch Harbor	105.00
Eielson AFB	100.00
Elmendorf	100.00
Fairbanks	100.00
Ft. Richardson	100.00
Ft. Wainwright	100.00
Juneau	109.00
Ketchikan	104.00
Kodiak	115.00
Kotzebue	118.00
Murphy Dome	100.00
Noatak	118.00
Nome	103.00
Noorvik	118.00
Petersburg	104.00
Point Hope	100.00
*Point Lay	179.00
Prudhoe Bay	131.00
*Sand Point	103.00
Shemya AFB[1]	12.75
Shungnak	118.00
Sitka-Mt. Edgecombe	104.00
Skagway	104.00
Spruce Cape	115.00
St. Mary's	100.00
Tanana	103.00
*Valdez	129.00
Wainwright	165.00
Wrangell	104.00
Yakutat	100.00
All Other Localities	90.00
American Samoa	91.00
Guam M. I.	74.00
Hawaii:	
Hawaii, Island of	63.00
All Other Islands	83.00
Johnston Atoll[2]	21.25
Midway Islands[1]	12.60
Puerto Rico:	
Bayamon:	
12-16—5-15	124.00
5-16—12-15	99.00
Carolina:	
12-16—5-15	124.00
5-16—12-15	99.00
Fajardo (Including Luquillo):	
12-16—5-15	124.00
5-16—12-15	99.00
Ft. Buchanan (Incl. GSA Service Center, Guaynabo):	
12-16—5-15	124.00
5-16—12-15	99.00
Ponce (Incl. Ft. Allen NCS):	72.00
Roosevelt Roads:	
12-16—5-15	124.00
5-16—12-15	99.00
Sabana Seca:	
12-16—5-15	124.00
5-16—12-15	99.00
San Juan (Including San Juan Coast Guard Units):	
12-16—5-15	124.00
5-16—12-15	99.00
All Other Localities	99.00
Virgin Islands of U.S.:	
12-1—4-30	120.00
5-1—11-30	88.00
Wake Island [2]	20.00
All Other Localities	20.00

[1] Commercial facilities are not available. The per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler. For Adak, Alaska—when Government quarters are not utilized, and quarters are obtained at the Simone Construction, Inc. camp, a daily travel per diem allowance of $71.50 is prescribed to cover the cost of lodging, meals and incidental expenses at this facility.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

Dated: July 27, 1984

M.S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 84-20426 Filed 8-1-84; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following request for renewal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact for whom a copy of the information proposal may be obtained.

Revision

Required sources (domestic) for miniature and instrument ball bearings, mechanical time devices, high purity silicon, and high carbon ferrochrome (DoD FAR Supplement—Part 8).

Defense requirements for various components used in various items are restricted to U.S. manufacturing sources in order to assure an adequate domestic production base. Record keeping is necessary to assure compliance with these requirements.

Businesses or others for profit/nonprofit institutions/small business or organizations, 125 record keepers; 883 hours.

Forward comments to Mr. Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301, telephone 694-0187.

A copy of the information collection proposal may be obtained from Mr. Fred J. Kohout, OUSDRE(AM)CP, Room 3D116, Pentagon, Washington, D.C. 20301, telephone 697-8334. This is a revision of an existing collection.

Dated: July 30, 1984.

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-20428 Filed 8-1-84; 8:45 am]

BILLING CODE 3810-01-M

Military Traffic Management Command; Directorate of Personal Property; International Household Goods Program

AGENCY: Military Traffic Management Command (MTMC), DOD.

ACTION: Notice of invitation to comment on foreign currency policies and procedures of the international through Government bill of lading (ITGBL) program for shipment of Department of Defense household goods.

SUMMARY: The current MTMC ITGBL program for the shipment of household goods includes currency adjustment procedures. Currency adjustments provide upward and downward changes to single factor rates submitted by industry participants. A review of the ITGBL program raises the question as to whether or not the currency adjustment procedures should be continued. As a part of the MTMC review, comments from the ITGBL industry participants, as

well as any other interested persons or agencies, are being solicited.

Listed below are some issues which should be addressed to support positions for retaining or discontinuing currency adjustments.

a. Currency adjustments were initiated during a period when the dollar was weak and unstable against foreign currency. As the dollar is now strong and stable, these procedures are no longer justifiable since the economic and regulatory conditions under which the adjustments were initiated no longer exist.

b. Most carrier/agent contracts for payment are in U.S. dollars. This removes the foreign exchange risk from carriers and eliminates the need for any currency adjustments.

c. Currency adjustments do not reflect actual carrier cost. The adjustments are constructed on averages of cost estimates furnished by industry. Therefore, adjustments impose unnecessary and arbitrary costs or gains on carrier.

d. Managing foreign currency exchange risk is a normal practice of companies engaged in international business. Financial services are available for forwarders to protect themselves from the risk of currency fluctuations.

e. It is considered extraordinary to provide economic adjustment clauses for procurement performance periods of 1 year or less. ITGBL rate cycles are 6 months long. The ITGBL solicitation including procurement lead time and effective period is less than 12 months.

f. The procedures impose a large administrative burden on carriers and Government. Industry must furnish cost data, publish and distribute adjustments by rate bureaus and association through supplements to the tenders and issue supplemental billings. The Government administrative work includes computation of adjustments, notification to industry, finance center processing of supplemental billings, and General Service Administration audits covering supplemental billings and failure to submit negative adjustments.

DATE: Submit written comments by September 28, 1984.

FOR FURTHER INFORMATION CONTACT: LTC Robert P. Coleman, HQ, Military Traffic Management Command, ATTN: MT-PPC (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041, (202) 756-2383.

ADDRESS: Address comments to: Commander, HQ, Military Traffic Management Command, ATTN: MT-PPC (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041, (File: Currency adjustments).

This request for comments is being made under the authority of 10 U.S.C. 2301–2314 and DOD Directives 4500.9 and 4500.34.

Dated: July 27, 1984.

Nathan R. Berkley,

Colonel, General Staff, Director of Personal Property.

[FR Doc. 84-20425 filed 8-1-84; 8:45 am]

BILLING CODE 3710-08-M

Military Traffic Management Command; Change to Number of Copies Associated With Personal Property Government Bill of Lading

1. The U.S. Government Bill of Lading—Privately Owned Personal Property (PPGBL) is currently a nine part form. Distribution of the PPGBL is performed by the installation transportation office (ITO) in accordance with instructions contained in DOD 4500.34–R as superceded by the PPGBL Instruction Booklet dated 1 December 1981.

2. The advent of automation has made the nine-part form obsolete and virtually impossible to process. State-of-the-art-printers are only rated for six-part paper. Because of this, we are proposing to reduce the PPGBL from a nine-part form to a six-part form and would like your comments. The copies to be eliminated are:

a. Standard Form 1204—Shipping Order (Pink).

b. Standard Form 1206—Freight Waybill Carriers Copy (White).

c. Standard Form 1203a—Memorandum Copy (Yellow).

3. In accordance with the proposed elimination of the above three copies, general distribution instructions for the six-part PPGBL will also have to be modified as follows:

Standard Form 1203—Original (White)—Provided to origin carrier for submission to finance center.

Standard Form 1205—Freight Waybill—Original (White)—Provided to origin carrier for retention—may also be used as substitute document in lieu of lost PPGBL.

Standard Form 1203a—Accounting Copy (Yellow)—Provided to origin carrier for annotation of gross, tare, net weight, pieces, and cube for containerization charges, and for TGBL shipments—show mileage. Then carrier returns to origin ITO in accordance with the DOD 4500.34–R, Appendix A. Upon return, the origin ITO will retain in the shipment file.

Standard Form 1203b—Property Owner Copy (Blue)—For all methods except Direct Procurement provided origin carrier who will deliver to the member at pickup made at the residence.

Give to destination ITO if shipment originates from nontemporary storage and is placed in storage-in-transit at destination. ITO will give copy to member or member's agent.

For DPM shipments—ITO will forward copy to member's destination address or unit of assignment if known.

Standard Form 1203a—Property Received Copy (Yellow)—Origin ITO forwards to destination ITO with other advance shipment documents. Blue bark shipments should be identified accordingly and sent certified mail.

Standard Form 1203a—Property Shipped Copy (Yellow)—Retain in origin ITO's file pending receipt of the accounting copy. Upon receipt:

For DPM and ITGBL shipments entering the Defense Transportation System (DTS), annotate pieces, cube, and weight and forward to applicable outloading terminal with required supporting documents.

Using specific funds—Annotate pertinent data and forward with supporting documents to finance and accounting officer designated by the specific fund. If DPM or ITGBL shipment entering DTS reproduce one copy and forward accordingly.

4. It is requested that your comments/concurrence be provided NLT 28 September 1984. If there are any questions concerning this proposal, you may contact LT Julie Webb, SC, USN at (202) 756–1808.

Dated: July 30, 1984.

Nathan P. Berkley,

Colonel, GS, Director of Personal Property.

[FR Doc. 84-20494 Filed 8-1-84; 8:45 am]

BILLING CODE 3710-08-M

Department of the Army

Department of the Army Historical Advisory Committee; Meeting

1. In accordance with section 10(A)((2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting: Name of Committee: Department of the Army Historical Advisory Committee.

Date: September 28, 1984.

Place: Council Chamber, Association of the National Guard, 1 Massachusetts Ave, NW., Washington, D.C. 20001.

Time: 0900–1230—1400–1530.

Proposed Agenda

0900–1230—Review of historical activities.

1400–1530—Discussion of activities and business meeting of the committee.

Purpose of meeting: The committee will review the past year's historical activities based on reports and manuscripts received throughout the year and formulate recommendations through the Chief of Military History to the Chief of Staff, US Army and the Secretary of the Army for advancing the purposes of the Army Historical Program.

2. Meetings of the Advisory Committee are open to the public. Due to space limitations, attendance may be limited to those persons who have notified the Advisory Committee Management Office in writing, at least five days prior to the meeting of their intention to attend the September 28 meeting.

3. Any members of the public may file a written statement with the Committee before, during or after the meeting. To the extent that time permits the Committee Chairman may allow public presentations of oral statements at the meeting.

4. All communications regarding this Advisory Committee should be addressed to LTC Grady A. Smith, Advisory Committee Management Officer for the Chief of Military History, HQS, Department of the Army, Washington, D.C. 20314.

Dated: July 24, 1984.

Grady A. Smith, LTC, AGC,

Executive Officer.

[FR Doc. 84-20396 Filed 8-1-84; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (EIS) for a Regulatory Permit Action for the Proposed Development of a Sanitary Landfill in the City of Chicago, IL and Creation of a Nature and Conservation Park in the Village of Burnham, IL

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. Waste Management of Illinois, Inc., has applied to the U.S. Army Corps of Engineers for a permit under section 10 of the River and Harbor Act of 1899 and section 404 of the Clean Water Act. Waste Management proposes to develop a sanitary landfill near Lake Calumet and Torrence Avenue in Chicago, Illinois, and to create a nature and conservation park in the vicinity of the Grand Calumet River and Torrence Avenue in Burnham, Illinois. The Burnham Nature and Conservation Park is proposed as mitigation for wetland losses at the landfill sites. The landfill site consists of 289 acres, of which 87 acres are defined as wetlands under Corps of Engineers regulatory authority. The 150 acre park site contains 85 acres under Corps of Engineers authority.

2. In addition to the proposed sanitary landfill and nature park, the no action alternative will also be considered in detail. Under this alternative, denial of the permit would preclude development of the landfill in the 87 acres of wetlands under Corps of Engineers authority.

3. Public involvement has included issuance of a public notice in January 1983 announcing receipt of Waste Management's permit application for the proposed project. A public hearing was held in March 1984. Commenting parties included federal, state, and local agencies; citizen groups; and environmental groups. The decision to prepare an EIS was based upon concerns and objections expressed in statements at the public hearing and in written comments received during the comment period. A public notice informing interested parties of the EIS preparation was issued in May 1984.

4. Significant issues to be analyzed in depth are: destruction of wetland habitat; adverse impacts on nesting and migrating species of birds; impacts on state-listed endangered species; adequacy of the proposed mitigation; and effects of the landfill on the surrounding residential communities.

5. No formal scoping meeting will be held.

6. The DEIS is expected to be available to the public in March 1985.

7. Questions regarding the proposed action and DEIS may be directed to: Mr. Thomas Slowinski, U.S. Army Corps of Engineers, Chicago District, Regulatory Functions Branch, 219 South Dearborn Street, Chicago, Illinois 60604–1797 (312/353–6428).

Dated: July 24, 1984.

Frank R. Finch, P.E.,

LTC, Corps of Engineers, District Engineer.

[FR Doc. 84-20402 Filed 8-1-84; 8:45 am]

BILLING CODE 3710-HN-M

Executive Order 12372; Change of Program Names

AGENCY: Corps of Engineers, DOD.

ACTION: Notice of clarification.

SUMMARY: On June 24, 1983, the Corps of Engineers (Corps) published in the **Federal Register**, a Notice entitled "List of Programs Subject to Executive Order 12372, Intergovernmental Review of Federal Programs." Appendix A to that publication listed several Corps Civil Works Programs subject to the Executive Order. Two of those programs were broadly and inappropriately named, leading to the result that one Single Point of Contact (SPOC) requested opportunity to review post-planning design and construction reports.

The two programs are:

—Planning, Design and Construction of Civil Works Projects Specifically Authorized by Congress; and

—Continuing Authorities Program: Planning, Design and Construction of Small Projects Not Specifically Authorized by Congress (this subsumes seven programs for which Congress has delegated to the Executive Branch the authority to plan, design and construct certain types of small projects, subject to appropriations).

Action: Accordingly, to eliminate such confusion, these two programs are hereby renamed to:

Planning of Civil Works Projects for Specific Authorization by Congress; and

Planning of Small Projects Under the Discretionary Authorities of the Secretary of the Army/Chief of Engineers.

The Sublisting of Small Project Authorities remains unchanged.

FOR FURTHER INFORMATION CONTACT: Barry Kennedy, Planning Division, Directorate of Civil Works, Office of the Chief of Engineers (ATTN: DAEN–CWP–A), WASH, DC 20314.

SUPPLEMENTARY INFORMATION: The Corps has long coordinated the planning of Civil Works projects, and continues to do so, because planning is the decison-making process. The planning report is the document which is coordinated with interested and affected parties. It defines the scale, scope and impact of the project. It is the decision document. By contrast, the design and preconstruction processes, and related reports, are simply steps along the way to implement the authorized or approved plan. These reports are detailed, technical design documents, intended for internal agency review. Occasionally, the design and preconstruction processes reveal unforeseen problems which preclude implementation of the authorized or approved plan, without significant change in scale, scope or impact. In every such case, the project planning is recycled, for reformulation and

reevaluation, and coordination with States and/or other interested or affected parties is resumed.

Dated: July 19, 1984.

Paul W. Taylor,

Colonel, Corps of Engineers, Executive Director, Engineers Staff.

[FR Doc. 84-20395 Filed 8-1-84; 8:45 am]

BILLING CODE 3710-08-M

[ORLPD-R]

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Construction of Additional Hydroelectric Power Generating Facilities at Markland Locks and Dam, Kentucky

AGENCY: U.S. Army Corps of Engineers, Louisville District.

ACTION: Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: The proposed action is to construct additional hydroelectric power generation facilities at Markland Locks and Dam on the Ohio River at Gallatin County, Kentucky. The development would consist of a new powerhouse and intake structure and expanded substation and transmission facilities.

Three levels of development were selected for analysis. These consist of the addition of two, four, and six 38MW units. The alternative of adding up to three feet of daily ponding in the Markland pool will also be considered.

The DEIS will address a variety of issues, including but not limited to, water quality, terrestrial and aquatic flora and fauna, cultural resources, and socioeconomics as they would relate to the construction and operation of the proposed facility.

No public scoping meeting is currently planned. Various Federal, State and local agencies and interested organizations and individuals will be contacted to identify significant issues that should be discussed in the DEIS. The Louisville District estimates that the DEIS will be completed and available for public review in May 1985.

ADDRESS: Questions regarding the proposed action and the DEIS should be directed to Colonel Dwayne G. Lee, District Engineer, P.O. Box 59, Louisville, Kentucky 40201. Phone (502) 582-5601.

By Authority of the Secretary of the Army.

J.R. Sargeant,

LTC, Corps of Engineers, Acting District Engineer

[FR Doc. 84-20393 Filed 8-1-84; 8:45 am]

BILLING CODE 3710-JB-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

International Petroleum Refining and Supply 6COX00242; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to International Petroleum Refining and Supply of Denver, Colorado. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.93, 212.186, 210.62(c), 205.202 and 212.182. The total violation alleged during November 1974 through December 1980 is $5,228,439.94.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, Attn: John W. Sturges, Director, 440 S. Houston, Room 306, Tulsa, Oklahoma 74127.

Within 15 days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW. Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Tulsa, Oklahoma on the 11th day of July 1984.

John W. Sturges,

Director, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 84-20411 Filed 8-1-84; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Order of Disallowance to Marathon Oil Company and Opportunity for Objection

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice.

SUMMARY: Marathon Oil Company ("Marathon") of Findlay, Ohio is a major refiner engaged in the production and refining of crude oil, and the marketing of petroleum products. Marathon was therefore subject to the Mandatory Petroleum Price and Allocation Regulations which were in effect through January 27, 1981.

The Office of Special Counsel ("OSC") of the Economic Regulatory Administration of the Department of Energy ("DOE") conducted an audit of Marathon and determined that the firm violated certain of these regulations during 1979.

Pursuant to 10 CFR 205.192, OSC hereby gives notice of a Proposed Order of Disallowance ("POD") issued to Marathon and of an opportunity for objection thereto.

FOR FURTHER INFORMATION CONTACT: Ann C. Grover, Associate Solicitor, Economic Regulatory Administration, Department of Energy, Room 3H-049, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-4387.

Copies of the POD with confidential information deleted may be obtained from the Department of Energy, Freedom of Information Reading Room, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW., Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION:

I. Issuance of Proposed Order of Disallowance

In 1979, Marathon reported transactions between affiliated entities in which it imported crude oil originating from countries where it lifted equity crude oil or received crude oil on a preferential basis, or imported crude oil received in exchange for such crude oil. Costs claimed in these transactions are subject to disallowance where Marathon's weighted average (by volume) costs of all crude oil of the same type exceeds the DOE's maximum price for the crude type in the month.

As a result of its audit, OSC determined that Marathon overstated its costs by $17,634,577.54. As a remedy for this violation, the POD states that Marathon's costs should be disallowed by the amounts which exceed DOE's representative prices in the months in which the costs were incurred and that Marathon should recalculate its costs and make refunds of any resulting overcharges, plus interest.

II. Notice of Objection

In accordance with 10 CFR 205.193, any aggrieved person may file a Notice of Objection to the above described POD with DOE's Office of Hearings and Appeals within 15 days after the date of this publication. A person who fails to file a Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law stated in the POD. If a Notice of Objection is not filed in accordance with § 205.193, the POD may be issued as a final Order of Disallowance.

All Notices of Objection, Statements of Objections, Responses, Replies, Motions, and other documents required to be filed with the Office of Hearings and Appeals shall be sent to: Office of

Hearings and Appeals, Department of Energy, Room 6F–055, 1000 Independence Avenue, SW., Washington, D.C. 20585.

No confidential information shall be included in a Notice of Objection.

Copies of all Notices of Objection, Statements of Objections and all other pleadings filed by an aggrieved person or other participant shall be served on: Ann C. Grover, Associate Solicitor, Economic Regulatory Administration, Department of Energy, Room 3H–049, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Issued in Washington, D.C., July 20, 1984.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 84–20390 Filed 8–1–84; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–59161A; FRL–2644–8]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of two applications for test marketing exemptions (TMEs) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME–84–61 and TME–84–62. The test marketing conditions are described below.

EFFECTIVE DATE: July 25, 1984.

FOR FURTHER INFORMATION CONTACT: Candy Brassard, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–202, 401 M Street SW., Washington, DC. 20460, (202–382–3480).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and 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 and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME–84–61 and TME–84–62. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time periods and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volumes, numbers of workers exposed to the new chemicals, and the levels and durations of exposure must not exceed those specified in the applications. All other conditions and restrictions described in the applications and in this notice must be met.

TME–84–61

Date of Receipt: June 14, 1984.

Notice of Receipt: June 22, 1984 (49 FR 25675).

Voluntary Suspension of Review Period: June 28 through July 11, 1984.

Applicant: Confidential.

Chemical: (G) Polymer of adipic acid, polyalkalene glycol and alkanepolyol.

Use: (g) Precursor in the manufacture of polyurethanes.

Production Volume: Confidential.

Number of Customers: 3.

Worker Exposure: Confidential.

Test Marketing Period: 6 months.

Commencing on: July 25, 1984.

Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure and environmental release of the test market substance are expected to be low. The test market substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

TME–84–62

Date of Receipt: June 14, 1984.

Notice of Receipt: June 22, 1984 (49 FR 25675).

Applicant: Confidential.

Chemical: (G) Phenolic modified rosin ester.

Use: (G) Functional additive for photolithographic material.

Production Volume: Confidential.

Number of Customers: Confidential.

Worker Exposure: Confidential.

Test Marketing Period: 6 months.

Commencing on: July 25, 1984.

Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure and environmental release of the test market substance are expected to be low. The test market substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an 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.

Dated : July 25, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84–20435 Filed 8–1–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[PR Docket No. 84–691]

In the Matter of the Items Before the International Maritime Organization Concerning Future Amendments to the Safety of Life at Sea Convention, 1974; Inquiry

Adopted: July 12, 1984.

Released: July 27, 1984.

By the Commission: Commissioner Rivera absent.

Purpose

1. The Commission is issuing this Notice to inform the public and to obtain the comments of interested parties about matters to be considered by the International Maritime Organization (IMO) at the Twenty-eighth Session of the Subcommittee on Radiocommunications (SCR) in September 1984. As we have done in the past,[1] we seek public comment as an aid to formulation of the U.S. position in this international forum.

Background

2. During its meetings the SCR considers reports prepared by its various working groups on technical and operational matters. Based on this information the SCR makes formal proposals to the Maritime Safety Committee (MSC) for amendment of the regulations or recommendations of the SOLAS Convention.[2] Amendments

[1] In Docket 20274, Seven Notices of Inquiry have been adopted by the Commission. In Docket 82–594, a Notice of Inquiry was adopted August 23, 1982, FCC 82–395, 47 FR 40227. In Docket 83–430, a Notice of Inquiry was adopted April 27, 1983, FCC 83–205, 48 FR 22632. In Docket 83–141, a Notice of Inquiry was adopted February 7, 1984, FCC 84–45, 49 FR 6994.

[2] The Maritime Safety Committee is the technical and operational decisionmaking body of the IMO and acts on recommendations received from the various Subcommittees of the organization. It is composed of representatives of the Contracting Governments.

adopted by the MCS [3] come into force automatically.

3. The SCR is holding meetings at 6 month intervals during the 1984–1985 biennium. The SCR at its Twenty-seventh Session established two working groups: an Operational Group and a Technical Group to meet, respectively, in the week preceding and following its regularly scheduled meetings. This was necessitated by:

—The 1990 implementation date for the Future Global Maritime Distress and Safety System (FGMDSS); [4]
—The need to prepare IMO Recommendations concerning the 1987 World Administrative Radio Conference for the Mobile Services;[5]
—The preparation of IMO responses to Recommendations and Resolutions of the 1983 Mobile WARC.[6]

The SOLAS Convention will define for the next several decades the radio equipment which will be mandatorily carried on most vessels engaged in international maritime trade. IMO's recommendations influence heavily the decisions of the International Telecommunication Union's (ITU) world administrative radio conferences.[7] Consequently, it is important that these recommendations take account of U.S. views.

4. This notice will only address those matters which have the greatest impact on the U.S. maritime community and which fall within the regulatory purview of the Commission. The Notice will consider the following FGMDSS subject to areas:

—Transition Plan and Introduction of Future System
—Equipment Performance Standards
—Satellite Emergency Position Indicating Radio Beacons (EPIRB's)

Transition Plan and Introduction of Future System

5. The Transition Plan is intended to serve as a guideline for Administrations involved in the development, testing, evaluating and implementation of the future system and its main subsystems. The objective of the plan is to provide the safest and most practical way of introducing the various elements of the FGMDSS in conjunction with the present distress and safety arrangements as one replaces the other. The new system is scheduled to be fully operational by about 1990. The Commission participated in the development of and agrees with the basic elements in the plan.

6. Annexes I and II of the plan describes the schedule for implementation and specific actions to be taken during the transition period. The annexes are attached to this notice in Appendix A. As indicated in a earlier notice [8] we have initiated several proceedings in many of the areas requiring action by administrations.

7. Annex I describes the time scale for the development and mandatory carriage of the radio communications equipment, availability of the shore-based search and rescue (SAR) communication arrangement, and the international agreements which must come into force. Some administrations at the 27th SCR meeting preferred that the FGMDSS be implemented on a specific date (about 1990); others regarded such a date as merely a goal and wished a gradual transition to enable an appropriate amortization of existing equipment. A phased introduction of new equipment could reduce problems associated with equipment production and installation. Agreement could not be reached on the amortization period. Members were asked to submit their proposals to enable the SCR to consider any necessary changes at its Twenty-eighth Session.

8. Annex II lists the actions to be completed by IMO and administrations in the 1984–85, 1986–87, 1988–89 and 1990 time periods if the FGMDSS is to be implemented in 1990. The MSC was requested to approve and circulate the plan, with amendments prepared by the SCR at its Twenty-eighth Session, to member governments. Comments are requested concerning these annexes.

9. The SCR further developed a provisional Draft Assembly Resolution on guidelines and principles to assist administrations in the introduction of new equipment and use of operational procedures during the transition period. The draft resolution is attached as Appendix B. This plan requires compatibility with the existing distress system until full implementation of the FGMDSS is complete. It will allow administrations to act in concert and will provide a common basis for granting equivalents or exemptions, as new elements of the FGMDSS are introduced. Note that U.S. flag vessels will not be able to take advantage of any relief from presently mandated equipment carriage or operational requirements until the Congress adopts changes to the Communications Act of 1934, as amended.[9]

Equipment Performance Standards

10. The SCR at its Twenty-seventh Session gave further consideration to the development of radio equipment performance standards to satisfy the carriage requirements of the FGMDSS. The FGMDSS Technical Working Group has recommended that performance standards for General Requirements and Ship Earth Stations be approved by the SCR. These standards are attached as Appendixes C and D, respectively. preliminary draft performance standards have also been prepared for shipborne VHF and MF radio installations capable of voice and digital selective calling (DSC). Members were invited to submit their comments and proposals on these standards at the next SCR meeting. See Appendixes E and F, respectively. A performance standard for the MF/HF radio equipment capable of voice, narrow-band direct-printing (NBDP) and DSC will be prepared at the next session. Public comments on these performance standards are requested and will be used in the development of the U.S. position.

11. The Technical Working Group considered several other matters, including the definitions of the various

[3] The SOLAS Convention, 1974, can be amended by a Conference of Contracting Governments convened for that purpose or by Contracting Governments participating in an expanded MSC. The amendment process is contained in Article VIII, International Convention for the Safety of Life at Sea, 1974, which provides that Contracting Governments are entitled to participate whether or not they are members of IMO, for the consideration and adoption of amendments.

[4] The FGMDSS is expected to become fully operational about the year 1990 and to replace the present system which relies primarily on ship-to-ship distress alerting using Morse code. The future system will, while retaining a ship-to-ship alerting system for distances of about 100 miles, rely mainly on ship-to-shore distress alerting using polar orbiting satellites, geostationary satellites and high frequency terrestrial systems employing digital selective calling (DSC).

[5] FCC Public Notice 1662 of Jan 5, 1983, indicates that this WARC is presently scheduled for the fall of 1987 for 6 weeks.

[6] FCC Public Notice 5295 of July 13, 1983, is the Staff Report to the Commission on the results of the 1983 WARC for the Mobile Service.

[7] The 1983 World Administrative Radio Conference for Mobile Services adopted all the frequency designations requested by IMO except for an 8 MHz radio-telephone frequency exclusively for distress and safety purposes. To assure that the 8 MHz frequency requirement would be accommodated, Recommendation No. 314 was adopted by the conference. It requested the ITU Administrative Council to include it on the agenda for the 1987 Mobile WARC.

[8] Docket 84–141, Notice of Inquiry, adopted February 7, 1984, FCC 84–45, 49 FR 6994, paragraph 6.

[9] The Commission submitted to the 97th Congress, in our Track II legislative proposals, changes to the Communications Act of 1934 to accommodate amendments to the 1974 SOLAS Convention. The Track II proposals, if enacted, would have required vessels subject to international agreements to be fitted with radio equipment conforming to such agreements and vessels subject to national statutes to be fitted with radio facilities as prescribed by the Commission. The Commission plans to continue efforts to have appropriate legislation adopted.

sea areas, the cost of the equipment for each sea area and a description of the various trials which may be necessary before radio equipment can be recommended for carriage in the FGMDSS. These matters are in their early stages of development and will be considered in more detail as system development progresses.

Satellite Emergency Position Indicating Radio Beacons (EPIRB's)

12. Several documents were submitted to the Twenty-seventh Session of the SCR concerning the use of satellite EPIRB's. A small group was formed to consider the satellite EPIRB system to be used in the FGMDSS. INMARSAT requested clarification of IMO's specific requirements for the second generation of INMARSAT satellites, particularly with regard to polar orbiting satellite facilities. The group expressed an interest to include a 406 MHz transponder on the geostationary INMARSAT space segment designed to operate in the 1.5–1.6 GHz maritime mobile satellite bands. Since specific cost information was not available, a recommendation was not made. However, INMARSAT was asked to seek information from bidders on the second generation space segment regarding cost and technical feasibility of including a 406 MHz transponder.

13. The International Radio Consultative Committee (CCIR) previously indicated that further study was needed with respect to a number of important issues concerning common frequencies for satellite EPIRB's operating through an integrated system using geostationary and polar orbiting satellites. The group concluded that it would be desirable to conduct further studies with respect to a joint polar orbiting and geostationary satellite system. (See Appendix G). The SCR preferred that a single international organization be responsible for all the satellite systems required by the FGMDSS, including a satellite EPIRB system. INMARSAT could be that organization. Nevertheless, taking into account the demonstrated ability of the COSPAS–SARSAT [10] polar orbiting system to assist in rescuing survivors from distress cases at sea, a draft resolution concerning the use of this system was prepared. The SCR invited the MSC to approve this resolution (See Appendix G) and circulate it to all Member Governments recommending that they take steps to implement the resolution. We note that the demonstrated effectiveness of the COSPAS-SARSAT polar orbiting satellites in detecting ship EPIRB and aircraft ELT (emergency locator transmitter) signals has been adversely affected by false alarms, which account for 98 percent of the signals detected. It seems likely the the new 406 MHz ELT/EPIRB will also be susceptible to false activation, which is undermining the value of the present system. A solution will require coordination among users, i.e., maritime aviation and other potential user services. We invite comments as to how the false alarm problem can be cured so that the 406 MHz frequency can retain its value in emergencies.

Conclusion, Comments and Participation of Interested Parties

14. Comments are requested concerning all of these matters which are under active consideration by IMO. The Commission is represented on the IMO Delegation and participates in many of the Subcommittee's working groups. Interested parties who wish to participate directly in the preparation of the U.S. positions on matters coming before the Subcommittee may attend the public meetings of the U.S. Working Group on the Subcommittee of Radiocommunications. Meeting time, date and location are published in the **Federal Register** 14 days prior to the meeting date.

15. In view of the foregoing, this Notice of Inquiry is hereby adopted. Authority for this action is contained in section 4(i), 303 and 403 of the Communications Act of 1934, as amended.

16. Interested persons may file comments on or before August 16, 1984; and reply comments shall be filed pursuant to § 1.419(b) which requires, among other things, an original and 5 copies of all findings. All relevant and timely comments and reply comments filed in this Docket will be considered by the Commission before further action is taken. The Commission may also take into account other pertinent information before it in addition to specific comments elicited by the Notice of this proceeding.

17. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

18. For further information concerning this matter contact Robert C. McIntyre at (202) 632–7175.

[10] COSPAS-SARSAT is an experimental satellite program using polar orbiting satellites operating on 121.5 MHz and 406.1 MHz. Currently four satellites are in orbit. Participating Governments include USA, Canada, Norway, France and USSR. Several other Administrations participate as technical investigators.

Note.—Appendices A–G, Draft Transition Plan and Draft Assembly Resolutions, will not be printed herein due to the ongoing effort to minimize publishing costs. These Appendices may be reviewed in the FCC Dockets Branch, Rm. 239, and the FCC Library, Rm. 639, both located at 1919 M. St., NW., Washington, D.C. 20554, and are on file with the original document at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. In addition, copies of this Notice of Inquiry, complete with the Appendices, may be obtained from the International Transcription Service, 1919 M St., NW., Washington, D.C. 20554, Tel. No.: (202) 296–7322.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84–20387 Filed 8–1–84; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB For Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of information collection: Application Pursuant to section 19 of the Federal Deposit Insurance Act (OMB No. 3064–0018).

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF–83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Judy McIntosh, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to John Keiper, Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429, telephone (202) 389–4446.

SUMMARY: The FDIC is requesting OMB to extend to August 31, 1987 the expiration date of the form FDIC 6710/07 used by insured banks to obtain FDIC's consent to employ persons who

have been convicted of crimes involving dishonesty or breach of trust. Such consent is required under section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829). The form has been assigned OMB No. 3064–0018 which currently expires on September 30, 1984. It is estimated that the annual burden on the average bank to prepare the form is 16 hours.

Dated: July 25, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–20424 Filed 8–1–84; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the folowing agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–000150–076.

Title: Trans-Pacific Freight Conference of Japan/Korea.

Parties:

American President Lines, Ltd.
Barber Blue Sea Line
Hapag-Lloyd AG
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Korea Marine Transport Co., Ltd.
Lykes Bros. Steamship Company, Inc.
Mitsui O.S.K. Lines, Ltd.
A.P. Moller Maersk Line
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.
Showa Line, Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co, Ltd.

Synopsis: The proposed agreement would establish independent action procedures for the conference membership.

Agreement No.: 202–003103–075.

Title: Japan/Korea-Atlantic & Gulf Freight Conference.

Parties:

Barber Blue Sea Line
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Lykes Bros. Steamship Company, Inc.
Mitsui O.S.K. Lines, Ltd.
A.P. Moller Maersk Line
Neptune Orient lines, Ltd.
Nippon Yusen Kaisha
Orient Overseas Container Line, Inc.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed agreement would establish independent action procedures for the conference membership.

Agreement No.: 202–005700–036.

Title: New York Freight Bureau.

Parties:

Barber Blue Sea Line
Japan Line, Ltd
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha
United States Lines, Inc.
Yamashita-Shinnahon Steamship Co., Ltd.

Synopsis: The proposed agreement would establish independent action procedures for the conference membership.

Agreement No.: 202–007540–042.

Title: United States Atlantic & Gulf/ Southeastern Caribbean Conference.

Parties:

Concorde/Nopal Line
Puerto Rico Marine Management, Inc.
Sea-Land Service
Shipping Corporation of Trinidad and Tobago, Ltd.

Synopsis: The proposed agreement would reduce from ten calendar days to two business days the amount of time required to take independent action and reduce from two business days to one business day the amount of time a member has to respond to a telephone poll conducted by the conference staff. The parties have requested a shortened review period.

Agreement No.: 202–008190–015.

Title: Japan-Puerto Rico & Virgin Islands Freight Conference.

Parties:

Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed agreement would establish independent action procedures for the conference membership.

Agreement No.: 212–009938–006.

Title: Companhia de Navegacao Lloyd Brasileiro—Companhia de Navegacao Maritima Netumar Association Agreement.

Parties:

Companhia de Navegacao Lloyd Brasileiro
Companhia de Navegacao Maritima Netumar

Synopsis: The proposed agreement would eliminate the existing termination date of September 30, 1984, extending the agreement indefinitely.

By Order of the Federal Maritime Commission.

Dated: July 27, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–20382 Filed 8–1–84; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Carnival Cruise Lines, Inc. and Sunbury Assets, Inc., c/o Carnival Cruise Lines, 3915 Biscayne Boulevard, Miami, Florida 33137.

Dated: July 30, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–20423 Filed 8–1–84; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

Policy Statement Regarding Advertising Substantiation Program

AGENCY: Federal Trade Commission.

ACTION: The Federal Trade Commission has issued a Policy Statement regarding its advertising substantiation program.

SUMMARY: The Federal Trade Commission has issued a Policy Statement that articulates its policy regarding the legal requirement pursuant to section 5 of the Federal Trade Commission Act that advertisers and ad agencies have a reasonable basis for their objective claims before their initial

dissemination. This Policy Statement is a result of a review of the comments filed in response to a public inquiry that the Commission initiated in March 1983. The Policy Statement reaffirms the Commission's commitment to the reasonable basis requirement and at the same time explains several refinements that will lead to a more efficient program of law enforcement, with lower costs to the public, the advertising industry, and the agency.

FOR FURTHER INFORMATION CONTACT: Collot Guerard, Federal Trade Commission, Bureau of Consumer Protection, Washington, D.C. 20580, 202–376–8648.

FTC Policy Statement Regarding Advertising Substantiation

Introduction

On March 11, 1983, the Commission published a notice requesting comments on its advertising substantiation program.[1] To facilitate analysis of the program, the notice posed a number of questions concerning the program's procedures, standards, benefits, and costs, and solicited suggestions for making the program more effective. Based on the public comments and the staff's review, the Commission has drawn certain conclusions about how the program is being implemented and how it might be refined to serve better the objective of maintaining a marketplace free of unfair and deceptive acts or practices. This statement articulates the Commission's policy with respect to advertising substantiation.

The Reasonable Basis Requirement

First, we reaffirm our commitment to the underlying legal requirement of advertising substantiation—that advertisers and ad agencies have a reasonable basis for advertising claims before they are disseminated.

The Commission intends to continue vigorous enforcement of this existing legal requirement that advertisers substantiate express and implied claims, however conveyed, that make objective assertions about the item or service advertised. Objective claims for products or services represent explicitly or by implication that the advertiser has a reasonable basis supporting these claims. These representations of substantiation are material to consumers. That is, consumers would be less likely to rely on claims for products and services if they knew the advertiser did not have a reasonable basis for believing them to be true.[2] Therefore, a firm's failure to possess and rely upon a reasonable basis for objective claims constitutes an unfair and deceptive act or practice in violation of section 5 of the Federal Trade Commission Act.

Standards for Prior Substantiation

Many ads contain express or implied statements regarding the amount of support the advertiser has for the product claim. When the substantiation claim is express (*e.g.*, "tests prove", "doctors recommend", and "studies show"), the Commission expects the firm to have at least the advertised level of substantiation. Of course, an ad may imply more substantiation than it expressly claims or may imply to consumers that the firm has a certain type of support; in such cases, the advertiser must possess the amount and type of substantiation the ad actually communicates to consumers.

Absent an express or implied reference to a certain level of support, and absent other evidence indicating what consumer expectations would be, the Commission assumes that consumers expect a "reasonable basis" for claims. The Commission's determination of what constitutes a reasonable basis depends, as it does in an unfairness analysis, on a number of factors relevant to the benefits and costs of substantiating a particular claim. These factors include: the type of claim, the product, the consequences of a false claim, the benefits of a truthful claim, the cost of developing substantiation for the claim, and the amount of substantiation experts in the field believe is reasonable. Extrinsic evidence, such as expert testimony or consumer surveys, is useful to determine what level of substantiation consumers expect to support a particular product claim and the adequacy of evidence an advertiser possesses.

One issue the Commission examined was substantiation for implied claims. Although firms are unlikely to possess substantiation for implied claims they do not believe the ad makes, they should generally be aware of reasonable interpretations and will be expected to have prior substantiation for such claims. The Commission will take care to assure that it only challenges reasonable interpretations of advertising claims.[3]

Procedures for Obtaining Substantiation

In the past, the Commission has sought substantiation from firms in two different ways: Through industry-wide "rounds" that involved publicized inquiries with identical or substantially similar demands to a number of firms within a targeted industry or to firms in different industries making the same type of claim; and on a case-by-case basis, by sending specific requests to individual companies under investigation. The Commission's review indicates that "rounds" have been costly to both the recipient and to the agency and have produced little or no law enforecment benefit over a case-by-case approach.

The Commission's traditional investigatory procedures allows the staff to investigate a number of firms within an industry at the same time, to develop necessary expertise within the area of investigation, and to announce our activities publicly in circumstances where public notice or comment is desirable. The Commission intends to continue undertaking such law enforcement efforts when appropriate. However, since substantiation is principally a law enforcement tool and the Commission's concern in such investigations is with the substantiation in the *advertiser's* possession, there is little, if any, information that the public could contribute in such investigations. Therefore, the Commission anticipates that substantiation investigations will rarely be made public before they are completed.

Accordingly, the Commission has determined that in the future it will rely on nonpublic requests for substantiation directed to individual companies via an informal access letter or, if necessary, a formal civil investigative demand. The Commission believes that tailored, firm-specific requests, whether directed to one firm or to several firms within the same industry, are a more efficient law enforcement technique. The Commission cannot presently foresee circumstances under which the past approach of industry-wide rounds would be appropriate in the ad substantiation area.

Relevance of Post-Claim Evidence in Substantiation Cases

The reasonable basis doctrine requires that firms have substantiation before disseminating a claim. The Commission has on occasion exercised

[1] 48 FR 10471, March 11, 1983.

[2] Nor presumably would an advertiser have made such claims unless the advertiser thought they would be material to consumers.

[3] Individual Commissioners have expressed differing views as to how claims should be interpreted so that advertisers are not held to outlandish or tenuous interpretations. Notwithstanding these variations in approach, the focus of all Commissioners on reasonable interpretations of claims is intended to ensure that advertisers are not required to substantiate claims that were not made.

its discretion, however, to consider supporting materials developed after dissemination.[4] The Commission has not previously identified in one document the circumstances in which it may, in its discretion, consider post-claim evidence in substantiation cases.[5] Such guidance can serve to clarify the program's actual operation as well as focus consideration of post-claim evidence on cases in which it is appropriate.

The Commission emphasizes that as a matter of law, firms lacking a reasonable basis before an ad is disseminated violate section 5 of the FTC Act and are subject to prosecution. The goal of the advertising substantiation requirement is to assure that advertising is truthful, however, and the truth of falsity of a claim is always relevant to the Commission's deliberations. Therefore, it is important that the agency retain the discretion and flexibility to consider additional substantiating evidence, not as a substitute for an advertiser's prior substantiation, but rather in the following circumstances:

- When deciding, before issuance of a complaint, whether there is a public interest in proceeding against a firm;
- When assessing the adequacy of the substantiation an advertiser possessed before a claim was made; and
- When deciding the need for or appropriate scope of an order to enter against a firm that lacked a reasonable basis prior to disseminating an advertisement.

First, using post-claim evidence to evaluate the truth of a claim, or otherwise using such evidence in deciding whether there is a public interest in continuing an investigation or issuing a complaint, is appropriate policy. This does not mean that the Commission will postpone action while firms create post-claim substantiation to prove the truthfulness of claims, nor does it mean that subsequent evidence of truthfulness absolves a firm of liability for failing to possess prior substantiation for a claim. The Commission focuses instead on whether existing evidence that claims are true should lead us in the exercise of our prosecutorial discretion to decline to initiate a law enforcement proceeding. If available post-claim evidence proves that the claim is true, issuing a complaint against a firm that may have violated the prior substantiation requirement is often inappropriate, particularly in light of competing demands on the Commission's resources.

Second, post-claim evidence may indicate that apparent deficiencies in the pre-claim substantiation materials have no practical signficance. In evaluating the adequacy of prior substantiation, the Commission will consider only post-claim substantiation that sheds light on pre-existing substantiation. Thus, advertisers will not be allowed to create entirely new substantiation simply because their prior substantiation was inadequate.

Finally, the Commission may use post-claim evidence in determining the need for or appropriate scope of an order to be entered against a firm that lacked a reasonable basis. Thus, when additional evidence offered for the first time at trial suggests that the claim is true, the Commission may frame a narrower order than if there had been no post-claim evidence.

The Commission remains committed to the prior substantiation requirement and further believes that these discretionary factors will provide necessary flexibility. The Commission will consider post-claim evidence only in the circumstances listed above. But, whether it will do so in any particular case remains within its discretion.

Self-Regulation Groups and Government Agencies

The Commission traditionally has enjoyed a close working relationship with self-regulation groups and government agencies whose regulatory policies have some bearing on our law enforcement initiatives. The Commission will not necessarily defer, however, to a finding by a self-regulation group. An imprimatur from a self-regulation group will not automatically shield a firm from Commission prosecution, and an unfavorable determination will not mean the Commission will automatically take issue, or find liability if it does. Rather the Commission will make its judgment independently, evaluating each case on its merits. We intend to continue our useful relationships with self-regulation groups and to rely on the expertise and findings of other government agencies in our proceedings to the greatest extent possible.

Issued: July 27, 1984.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 84-20445 Filed 8-1-84; 8:45 am]

BILLING CODE 6750-01

[4] The Commission's evidentiary rule, 16 CFR 3.40, has sometimes been interpreted as precluding introduction of post-claim substantiation. In fact, it does not. Section 3.40 only provides a sanction against the introduction of evidence that should have been produced in response to a subpoena, but was not.

[5] The distinction between pre-claim and post-claim evidence is only relevant when the charge is lack of substantiation. For other charges, such as falsity, when evidence was developed is irrelevant to its admissibility at trial.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food And Drug Administration

[Docket No. 82C-0399]

Polymer Technology Corp.; Withdrawal of Color Additive Petitions

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal without prejudice of the color additive petition (CAP 3C0165) for use of D&C Green No. 6 and D&C Yellow No. 11 in contact lenses, and the withdrawal without prejudice of those portions of the color additive petition (CAP 3C0163) that requested use of D&C Green No. 6 and D&C Yellow No. 11 in contact lenses. These petitions were filed by Polymer Technology Corp.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 28, 1983 (48 FR 4051), FDA announced that three color additive petitions (CAP 3C0163, 3C0164, and 3C0165) had been filed by Polymer Technology Corp., 33 Industrial Way, Wilmington, MA 01887, proposing that the color additive regulations be amended to provide for the safe use of D&C Green No. 6, D&C Yellow No. 11, and D&C Red No. 17 for coloring contact lenses. The petitions were filed under section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376).

In the Federal Register of March 29, 1983 (48 FR 13020), FDA issued a final rule listing D&C Green No. 6 for use as a color additive for coloring contact lenses (21 CFR 74.3206). FDA issued this regulation in response to several color additive petitions for use of D&C Green No. 6 in contact lenses, including CAP 3C0164. Thus, the agency completed final action in response to petition CAP 3C0164 with the publication of the listing regulation for D&C Green No. 6 in the Federal Register, and the request for the use of D&C Green No. 6 in CAP's 3C0163 and 3C0165 is now unnecessary.

Recently, Polymer Technology Corp. requested the withdrawal without prejudice of the color additive D&C Yellow No. 11, which is a subject of its petitions CAP 3C0165, for use of D&C Green No. 6 and D&C Yellow No. 11; and CAP 3C0163 for use of D&C Green No. 6, D&C Yellow No. 11, and D&C Red No. 17 for coloring contact lenses.

The agency concludes that publication of this withdrawal notice for D&C Yellow No. 11 for use in contact lenses completes final action in response to petition CAP 3C0165 because the other subject color additive of the petition, D&C Green No. 6, has been regulated for coloring contact lenses. Therefore, petition CAP 3C0165 is considered by the agency to be withdrawn without prejudice to a future filing.

The agency advises that D&C Red No. 17, a subject color additive of petition CAP 3C0163 and other petitions, is currently being evaluated for use in coloring contact lenses. Accordingly, that portion of the color additive petition (CAP 3C0163) pertaining to the proposed use of D&C Red No. 17 remains filed pending final agency action on the petition.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706(d), 74 Stat. 402–403 (21 U.S.C. 376(d))), the following notice is issued:

In accordance with § 71.6 *Extension of time for studying petition; substantive amendments; withdrawal of petition without prejudice* of the procedural color additive regulations (21 CFR 71.6), Polymer Technology Corp., 33 Industrial Way, Wilmington, MA 01887, has withdrawn its petition (CAP 3C0165) for use of D&C Green No 6. and D&C Yellow No. 11, and has withdrawn portions of the petition (CAP 3C0163) for use of D&C Green No. 6, and D&C Yellow No. 11. That portion of the petition (CAP 3C0163) pertaining to the use of D&C Red No. 17 for coloring contact lenses is still under review.

Dated: July 25, 1984.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-20380 Filed 8-1-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

California; Realty Action Exchange of Public Land in San Diego County

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and management Act of 1976, 43 U.S.C. 1716:

San Bernardino Meridian, California

T. 11 S., R. 2 W.,
Sec. 19, Lots 4, 5 and 8.
Containing 86.97 acres.

In exchange, the federal government will acquire non-Federal lands in San Diego County from the trust for public Land, 82 Second Street, San Francisco, California 94105–3489. These lands are described as follows:

San Bernardino Meridian, California

T. 16 S., R. 7 E.,
Sec. 16, N½NW¼NE¼, SW¼NW¼NE¼, S½NE¼NE¼, NW¼SE¼NE¼, NE¼NW¼, N½SW¼NW¼, SW¼SW¼NW¼, NW¼SE¼NW¼, SW¼NW¼SW¼, NW¼SW¼SW¼, NE¼SW¼, NE¼SE¼SW¼, E½NW¼ SE¼SW¼,
Sec. 20, NE¼SE¼;
Sec. 21, W½SW¼.
Containing 595.00 acres.

The purpose of this exchange is to obtain non-Federal lands for use in Federal programs. This exchange conforms with the Bureau planning for the land involved. The public interest will be well served by making this exchange. The values of the lands to be exchanged are approximately equal and the acreage will be adjusted and/or money will be used to equalize values upon completion of the final appraisal of the lands.

The terms and conditions applicable to this exchange are:

1. The exchange involves surface and mineral estates.

2. The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States (act of August 30, 1890, 43 U.S.C. 945).

The publication of this notice in the **Federal Register** shall segregate the public lands described herein from all other forms of appropriation and entry under the public land laws and the mining laws for a period of two years. The exchange is expected to be consummated before the end of that period.

Detailed information concerning this exchange, including the planning documents, environmental assessment and the land report is available for review at the Bureau of Land Management's California Desert District office, 1695 Spruce Street, Riverside, California 92507 and at the El Centro Resource Area office, 333, S. Waterman Avenue, El Centro, California 92243.

The publication date of this notice will commence the 45 day comment period. For a period of 45 days after publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, California Desert District, 1969 Spruce Street, Riverside, California 92507. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: July 24, 1984.

Hugo Riecken,

Acting District Manager.

[FR Doc. 84-20387 Filed 8-1-84; 8:45 am]

BILLING CODE 4310-40-M

[W87621/W89133]

Intent To Amend the Big Sandy Management Framework Plan, Sweetwater County, WY

AGENCY: Bureau of Land Management, Interior.

ACTON: Notice.

SUMMARY: Notice is hereby given that an environmental assessment is being prepared to determine the acceptability of amending the Big Sandy MFP to authorize the sale of 160 acres of public lands (surface and mineral estates). The lands under consideration are within the Bureau of Land Management's Rock Springs District in Sweetwater County, Wyoming. This notice closes the land for up to 2 years from mineral location, but not from mineral leasing.

The following lands have been identified for possible direct sale to the Pacific Power & Light Company for use as a fly ash landfill site:

Sixth Principal Meridian, Wyoming

T. 21 N., R. 101 W.,
Sec. 24: SW¼.

The environmental assessment will be prepared by an interdisciplinary team which will determine the impact of the sale on present and future surface and mineral use on the involved lands and surrounding area.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the proposed sale if denied or cancelled, or the sale is consummated prior to that date.

DATES: The public is invited for a period of 30 days from the date of publication of this notice to submit written comments, including any issues for

consideration, to the folllowing address. The proposed decision and the time and place of the public meeting will be announced in the **Federal Register** at a later date.

Contact Address: Clinton Hanson, Big Sandy Resource Area Manager, BLM, Box 1170, Rock Springs, WY 82902; (307) 362-6422.

Donald H. Sweep,

District Manager.

[FR Doc. 84-20389 Filed 8-1-84; 8:45 am]

BILLING CODE 4310-22-M

[CA 7772]

Proposed Continuation of Withdrawal; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Army Corps of Engineers proposes that a 37-acre withdrawal for the Department of the Air Force, Los Angeles Air Force Station (also known as Fort MacArthur Military Reservation), continue for an additional 25 years. The land will remain closed to surface entry and mining. The land is located within an incorporated city and, therefore, in accordance with regulations, is not subject to leasing under the mineral leasing laws.

DATE: Comments should be received by October 31, 1984.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, California State Office, 2800 Cottage Way (Room E-2841), Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Dianna Storey, California State Office, (916) 484-4431.

The Department of the Army, Corps of Engineers, proposes that the existing land withdrawal made by the Executive Order of September 14, 1888, be continued for a period of 25 years pursuant to Section 204 of the Federal Land Policy and Management Act (FLPMA) of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The area involves approximately 37 acres of public land located 21 miles south of the City of Los Angeles in the community of San Pedro in Los Angeles County, affecting the following township:

San Bernardino Meridian

T. 5 S., R. 13 W.

Specific land description of the above area is available at the California State Office of the Bureau of Land Management in Sacramento.

The purpose of the withdrawal is to protect areas in support of the Los Angeles Air Force Station. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws. The land is located within an incorporated city and, therefore, is not subject to lease under the mineral leasing laws (43 CFR 3100.0-3). 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 Chief, Branch of Lands and Minerals Operations, California 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.

Sharon N. Janis,

Chief, Branch of Lands & Minerals Operations.

[FR Doc. 84-20394 Filed 8-1-84; 8:45 am]

BILLING CODE 4310-40-M

Office of the Secretary

Alaska Land Use Council; Meeting

As required by the Alaska National Interest Lands Conservation Act (ANILCA), Pub. L. 96-487, dated December 2, 1980, section 1201, paragraph (h), the Alaska Land Use Council will meet Thursday, September 13, 1984, at 9:00 a.m. in the Council Conference Room, located at 1689 C Street, Room 107, Anchorage, Alaska.

The agenda will include Council consideration of Proposed Bristol Bay Cooperative Management Plan and Draft Revised Environmental Impact Statement, recommendation on the selection of a site for the southeast Alaska Visitors Center, briefing on the Quartz Hill Mine Development Environmental Impact Statement, and proposed indorsement of the National Park Service's Yukon-Charley General Management Plan.

For further information contact: Alaska Land Use Council, P.O. Box 100120, Anchorage, Alaska 99510-0120, Telephone: (907) 272-3422, (FTS) 271-5485.

The public is invited to attend.

Dated: July 27, 1984.

Vernon R. Wiggins,

Federal Cochairman.

[FR Doc. 84-20468 Filed 8-1-84; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

[AA-50379-8]

Alaska Native Claims Selection; Chugach Natives, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d) (1983)(Amended 1984), notice is hereby given that a decision to issue conveyance (DIC) under the provisions of section 12(c) and 14(h)(8) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611(c), 1613(h)(8) (1976) (ANCSA), will be issued to Chugach Natives, Inc., for approximately 2,043 acres. The lands involved are located on:

Middleton Island, Alaska

Located approximately 80 miles southwest of Cordova, latitude 59°26' N., and longitude 146° 20' W.

Upon issuance, the DIC will be published once a week, for four (4) consecutive weeks, in the Cordova Times. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until September 4, 1984 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E (1983) (amended 1984) shall be deemed to have waived their rights.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-20478 Field 8-1-84; 8:45 am]

BILLING CODE 4310-JA-M

Utah; Availability of Draft Book Cliffs Resource Management Plan/ Environmental Impact Statement; Correction

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Availability of the Draft Environmental Impact Statement (DEIS) and notice of formal public hearing; correction.

SUMMARY: This document corrects a notice on the Draft Book Cliffs Resource Managment Plan/Environmental Impact Statement that appeared at page 21994 in the **Federal Register** of Thursday, May 24, 1984. The action is necessary to inform the public of the correct date for submission of comments on the draft document.

DATE: Comments on the document (DEIS) should be submitted by September 13, 1984. The original notice incorrectly stated that comments were due by September 6, 1984.

ADDRESS: Written comments on the DEIS should be sent to the Vernal District Manager (RMP), Bureau of Land Management, 170 South 500 East, Vernal, Utah 84078.

FOR FURTHER INFORMATION CONTACT: Curtis Tucker, Team Leader, Bureau of Land Management, 170 South 500 East, Vernal, UT 84078, Phone: (801) 789–1362.

SUPPLEMENTARY INFORMATION: A limited number of copies of the DEIS are available upon request from Mr. Tucker at the above address, or from the Utah State Office: Bureau of Land Management, Utah State Office, University Club Building, Public Room (13th Floor), 136 East South Temple, Salt Lake City, UT 84111.

Dated: July 27, 1984.

Donald C. Alvord,

Associate District Manager.

[FR Doc. 84–20479 Filed 8–1–84; 8:45 am]

BILLING CODE 4310–DQ–M

South Coast-Curry; Proposed Management Framework Plan Amendment and Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Plan Amendment to the South Coast-Curry Management Framework Plan, and Environmental Assessment.

SUMMARY: Pursuant to section 202 (c) 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 Public lands administered by the BLM on the Coos Bay North Spit, in the Coos Bay District. The amendment, and assessment address four alternatives for management of the Coos Bay North Spit.

Public reading copies will be available for review at the following locations:

Coos Bay Public Library, Coos Bay, Oregon
North Bend Public Library, North Bend, Oregon
Reedsport Public Library, Reedsport, Oregon
Coquille Public Library, Coquille, Oregon
Bandon Public Library, Bandon, Oregon
Library, Southwestern Oregon Community College, Coos Bay, Oregon
Library, University of Oregon, Eugene, Oregon
Library, Portland State University, 727 SW. Harrison, Portland, Oregon
Library, Oregon State University, Corvallis, Oregon
Bureau of Land Management, Office of Public Affairs, 825 NE. Multnomah Street, Portland, Oregon
Bureau of Land Management, Coos Bay District Office, 333 South Fourth, Coos Bay, Oregon 97420

A limited number of copies of the document are available upon request to the BLM Coos Bay District Office.

Written comments should be sent by October 1, 1984 to: District Manager, Attention: PEC Staff, Bureau of Land Management, 333 South Fourth, Coos Bay, Oregon, 97420

An open house will be held, Monday through Friday, August 20 through August 24, 1984 in the BLM's Coos Bay District Office. BLM personnel will be available to answer questions regarding the Plan Amendment and Environmental Assessment.

FOR FURTHER INFORMATION CONTACT: Bob Cooke, Planning and Environmental Coordinator, Coos Bay District Office, Telephone: (503) 269–5880.

SUPPLEMENTARY INFORMATION: Detailed information concerning the land use Plan Amendment, and the Environmental Assessment will be available for review at the Coos Bay District Office.

Dated: August 1, 1984.

Ron Sadler,

Acting District Manager.

[FR Doc. 84–20482 Filed 8–1–84; 8:45 am]

BILLING CODE 4310–33–M

Realty Action; Exchange of Public Lands and Mineral Interests in Lake County, CA

The following described public lands including surface and mineral rights, and the mineral estate on certain lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, (43 U.S.C. 1716):

Legal Description and Rights To Be Exchanged

T. 12 N., R. 5 W., MDM.
Section 19: SW¼SE¼, (Surface and Subsurface);
Section 20: SW¼NW¼, (Surface and Subsurface);
Section 29: S½SE¼, NW¼SE¼, (Surface and Subsurface);
Section 29: N½SW¼, S½NW¼, NW¼NW¼, (Subsurface);
Section 30: E½NE¼, (Subsurface).
Containing 480 acres, more or less.

In exchange for these lands and mineral interests, the Federal Government will acquire a tract of non-Federal land in Lake County from Homestake Mining Company of California. This tract, locally known as Jim Dollar Mountain is adjacent to a large block of public land and is described as follows:

Legal Description and Rights To Be Echanged

T. 12 N., R. 6 W., MDM.
Section 36: Lot 1, NW¼NE¼, (Surface and Subsurface);
Section 36: Lots 2–4, SW¼NE¼, W½SE¼, SE¼NW¼, SE¼NW¼, SW¼, (Subsurface).
Containing 459.58 acres.

The purpose of the exchange is to transfer out of Federal ownership the surface and subsurface estate that will be impacted by Homestake's McLaughlin Mine tailings pond and facilities. This will reduce the levels of Federal govement involvement and focus the monitoring and compliance authority with the State of California and local governments. The Bureau of Land Management will acquire a large parcel of non-Federal land, which is adjacent to a large block of public land known as the Knoxville Area. This consolidation of ownership provides for more effective management of the public lands. The exchange is in conformance with Bureau planning, and in the public interest.

The value of the lands and minerals to be exchanged will be approximately equal and the acreage will be adjusted or money will be used to equalize the values upon completion and approval of

the final appraisal of the lands and minerals.

The terms and conditions applicable to the exchange are:

1. The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. Those rights for powerline purposes as have been granted to the Pacific Gas and Electric Company, its successors or assigns by right-of-way grant CA 14669 under the Federal Land Policy and Management Act of 1976, (43 U.S.C. 1716). The U.S. hereby waives administration of this right-of-way CA 14669 in favor of patentee.

3. Those rights to the geothermal resource as have been granted to Thomas Hunt by Geothermal Lease CA 1092 under the Geothermal Steam Act of 1970 (84 Stat. 1566, 30 U.S.C. 1001–1025).

The publication of this notice in the Federal Register will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided for by the regulations of 43 CFR 2201.1(b), any subsequently tendered application allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant.

Detailed information concerning the exchange, CA 15622, including the environmental analysis and land report will be available for review at the Ukiah District Office, 555 Leslie Street (P.O. Box 940), Ukiah, California 95482.

For a period of 45 days, interested parties may submit comments to the California State Director, Bureau of Land Management, Rm. E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. Any comments will be evaluated by the California State Director, who may vacate or modify this realty action and issue a final determination. In the absence of a vacation or modification this realty action will become the final determination of the Bureau.

Van W. Manning,

District Manager, Ukiah BLM.

[FR Doc. 84–20461 Filed 8–1–84; 8:45 am]

BILLING CODE 4310–33–M

Realty Action; Public Land Sale, Minnesota

AGENCY: Bureau of Land Management, Interior.

ACTION: Competitive sale of Federal lands.

SUMMARY: The following described land has been examined, and through the development of land use planning decisions based on public input, resource considerations, regulations, and Bureau policies, it has been determined that the proposed sale of these parcels is consistent with the Federal Land Policy and Management Act (FLPMA) of October 21, 1976. Each parcel will be separately offered for sale at no less than the appraised fair market value. The BLM solicits and will accept bids on these lands, and may accept or reject any and all bids or withdraw any land from sale at any time, if in the opinion of the Authorized Officer, consummation of the sale would not be in the best interest of the United States.

Unsold parcels will continue to be offered for sale on a first come basis until sold, or until 1:00 PM, September 25, 1985, whichever occurs first. We emphasize that all bidders should personally examine any parcel bid on. Parcels will be sold as is on the day of the sale.

A patent for the land, when issued, will contain the following reservations:

1. All minerals will be reserved to the United States. Said mineral reservation will include the right to explore, prospect for, mine, and remove same under applicable law and regulations promulgated thereunder, as prescribed by the Secretary of Interior.

2. The lands are subject to all valid existing rights.

Parcel number and legal description	Acreage	Minimum bid
ES–33028: T43N., R18W., Sec. 24, NE¼NE¼, 4th P.M., Pine County	40.00	$6,000
ES–33023: T60N., R15W., Sec. 4, Lot 4, 4th P.M., St. Louis County	34.17	4,000
ES–33024: T60N., R16W., Sec. 3, Lot 2, 4th P.M., St. Louis County	35.40	4,500
ES–33026: T62N., R17W., Sec. 6, SE¼NW¼, 4th P.M., St. Louis County	40.00	7,000
ES–33027: T62N., R21W., Sec. 10, NE¼NE¼, 4th P.M., St. Louis County	40.00	8,000
ES–33193: T139N., R43W., Sec. 34, Lot 5, 5th P.M., Becker County	1.00	500

Bidding Information and Instructions

Location: The Sale will be held at the Milwaukee District Office, Bureau of Land Management, 310 West Wisconsin Avenue, Suite 225, Milwaukee, Wisconsin, on September 25, 1984, at 1:00 PM, CDT.

Bidder Qualifications: Bidders must be citizens of the United States at least 18 years old or in the case of a corporation, be subject to the laws of any state or the United States. Bids may be made by a principal or his/her duly qualified agent.

Method of Bidding: Sealed bids.

May be submitted in person at the above address or mailed to the post office address listed below.

All bids shall be in sealed envelopes accompanied by a certified check, postal money order, bank draft, or cashier's check for not less than one fifth of the amount of the bid. Checks should be made payable to the U.S. Department of the Interior, Bureau of Land Management.

The sealed bid envelope must be marked in the lower left-hand corner "Sealed Bid for Parcel Number ES———".

If two (2) or more valid sealed bids in the same amount are received and they are the high bid, the determination of which bid is to be considered the highest bid shall be by a drawing.

Sealed bids received at or before 1:00 PM, CDT on September 25, 1984, will be opened at the Sale. Sealed bids received after 1:00 PM, CDT on September 25, 1984, shall be considered on a first come basis if the parcel remains unsold after all bids have been opened.

Final Details: The successful high bidder will be required to submit full payment for the balance of the bid within 30 days from the date of the decision to accept the bid. Failure to submit such payment within the 30-day period shall result in the cancellation of the sale and the bid deposit shall be forfeited. All unsuccessful sealed bids will be returned within 30 days from the sale date.

Publication of this Notice will segregate the lands from all appropriations under the public land laws, but not the mineral leasing laws. This segregation will terminate upon the issuance of a patent, or two years from the date of this Notice, or upon publication of a notice of termination.

FOR FURTHER INFORMATION CONTACT: General inquires or additional information requests concernig this sale may be directed to John Rakowski at the address below or by calling (414) 291–4400.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the Milwaukee District Manager, Bureau of Land Management, P.O. Box 631, Milwaukee, Wisconsin 53201–0631. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action. In absence of any action by the District Manager, this Realty Action will become a final

determination of the Department of the Interior.

Bert Rodgers,

Acting District Manager.

[FR Doc. 84-20485 Filed 8-1-84; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Realty Action, Sale of Public Land (Amendment)

July 25, 1984.

This Notice of Realty Action amends the Notice of June 13, 1984 (published 6/21/84, FR, Vol. 49, No. 121, pg. 25527, pertaining to the sale of public lands under Pub. L. 96-586) to eliminate the requirement for simultaneous conveyance of the available mineral estate and to modify the general terms and conditions of the sale in regard to the mineral estate.

A successful bid will not constitute an application for the conveyance of the available mineral estate. Prior to issuance of patent, the purchaser (successful bidder) will also have the opportunity to buy the available locatable, salable and leasable mineral interests on the land in accordance with 43 CFR 2720.

Items 5 through 9 of the general terms and conditions are hereby modified to read as follows:

5. The United States reserves all minerals in the lands subject to this conveyance, including without limitation, substances subject to disposition under the general mining laws, the general mineral leasing laws, the Materials Act and the Geothermal Steam Act.

6. The United States reserves to itself, its permittees, licensees, lessees and mining claimants, the right to prospect for, mine and remove the minerals owned by the United States under applicable law and such regulations as the Secretary of the Interior may prescribe. This reservation includes all necessary and incidental activities conducted in accordance with the provisions of the mining, geothermal and mineral leasing, and material disposal laws in effect at the time such activities are undertaken, including, without limitation, necessary access and exit rights, all drilling, underground, open pit or surface mining operations, storage and transportation facilities deemed necessary and authorized under law and implementing regulations.

7. Mining claimants, permittees, licensees and lessees of the United States shall only be liable for and shall only compensate owners of the surface estate for damages to the extent prescribed by regulations issued by the Secretary of the Interior.

8. Unless otherwise provided by separate agreement with the surface owner, mining claimants, permittees, licensees and lessees of the United States shall reclaim disturbed areas to the extent prescribed by regulations issued by the Secretary of the Interior.

9. All causes of action brought to enforce the rights of the surface owner under the regulations above referred to shall be instituted against mining claimants, permittees, licensees and lessees of the United States; and the United States shall not be liable for the acts or omissions of its mining claimants, permittees, licensees and lessees.

In all other respects the June 13, 1984 Notice remains in full force and effect.

Kem Conn,

District Manager, Las Vegas.

[FR Doc. 84-20486 Filed 8-1-84; 8:45 am]

BILLING CODE 4310-HC-M

New Mexico Realty Action Competitive Sales in Dona Ana County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, sale.

SUMMARY: This notice sets forth the details of a forthcoming sale of public lands in the Las Cruces District. Notice of this sale is required under 43 CFR 2711.1-2(c).

DATE: September 24, 1984, 1:30 p.m. to 3:30 p.m.

ADDRESS: Bureau of Land Management, Las Cruces District Office, 317 N. Main, Santa Teresa Bldg., P.O. Box 1420, Las Cruces, NM 88004.

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.

All of the following parcels will be offered for sale using competitive bid procedures (43 CFR 2711.3-1).

Parcel No.	Legal description, T. 26 S., R. 3 E., NMPM	Acreage	Value
1	Section 11: Lots 4, 5, 6, 7, 8, 10, 11, 18, 19, 20, 21.	27.27	$50,000
2	Section 14: Lots 12, 13, 29, 30, 31, 33, 34, 35, 36, 38, 39, 40.	30.00	59,000
3	Section 14: Lots 61, 62	5.02	15,000

Sales Procedures

The sale will be held on September 24, 1984, at 1:30 p.m., at the Las Cruces District Office (Santa Teresa Building, 317 N. Main, Downtown Mall, Las Cruces, New Mexico).

Sealed written bids will be considered only if received by the Bureau of Land Management, P.O. Box 1420, Las Cruces, NM 88004, before 11:30 a.m. on September 24, 1984, the date of the opening.

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.

A separate written bid should be submitted for each sale parcel desired. Each written sealed bid must be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior—BLM for at least twenty percent (20%) of the amount bid and shall be enclosed in a sealed envelope clearly marked, "Bid for Public Land Sales, NM 57091, Sale Parcel Number ——, Dona Ana County, New Mexico, September 24, 1984." The written sealed bids will be opened and publicly declared at the beginning of each sale.

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 twenty percent (20%) will be forfeited and disposed of as other receipts of sale. The land will then be offered to the next highest bidder.

All bids will be either returned, accepted, or rejected within 30 days of the sale date.

Parcels not sold on the day of the sale will remain available for sale until sold. Sealed bids will be solicited on these parcels at the Las Cruces District Office during regular business hours (7:45 a.m. to 4:30 p.m.). The sealed bids will be opened October 23, 1984, and every first Tuesday of each subsequent month until the land is sold.

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 (Federal Land Policy and Management Act of 1976, 90 Stat. 2757; 43 U.S.C. 1719).

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).

On *Parcel 1,* the patent will be issued subject to a 33 foot road and utility easement along the north and south sides of Lots 4, 5, 6, 7, along the north side of Lots 8, 10, 11, along the south side of Lots 18, 19, 20, 21, along the east side of Lots 4, 11, 18, and along the west side of Lots 7, 8, 21.

On *Parcel 2,* the patent will be issued subject to those rights granted by right-of-way NM 45807 to El Paso Electric Company, and a 33 foot road and utility easement along the north side of Lots 12, 13, along the south side of Lots 29, 30, 31, 33, along the north side of Lots 34, 35, 36, 38, 39, 40, along the west side of Lots 12, 33, 34, along the east side of Lot 30, and along the west side of Lots 29, 38.

On *Parcel 3,* the patent will be issued subject to a 33 foot road and utility easement along the north side of Lots 61, 62.

Detailed information concerning this sale, including the planning documents, environmental assessment and the record of public involvement, is available for review at the Las Cruces District Office, Bureau of Land Management, 317 N. Main, Santa Teresa Bldg., Las Cruces, NM 88004.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Las Cruces District Office, Bureau of Land Management, 317 N. Main, P.O. Box 1420, Las Cruces, NM 88004. Comments should reference serial number NM 57091.

Any adverse comments received as a result of the Notice of Realty Action or notification to the Congressional committees and delegations pursuant to Pub. L. 98-146, 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 a final determination of the Department of the Interior.

Interested parties should continue to check with the District Office to keep themselves advised of any changes.

Dated: July 20, 1984.

Daniel C. B. Rathbun,

District Manager.

[FR Doc. 84-20483 Filed 8-1-84; 8:45 am]

BILLING CODE 4310-FB-M

Realty Action; Public Land Sale, Wisconsin

AGENCY: Bureau of Land Management, Interior.

ACTION: Competitive sale of Federal lands.

SUMMARY: The following described land has been examined, and through resource considerations, regulations, and Bureau policies, it has been determined that the proposed sale of these parcels is consistent with the Federal Land Policy and Management Act (FLPMA) of October 21, 1976. Each parcel will be separately offered for sale at no less than the appraised fair market value. The BLM solicits and will accept bids on these lands, and may accept or reject any and all bids or withdraw any land from sale at any time, if in the opinion of the Authorized Officer, consummation of the sale would not be in the best interest of the United States.

Unsold parcels will continue to be offered for sale on a first come basis until sold, or until 1:00 PM, September 25, 1985, whichever occurs first. We emphasize that all bidders should personally examine any parcel bid on. Parcels will be sold as is on the day of the sale. A patent for the land, when issued, will contain the following reservations:

1. All minerals will be reserved to the United States. Said mineral reservation will include the right to explore, prospect for, mine, and remove same under applicable law and regulations promulgated thereunder, as prescribed by the Secretary of Interior.

2. The lands are subject to all valid existing rights.

Parcel No.	Legal description	Acreage	Minimum bid
ES-33030.....	T21N., R3W., Sec. 24 NE¼NE¼, 4th P.M. Jackson County.	40.00	$13,000
ES-33031.....	T21N., R3W., Sec. 4 NE¼NE¼, 4th P.M. Jackson County.	41.09	14,400
ES-33032.....	T33N., R7W., Sec. 8 SW¼NE¼, 4th P.M. Rusk County.	40.00	2,000
ES-33033.....	T34N., R6W., Sec. 36 NE¼SW¼, 4th P.M. Rusk County.	40.00	2,000

Bidding Information and Instructions

Location: The Sale will be held at the Milwaukee District Office, Bureau of Land Management, 310 West Wisconsin Avenue, Suite 225, Milwaukee, Wisconsin, on September 25, 1984, at 1:00 PM, CDT.

Bidder Qualifications: Bidders must be citizens of the United States at least 18 years old or in the case of a corporation, be subject to the laws of any state or the United States. Bids may be made by a principal or his/her duly qualified agent.

Method of Bidding: Sealed bids.

May be submitted in person at the above address or mailed to the post office address listed below.

All bids shall be in sealed envelopes accompanied by a certified check, postal money order, bank draft, or cashier's check for not less than one fifth of the amount of the bid. Checks should be made payable to the U.S. Department of the Interior, Bureau of Land Management.

The sealed bid envelope must be marked in the lower left-hand corner "Sealed Bid for Parcel Number ES———".

If two (2) or more valid sealed bids in the same amount are received and they are the high bid, the determination of which bid is to be considered the highest bid shall be by a drawing.

Sealed bids received at or before 1:00 PM, CDT on September 25, 1984, will be opened at the Sale. Sealed bids received after 1:00 PM, CDT on September 25, 1984, shall be considered on a first come basis if the parcel remains unsold after all bids have been opened.

Final Details: The successful high bidder will be required to submit full payment for the balance of the bid within 30 days from the date of the decision to accept the bid. Failure to submit such payment within the 30-day period shall result in the cancellation of the sale and the bid deposit shall be forfeited. All unsuccessful sealed bids will be returned within 30 days from the sale date.

Publication of this Notice will segregate the lands from all appropriations under the public land laws, but not the mineral leasing laws.

This segregation will terminate upon the issuance of a patent, or two years from the date of this Notice, or upon publication of a notice of termination.

FOR FURTHER INFORMATION CONTACT: General inquiries or additional information requests concerning this sale may be directed to John Rakowski at the address below or by calling (414) 291–4400.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the Milwaukee District Manager, Bureau of Land Management, P.O. Box 631, Milwaukee, Wisconsin 53201–0631. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action. In absence of any action by the District Manager, this Realty Action will become a final determination of the Department of the Interior.

Bert Rodgers,

Acting District Manager.

[FR Doc. 84–20484 Filed 8–1–84; 8:45 am]

BILLING CODE 4310–84–M

Filing of Plat of Survey; Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands have been officially filed in the Oregon, State Office, Portland, Oregon on July 19, 1984.

Willamette Meridian

Washington

T. 27 N., R. 23 E., Accepted June 29, 1984

Oregon

T. 25 S., R. 1 W., Accepted June 29, 1984
T. 3 N., R. 2 W., Accepted July 6, 1984
T. 28 S., R. 4 W., Accepted July 6, 1984
T. 30 S., R. 5 W., Accepted July 13, 1984
T. 34 S., R. 5 W., Accepted July 13, 1984
T. 28 S., R. 11 W., Accepted June 29, 1984
T. 3 S., R. 3 E., Accepted June 29, 1984
T. 3 S., R. 5 E., Accepted July 6, 1984
T. 16 S., R. 22 E., Accepted July 13, 1984
T. 27 S., R. 31 E., Accepted June 29, 1984
T. 33 S., R. 39 E., Accepted July 13, 1984

The above-listed plats represent dependent resurveys, subdivisions, and a supplemental plat.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 NE Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: July 25, 1984.

[FR Doc. 84–20480 Filed 8–1–84; 8:45 am]

BILLING CODE 4310–33–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Conoco, Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document.

SUMMARY: This Notice announces that Conoco Inc., Unit Operator of the South Marsh Island Block 137 Federal Unit Agreement No. 14–08–0001–20237, submitted on July 5, 1984, a proposed annual Develpment Operations Coordination Document describing the activities it proposes to conduct on the South Marsh Island Block 137 Federal unit.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 25, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–20401 Filed 8–1–84; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Exxon Co., U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document.

SUMMARY: This Notice announces that Exxon Company, U.S.A., Unit Operator of the Grand Isle Block 16 Field Federal Unit Agreement No. 14–08–001–2932, submitted on July 20, 1984, a proposed supplemental Development Operations Coordination Document describing the activities it proposes to conduct on the Grand Isle Block 16 Field Federal unit.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 25, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–20400 Filed 8–1–84; 8:45 am]

BILLING CODE 4310–MR–M

Fish and Wildlife Service

Disposal of Palm Cockatoos; Breeding Consortium Formed; Sale to Qualified Breeders

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of invitation to bid on palm cockatoos and conditions of sale.

SUMMARY: Early this year, one hundred three (103) palm cockatoos (*Probosciger aterrimus*) were forfeited to the Fish and Wildlife Service (Service) as the result of enforcement actions taken under Federal wildlife law. To foster the conservation of this species, the Service has encouraged the creation of a breeding consortium whose goal is the establishment of a genetically-diverse, captive-breeding population of palm

cockatoos. In pursuit of this goal, the Service will transfer a number of palm cockatoos to zoological institutions throughout the U.S. Those institutions will form the nucleus of the consortium. The remaining birds are being offered for sale to zoological institutions and members of the public who have the necessary experience to breed palm cocktoos in captivity and who agree to join the breeding consortium and adhere to its terms.

DATES: Written bids must be received by October 1, 1984.

ADDRESSES: Written bids may be mailed to Director (LE), Fish and Wildlife Service, P.O. Box 28006, Washington D.C. 20005, or delivered weekdays to the Division of Law Enforcement, Fish and Wildlife Service, 3rd Floor, 1375 K Street, NW., Washington D.C., between 7:45 a.m. and 4:15 p.m. Bids should bear the identifying notation REG 12–03–1.

FOR FURTHER INFORMATION CONTACT: A. Eugene Hester, Special Projects Officer, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 28006, Washington D.C. 20005, telephone: (202) 343–9242.

SUPPLEMENTARY INFORMATION:

Background

As the result of a complaint for forfeiture *in rem* filed in the United States District Court for the Southern District of Miami, 103 palm cockatoos (*Probosciger aterrimus*) orginating from Indonesia were forefeited to the Fish and Wildlife Service (Service) on February 7, 1984, upon the court's acceptance of a stipulation of settlement negotiated between the parties to the forefeiture action. Palm cockatoos are protected by the countries throughout their range—Indonesia, Australia, and Papua New Guinea—and exportation for commercial purposes is prohibited. They are also listed on Appendix II to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), under which trade is regulated by participating countries.

In early November 1983, shortly after the date of seizure, the palm cockatoos were placed under the care and handling of 11 zoological institutions to await the outcome of the forfeiture action.

At last count, 86 of the original one hundred three (103) birds have survived in a mix of adults and juveniles of both sexes. This mortality apparently was the result of both stress and poor health that the birds suffered before or during quarantine. Based upon the latest reports available, the surviving birds are not clinically ill and their condition, for the most part, appears to have stabilized.

How Will the Service Dispose of the Palm Cockatoos?

The Service's methods and procedures for disposing of live wildlife upon forfeiture appear in 50 CFR 12.30–12.39. These methods include: Return to the wild, retention by the Service for official use, transfer to another government agency for official use, donation or loan, sale, or destruction.

Informal consultations on the best method of disposal began shortly after the birds were forfeited to the Service. These discussions occurred between representatives of the 11 zoological institutions holding the birds, the Indonesian Government, the Department of Justice, the American Federation of Aviculture (AFA), the American Association of Zoological Parks and Aquariums (AAZPA), the U.S. Scientific Authority for CITES, the U.S. Management Authority for CITES, and the Service's Division of Law Enforcement, the agency that seized the birds.

After reviewing alternate means of disposal in light of the relevant information available, the Service has decided that the organization of a formal breeding consortium, as opposed to informal, mutual breeding arrangements commonly used among bird breeders is the most efficient means to establish a captive-breeding population in the United States. To establish this breeding consortium for palm cockatoos, the Service has drafted a document entitled "Breeding Consortium Agreement for Palm Cockatoos (*Probosciger aterrimus*). *See* Appendix A. This document establishes the goals of the consortium and identifies the rights and responsibilities of its participants. Subject to the requirements of the Breeding Consortium Agreement, the Service will dispose of the palm cockatoos in the following manner:

1. Under authority of 50 CFR 12.36, four birds will be distibuted (donated) to each of the zoological institutions now holding the birds: Greater Baton Rouge Zoo, Dallas Zoo, Denver Zoological Gardens, Los Angeles Zoo, Rivebanks Zoological Park, Miami Metrozoo, Audubon Park and Zoological Garden, New York Zoological Park, Sea World of Florida, National Zoological Park, and Life Fellowship Bird Sanctuary.

As a condition of the donation, each donee is required to pay all of the costs associated with caring for all birds in their possession from the date they received them until a final disposition is made for all of them and to serve on the management committee of the breeding consortium for the first two years.

2. Under the authority of 50 CFR 12.37(b), the remaining birds are being offered for sale to zoological institutions and members of the public who, in the opinion of the Service, are qualified to participate in the consortium and who agree to be bound by its terms. The Service has established a minimum bid of four thousand dollars ($4,000.00) for each set of two birds and a limit of two sets to any one bidder. The management committee of the breeding consortium will determine which birds a successful bidder receives and attempt to identify and supply sets made up of sexed pairs.

Invitation to Bid on Palm Cockatoos

Each bidder must mail or deliver in person a written bid to the Service at the address found in the **ADDRESS** block above by the close of business on the date found in the **DATE** block above. Each written bid must contain the following information (please refer to file number REG 12–03–1).

1. Bidder's complete name, mailing address, telephone number, signature, bid price per set, and number of sets bid (one or two sets). No particular government form is required.

2. A minimum bid of four thousand dollars ($4,000.00) per pair has been established with a limit of two (2) pairs to any one bidder.

3. A deposit of twenty percent (20%) of the total amount of the bid must accompany the bid in the form of a money order, certified check, or cashier's check payable to the Fish and Wildlife Service.

4. Include the following statement: "If my bid is accepted, I agree to be bound by the terms and conditions of the 'Breeding Consortium Agreement for Palm Cockatooos (*Probosciger aterrium*)' a copy of which was attached as Appendix A to the Notice of Invitation to Bid on Palm Cockatoos."

5. Answers to the following questions or responses to the following requests about the bidder's avicultural experience:

a. A list of psittacine bird species propagated successfully.

b. A list of cockatoos species propagated successfully.

c. Number of years that bidder has been propagating psittacine birds.

d. Number of years that bidder has been propagating cockatoos.

e. Number of years of general aviculture experience.

f. Experience hand-rearing birds, if any (include species and number reared).

g. A brief summary of the bidder's success in breeding birds over the last 7 years.

h. Other information the bidder believes is relevant to evaluating his/her avicultural experience.

6. Answers to the following questions about how the bidder will care for the birds.

a. How will the birds be housed? Include photographs and floor plans or diagrams of your facilities.

b. Describe bidder's present security arrangements.

c. What specific management program would the bidder implement for the birds if the bid is awarded?

d. What veterinary services are available to the bidder?

Conditions of Sale of Palm Cockatoos

This sale is subject to the following terms and conditions:

1. Telegraphic, telephonic, or oral bids will not be accepted.

2. The Service reserves the right to reject any and all bids. The bidder's qualifications to maintain palm cockatoos will be evaluated independently from the amount of the bid.

3. Bids must be in the possession of the Service by 4:15 p.m. on the date appearing in the **DATE** block above.

4. Bids are not subject to public disclosure before the announcement of award.

5. The birds will not be displayed for inspection before the announcement of award.

6. The palm cockatoos are offered for sale "as is and where is." The Service makes no warranty, express of implied, as to their kind, character, quality, weight, size, sex, health, age, breeding compatibility, or fitness for any use or purpose. No request for adjustment in price or for recession of the sale will be considered. "This is not a sale by sample." The management committee of the breeding consortium will determine which birds a successful bidder receives and attempt to identify and supply sets of sexed pairs.

7. Bidders are responsible for determining whether or not the palm cockatoos may be possessed lawfully in the State where they will be housed.

8. The Service will announce the award of bids as soon as possible after the closing date for receiving bids.

9. The successful purchaser agrees to pay for the birds awarded to the purchaser at the contract price and to sign the Breeding Consortium Agreement for Palm Cockatoos. Both payment of the remaining eighty percent (80%) of the purchase price (payment must be made by money order, certified check, or cashiers check payable to the Fish and Wildlife Service) and a signed copy of the Breeding Consortium Agreement for Palm Cockatoos (hereinafter "Agreement") must be received by the Service within seven (7) days after the successful purchaser receives written notice of the award. The remaining payment of the contract price and the signed Agreement must be sent to the address listed in the **ADDRESS** block above.

10. The birds may not be removed from the custodian now holding them until the Service receives both the remaining payment of the contract price and the signed Agreement, notifies the successful bidder of the time and place to remove the birds from the custodian, and notifies the custodian to release the birds to the purchaser.

11. Custodians of the birds are not responsible for and will not make any removal arrangements. The successful bidder must make the arrangements, including labor for packing, crating, removal, and transportation. The birds' custodian must have written authorization to release property to anyone other than the successful bidder.

12. Failure to make full payment, to sign the Agreement, or to remove the birds awarded from the custodian on the date, place and time specified will result in the purchaser's immediate loss of all right, title, and interest in the property awarded.

13. The bidder (offeror) warrants that he is not delinquent in the payment of any debt due the United States resulting from prior purchase of surplus personal property. In the event the Service determines after award that the bidder breached this warranty, the Service shall have the right to annul the contract without liability.

14. If, after the award, the purchaser breaches the contract by failure to make payment, to sign the Agreement or to remove the property as required, the purchaser shall lose all right, title, and interest which he might otherwise have acquired in and to such property as to which a default has occurred. The purchaser agrees that in the event he fails to pay for the property or remove the same as required, the Service upon notice of default shall be entitled to retain as liquidated damages a sum equal to 20 percent of the purchase price of the birds as to which the default has occurred. If the purchaser otherwise fails in the performance of his obligations, the Service may exercise such rights and may pursue such remedies as are provided bylaw or under the contract.

15. Fish and Wildlife Service employees are not eligible to bid and no award may be made to such an employee.

16. Any contract dispute resulting from this offering is subject to the Contract Disputes Act of 1978, Pub. L. 95–653, 92 Stat. 2383.

Dated: July 23, 1984.

F. Eugene Hester,

Acting Director, Fish and Wildlife Service.

Appendix A—Breeding Consortium Agreement for Palm Cockatoos (Probosciger aterrimus)

In order to improve the prospects for maintaining a viable breeding population of the species in captivity, the parties to this agreement pledge to cooperate with each other by managing their respective stocks as a total population, so that ideal pairings can be carried out and the genetic diversity of the captive population can be more fully utilized and maintained.

1. Membership

Membership in the Consortium is open to all holders of palm cockatoos who are willing to participate in this agreement. Upon establishment of this Consortium, initial membership is limited to persons or institutions deemed qualified by the U.S. Fish and Wildlife Service. The Consortium's Management Committee will review the qualifications of all subsequent applicants to determine if they are to be admitted.

Any member may withdraw from the Consortium at any time upon submitting written notification at least 30 days prior to withdrawal, to the chairman of the Management Committee, and upon transferring any palm cockatoos that are original Service stock to the Management Committee for proper placement.

For purposes of this agreement, "original Service stock" means all palm cockatoos transferred or sold by the Service to initial members of the Consortium, but does not include offspring of such birds.

Any member may, upon recommendation of the Management Committee, and (for the first five years after establishment of this Consortium) upon agreement of the Service if original Service stock is involved, be removed from the Consortium if said member has failed to abide by this agreement and thereby has impaired proper development of the stated goals of the Consortium. If a member is so removed, any original Service stock held by that member must be transferred to the Management Committee for proper placement.

2. Management Committee

Operation of the Consortium is guided by a Management Committee consisting of the following:

Eleven representatives, one of whom serves as chairman.

A studbook keeper.

Other ad hoc, non-voting participants as deemed necessary by the representatives.

Initially, for a period not exceeding two years, the eleven institutions holding palm cockatoos for the U.S. Fish and Wildlife Service will each appoint a representative to serve on the Management Committee. These representatives will elect one among them to serve as chairman.

Subsequent to this initial period, the members of the Consortium will elect representatives to serve on the Management Committee. Any member of the Consortium may be nominated for election. The Management Committee representatives should serve staggered three-year terms, established at the first election as follows: (1) The four elected representatives receiving the highest number of votes will serve for three years, (2) four representatives receiving the next largest number of votes will serve for two years, and (3) the three representatives receiving the fewest votes will serve for one year. Thereafter, staggered election is automatic.

The representatives will conduct an election each year to determine which of them will serve as chairman.

3. Studbook

In order to facilitate the planned breeding of this species, it is important to develop a studbook. It should include those specimens held by other persons or institutions, not only members of the Consortium, in the hope that in the future they will make their stock available to be utilized in the best interest of the species concerned.

The Consortium should, therefore, promptly establish a North American regional studbook, based upon AAZPA guidelines and subsequent AAZPA/WCMC approval. The Consortium also should identify and obtain appointment of a studbook keeper as provided in the AAZPA studbook protocol. Initial publication should take place as soon as possible after the establishment of the studbook and should be followed by yearly interim reports.

4. Ownership

The Consortium may hold collective title to palm cockatoos. This does not preclude membership in the Consortium by individual persons or institutions that own palm cockatoos.

5. Transfer of Birds

Members of the Consortium agree to transfer individual palm cockatoos from one collection to another only with the prior approval of the Management Committee

6. Liability to Consortium

Responsibility for care and health of palm cackatoos covered under this agreement shall be vested in the persons or institutions holding them. All liability, financial or otherwise, shall also rest with the holders, and not with the Consortium.

7. Management Committee Responsibilities

The responsibilities of the Management Committee shall include, but not be limited to, the following:

Development of a master breeding plan for the species, including decisions on the transfer of birds held by members of the Consortium

Preparation of a comprehensive demographic analysis of the species in North America

Establishment of dietary and veterinary care guidelines

Identification of research projects necessary to develop any or all of the above and in particular any pertinent reproductive or behaviorial studies that would enhance captive reproductive efforts

Overseeing the creation and maintenance of the studbook

Determining eligibility of candidates for membership in the Consortium and ensuring compliance with this agreement by members

Establishment of rules for determining ownership of progeny, consistent with the goals of this agreement

Communication to all Consortium members about Management Committee actions and decisions in a timely fashion.

8. Consortium Member Responsibilities

The members of this consortium agree to maintain, and not to transfer or sell, any original Service stock for a minimum of five years from the time the Consortium is established, except to transfer birds as decided by the Management Committee.

Terms of this agreement may be amended consistent with the goals stated herein, but only after at least two years have elapsed since the establishment of the Consortium. Amendments will require approval by at least three-fourths of the current membership.

All parties to this agreement reaffirm that the chief objective of the Consortium is to promote the breeding potential of palm cockatoos held in captivity. Further, to achieve this end, all parties to this agreement join in reaffirming their dedication to the conservation objective of establishing as self-sustaining population of this species in capitivity. Once the hoped for goal of maintaining a captive "reservoir" of the species has been achieved, it is the intention of the Consortium to hold the birds subject to this agreement for the preservation, protection and restoration of the species in the wild.

9. Acceptance of Responsibilities

The person or institution named below understands, accepts and is bound by the terms of this breeding consortium agreement, and in consideration for admission to the Consortium agrees with the U.S. Fish and Wildlife Service and other members of the Consortium to promote its objectives in good faith and to participate in accordance with stipulations for membership provided herein.

Name of person or institution

Name and title of person designated as representative to the Consortium

Address Telephone

Signature and title Date

[FR Doc. 84-20502 Filed 8-1-84; 8:45 am]
BILLING CODE 4130-55-M

Minerals Management Service

Development Operations Coordination Document; Conoco Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 1072, Block 40, 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 July 23, 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. Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 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: July 23, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-20475 Filed 8-1-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Corpus Christi Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Corpus Christi Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 5318, Block 414, 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 July 25, 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 plan 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: Ms. Angie Gobert, Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 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: July 25, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-20476 Filed 8-1-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Hunt Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Hunt Oil Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4823, Block 76, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Berwick and Patterson, Louisiana.

DATE: The subject DOCD was deemed submitted on July 26, 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: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 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: July 26, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-20473 Filed 8-1-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; McMoRan Offshore Exploration and Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that McMoRan Offshore Exploration and Production Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS–G 3932 and 4540, Blocks 527 and 528, Matagorda Island Area, offshore Texas. 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 Port O'Connor, Texas.

DATE: The subject DOCD was deemed submitted on July 24, 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. Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 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: July 24, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-20472 Filed 8-1-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Mobil Oil Exploration and Producing Southeast Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Mobil Oil Exploration and Producing Southeast Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 1997, Block 171, 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 July 26, 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. Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 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: July 26, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-20474 Filed 8-1-84; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Conoco Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Recipt of a Proposed Development Operations Coordination Document.

SUMMARY: This Notice announces that Conoco Inc., Unit Operator of the Grand Isle/CATCO Federal Unit Agreement No. 14–08–0001–2021, submitted on July 19, 1984, a proposed supplemental Development Operations Coordination Document describing the activities it proposes to conduct on the Grand Isle/CATCO Federal unit.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that is it available for public review at the offices of the Regional Manager, Gulf of Mexico Region, Minerals Mangement Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised §250.34 of Title 30 of the Code of Federal Regulations.

Dated : July 26, 1984

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-20477 Filed 8-1-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention To Negotiate Concession Contract; Howard T. Rose Co., Inc.

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Howard T. Rose Company, Inc., authorizing it to continue to provide marina facilities and services for the public at Fire Island National Seashore for a period of approximately fifteen (15) years from the date of execution through December 31, 1998.

This proposed contract requires a construction and improvement program. Although the overall development of Sailor's Haven Site was previously addressed in the Final Environmental Impact Statement with addendum dated March, 1978, that was prepared in conjunction with the General Management Plan for Fire Island National Seashore, this document did not address the specific aspects of the proposed construction and improvement program. The National Park Service has determined that this specific construction and improvement program would have no significant effect on the human environment and does not involve unresolved conflicts of alternative uses of available resources. Therefore, it is determined to be categorically excluded from the procedural requirements of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1986, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision in effect, grants Howard T. Rose Company, Inc., the opportunity to meet terms and conditions of any other proposal submitted in response to this Notice which the Secretary may consider better than the proposal submitted by Howard T. Rose Company, Inc. If Howard T. Rose Company, Inc., amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new contract will be negotiated with Howard T. Rose Company, Inc.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, North Atlantic Region, 15 State Street, Boston, Massachusetts 02109, for information as to the requirements of the proposed contract.

Dated: July 18, 1984.

Charles P. Clapper, Jr.,

Acting Regional Director.

[FR Doc. 84-20488 Filed 8-1-84; 8:45 am]

BILLING CODE 4310-70-M

[Investigation No. 337-TA-174]

Certain Woodworking Machines; Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement: The Tool Guys and Barrett Tool & Die Manufacturing Corporation.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on July 30, 1984.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register.** Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: July 30, 1984

Kenneth R. Mason,

Secretary.

[FR Doc. 84-20511 Filed 8-1-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No 337-TA-174]

Certain Woodworking Machines; Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement: Sid Tool Company, Inc., d/b/a Manhattan Supply Company.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on July 30, 1984.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E

Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: July 30, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–20510 Filed 8–1–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–174]

Certain Woodworking Machines; Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement: Delta International Machinery Corporation.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on July 30, 1984.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are avaiable for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: July 30, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–20509 Filed 8–1–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–174]

Certain Woodworking Machines; Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement: Conover Woodcraft Specialties, Inc. and Wilton Corporation.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on July 30, 1984.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: July 30, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–20508 Filed 8–1–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–174]

Certain Woodworking Machines; Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer

in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement: Wilke Machinery Company.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on July 30, 1984.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT:

Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: July 30, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–20512 Filed 8–1–84; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub-1)]

Intrastate Rail Rate Authority; Alabama

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: The Commission has extended the provisional certification of the Alabama Public Service Commission under 49 U.S.C. 11501(b) to regulate intrastate rail transportation. This extension will permit it time to modify its standards and procedures, as required by the full decision.

DATES: Alabama's provisional certification will expire on October 1, 1984 unless, prior to that date, the Alabama Public Service Commission files the required revised standards and procedures.

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 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: July 24, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Secretary.

[FR Doc. 84–20386 Filed 8–1–84; 8:45 am]

BILLING CODE 7035–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506:

Date: August 21–22, 1984.

Time: 9:00 a.m. to 5:00 p.m.

Room: 430.

Program: This meeting will review Challenge Grant applications from Small Museums and Historical Societies.

The proposed meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Becuse the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 84–20471 Filed 8–1–84; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289]

Metropolitan Edison Co., et al., Three Mile Island Nuclear Station, Unit No. 1; Issuance of a Director's Decision

Notice is hereby given that the Director, Office of Inspection and Enforcement, has issued a decision concerning a Petition dated May 30, 1984, filed by the City of Harrisburg, Pennsylvania (Petitioner). The Petitioner requested institution of proceedings pursuant to 10 CFR 2.206 to suspend indefinitely the license of GPU Nuclear to operate the Three Mile Island Nuclear Station, Unit No. 1. The basis for the Petition was the alleged inadequacy of the emergency evacuation plan for the City of Harrisburg. The request has been treated pursuant to 10 CFR 2.206 of the Commission's regulations and a final Director's decision pursuant to 10 CFR

2.206 has been issued by the Director, Office of Inspection and Enforcement, denying the Petitioner's request. The reasons for this denial are explained in the "Director's Decision under 10 CFR 2.206" (DD–84–18), which is available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Local Public Document Room for the Three Mile Island Nuclear Station, Unit No. 1 at The Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

A copy of the decision will be filed with the Secretary for Commission review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c), the decision will become the final action of the Commission twenty-five (25) days after issuance, unless the Commission, on its own motion, institutes review of the decision within that time.

Dated at Bethesda, Maryland, this 27th day of July 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 84–20504 Filed 8–1–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–396]

University of Virginia; Consideration of Application for Renewal of Facility License

The United States Nuclear Regulatory Commission (the Commission or NRC) is considering renewal of Facility Operating License No. R–123 issued to the University of Virginia (the licensee) for operation of the CAVALIER training and research reactor located on the campus in Charlottesville, Virginia.

The renewal would extend the expiration date of Facility Operating License No. R–123 for twenty years from date of issuance, in accordance with the licensee's timely application for renewal dated June 22, 1984.

Prior to a decision to renew the license, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By August 29, 1984, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding; but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A reqeust for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, at 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Cecil O. Thomas: (petitioner's name and telephone number); (date petition was mailed); (University of Virginia); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to George G. Gratten IV, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request that the petition has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for renewal dated June 22, 1984, which is available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555.

Dated at Bethesda, Maryland this 24th day of July 1984.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Chief, Standardization and Special Projects Branch Division of Licensing.

[FR Doc. 84–20506 Filed 8–1–84; 8:45 am]

BILLING CODE 7590–01–M

PENSION BENEFIT GUARANTY CORPORATION

Privacy Act of 1974; System of Records, Proposed Amendment

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed amendment to system PBGC–9.

SUMMARY: This document proposes an amendment to Privacy Act System PBGC–9 to permit disclosure of the name and social security number of unlocatable participants and beneficiaries of certain pension plans to the Social Security Administration as a routine use.

DATES: Comments on the proposed amendment must be submitted on or before September 4, 1984.

ADDRESSES: Send comments to the Legal Department, Code 250, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. Written comments will be available for public inspection at the PBGC, Suite 7000, at the same address, on weekdays between 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Stuart E. Bernsen, Attorney, Legal Department, Code 250, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, (202) 254–4895. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation ("PBGC") is establishing a new routine use of Privacy Act System PBGC–9 to allow disclosure to the Social Security Administration ("SSA") of names and social security numbers of participants and beneficiaries of pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA") for which the PBGC has become trustee. The PBGC has considered it necessary on a number of occasions to obtain assistance from SSA in the location and verification of current addresses.

System PBGC–9, Plan Participant and Beneficiary Address Identification File—PBGC, contains address information received from the Internal Revenue Service ("IRS") for participants and beneficiaries for whom the PBGC does not have a current address. 47 FR 58404 (December 30, 1982). After receiving an address from IRS, the PBGC contacts the participant or beneficiary for verification of the address. Records for which IRS has no address and records for which the address was not verified are retained for two years from the date the request was sent to the IRS and are then sent to IRS for disposal or destruction.

Establishment of a new routine use of system PBGC–9 will allow the PBGC to utilize the SSA's Letter Forwarding Service to locate or verify current addresses for those records retained in PBGC–9 for which IRS had no address or for which the address could not be verified. The Letter Forwarding Service involves a procedure whereby the PBGC will provide to SSA form letters written to unlocatable plan participants and beneficiaries who are entitled to PBGC-guaranteed benefits. Each letter will be inserted in an unsealed, unstamped envelope. The outside of the envelope will bear only the name and social security number of the missing participant or beneficiary obtained from the PBGC–9 records. The envelopes will be sent to the Social Security Administration, Records Use and Service Branch, 3F18 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235. The SSA will place each PBGC envelope in a larger envelope bearing the name submitted by PBGC to SSA and the most current address contained in SSA's records for the individual with that particular social security number. The envelopes will then be mailed by SSA.

In those cases where the plan participant or beneficiary who is reached through the use of the SSA Letter Forwarding Service contacts the PBGC, and notifies the PBGC of his or her current address, the PBGC will place that information in System PBGC–6.

The PBGC intends to utilize SSA's Letter Forwarding Service on a trial run, sample basis. The new routine use announced in the Notice covers both the sample and any future use. Since the sample is a non-volume request to the SSA, and does not yet involve a reimbursable agreement between the PBGC and SSA, the sample run will be sent to SSA's Office of Central Records Operations, 300 North Greene Street, Baltimore, Maryland 21201.

The PBGC will not be sending any address information received from IRS to SSA—only names and social security numbers already available in PBGC–1 or PBGC–6 records. Therefore, the new routine use described herein does not involve tax return information as defined in 26 U.S.C. 6103 and safeguarding described in 26 U.S.C. 6103(p)(4) is not required.

Section 552a(e)(11) of the Privacy Act requires that notice of an intended routine use of records be published at least 30 days prior to the implementation of the use and that the public be given the opportunity to comment on the routine use. The proposed routine use amends the existing routine use to read as follows:

"Disclosure may be made only to the extent permitted by 26 U.S.C. 6103 and 26 CFR 404.6103, except that names and social security numbers of plan participants and beneficiaries may be disclosed to the Social Security Administration in order to utilize the Social Security Administration's Letter Forwarding Service."

Interested persons are invited to submit written data, views or arguments on this proposed routine use.

Based on the foregoing, PBGC hereby proposes to amend System PBGC–9 as follows:

PBGC–9

SYSTEM NAME:

Plan Participant and Beneficiary Address Identification File—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Certain plan participants and beneficiaries in pension plans covered by Title IV of ERISA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain name, social security number, name of pension plan, and address received from the Internal Revenue Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302, 1322 and 1341, 26 U.S.C. 6103.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made only to the extent permitted by 26 U.S.C. 6103 and 26 CFR 404.6103, except that names and social security numbers of plan participants and beneficiaries may be disclosed to the Social Security Administration in order to utilize the Social Security Administration's Letter Forwarding Service.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders.

RETRIEVABILITY:

Indexed by participant or beneficiary name and social security number.

SAFEGUARDS:

Records are kept in locked file cabinets in areas of restricted access under procedures that meet Internal Revenue Service safeguarding standards, except that records of the name and social security number of the participant or beneficiary may be released to the Social Security Administration pursuant to the routine uses of this system.

RETENTION AND DISPOSAL:

Records for participants in PBGC trusteed plans for which the address is verified are transferred to PBGC–6 on verification or on further verification through the Social Security Administration's Letter Forwarding Service. Records for which IRS has no address, for which the address was not verified or was not further verified through the Social Security Administration's Letter Forwarding Service, and records for participants in sufficient plans or plans with a third-party trustee will be retained for two years from the date the request was sent to the Internal Revenue Service and then will be sent to Internal Revenue Service for disposal or destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Benefit Payments Department, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PRECEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Information is received from the Internal Revenue Service.

Issued in Washington, D.C. this August 2, 1984.

Roderick J. O'Neil,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84–20413 Filed 8–1–84; 8:45 am]

BILLING CODE 7708–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval
Rule 19b–4
No. 270–38

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 19b–4 (17 CFR 240.19b–4) and Form 19b–4 (17 CFR 249.819) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*) which provides for submission to the Commission of proposed rule changes by self-regulatory organizations. The potential affected persons are approximately 25 self-regulatory organizations.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395–7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: July 26, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–20415 Filed 8–1–84; 8:45 am]

BILLING CODE 8010–01–M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval
Rule 11Ab2–1
No. 270–23

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 11Ab2–1 (17 CFR 240.11Ab2–1) and Form SIP (17 CFR 249.100) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*) which provides for the registration of certain securities information processors. The potential affected persons are four registered securities information processors.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395–7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: July 24, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–20416 Filed 8–1–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 23379; 70–6931]

Central Power and Light Co., et al.; Proposed Transactions Related To Financing Pollution Control Facilities; Exception From Competitive Bidding

July 27, 1984.

In the Matter of Central Power and Light Company, 20 North Chaparral Street, Corpus Christi, Texas 78401; Public Service Company of Oklahoma, 212 East Sixth Street, Tulsa, Oklahoma 74119; West Texas Utilities Company, 301 Cypress, Abilene, Texas 79601; Central and South West Services, Inc., 2400 San Jacinto Tower, Dallas, Texas 75222.

Central Power and Light Company ("CPL"), Public Service Company of Oklahoma ("PSO"), West Texas Utilities Company ("WTU"), and Central and South West Services, Inc. ("CSWS"), electric utility subsidiaries of Central and South West Corporation, a registered holding company, have filed an amended application-declaration with this Commission pursuant to section 6(a), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) thereunder. Notice of the transactions as originally proposed in this proceeding was given (HCAR No. 23151 (December 5, 1983)); however, the proposal has been substantially changed.

CPL, PSO, and WTU (the "Companies"), have begun construction of a 654 megawatt coal-fired electric generating plant (the "Unit") near Oklaunion, Texas, pursuant to a Construction Ownership and Operating Agreement entered into by the Companies and CSWS. CPL, PSO, and WTU own undivided 18.0%, 27.3%, and 54.7% interests, respectively, in the Unit as tenants in common (the "Percentage Interests"). Certain unaffiliated third parties have the right to acquire an undivided interest in the Unit of up to a maximum of 200 megawatts. CSWS is the Construction Project Manager under the Construction Agreement. The estimated total cost of construction of the Unit is $609 million, including allowance for funds used during construction.

In connection with the construction of the Unit, it is necessary to acquire and construct certain air, water, and solid waste pollution control facilities (the "Facilities") as part of the Unit in order to comply with applicable state and federal governmental control standards. The Companies and CSWS propose to enter into an Installment Sale Agreement (the "Sale Agreement") with the Red River Authority of Texas (the

"Authority"), an instrumentality of the State of Texas, pursuant to which the Authority would undertake the financing of the Facilities. The Sale Agreement would provide for the transfer by the Companies to the Authority of their respective Percentage Interests in the Facilities, the reconveyance thereof to the Companies, and the reimbursement of the Companies for their pro rata shares of the cost of acquiring and constructing the property so transferred. CSWS would cause the construction (pursuant to the Construction Agreement and the Sale Agreement) of the Facilities to be completed for the Authority.

The Authority will finance the acquisition and construction of the Facilities and related costs through the issuance and sale of long-term bonds with a maturity of not more than thirty years, in a maximum authorized aggregate principal amount presently estimated at $85,000,000, which is equal to the estimated total cost of acquisition and construction of the Facilities. The bonds will be issued in one series or separate series for each Company under one or more trust indentures (the "Indenture") with a corporate trustee (the "Trustee") to be selected by the Companies. The bonds will bear interest semi-annually and will mature at a date or dates not more than 30 years from their nominal date of issue. The interest rate (fixed or otherwise), maturity dates, redemption provisions, and other terms and conditions applicable to the bonds will be determined by negotiations between the Companies and the underwriters hereinafter referred to. Such terms and conditions may include variable interest rates, interest rates redetermined periodically, intermediate term maturities, and/or other terms and conditions deemed necessary or desirable to take maximum advantage of the then current market conditions. The companies have been advised that similar tax-exempt bonds currently carry an annual interest rate approximately 2%–4% lower than comparable taxable bonds. If the Companies determine it to be advisable, the bonds may contain provisions allowing the bondholders, on an annual basis and subject to certain limitations, to require redemption or repurchase of the bonds at par, the effect of which would be to cause pricing of the bonds on a basis similar to pricing of short-term obligations. If so repurchased, the repurchased bonds may thereafter be remarketed.

The amended application-declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 21, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended or at it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–20417 Filed 8–1–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 23378; 70–6583]

Eastern Utilities Associates; Proposed Issuance and Sale of Common Stock Pursuant to Dividend Reinvestment and Common Share Purchase Plan and Request for Exception From Competitive Bidding

July 26, 1984.

Eastern Utilities Associates ("EUA"), P.O. Box 2333, Boston, Massachusetts 02107, a registered holding company, has filed with this Commission a post-effective amendment to the declaration in this proceeding pursuant to sections 6(a), 7, and 12(c) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50(a)(5) promulgated thereunder.

By prior orders dated December 6, 1979, May 5, 1981, and November 1, 1982 (HCAR Nos. 21329, 22039, and 22685), EUA was authorized to issue and sell from time to time, through June 1, 1985, up to 1,600,000 of its authorized but unissued common shares pursuant to its Dividend Reinvestment and Common Share Purchase Plan ("Plan"). As of June 30, 1984, EUA had issued and sold 1,326,087 of its authorized common shares pursuant to the Plan.

EUA now proposes to issue and sell (or, in the case of shares purchased on the open market, to acquire and sell) from time to time up to January 1, 1986, the 273,913 common shares remaining from the 1,600,000 shares previously authorized, plus a maximum of 800,000 additional common shares. Although it is expected that shares purchased by the participants under the Plan will generally be shares originally issued out of the shares authorized but not yet issued under EUA's Declaration of Trust, EUA reserves the right to direct the Agent to apply dividends and optional cash payments to the purchase of common shares in the open market. The purchase price for the 273,913 shares remaining from those previously authorized and for the 800,000 additional common shares (whether such shares are newly issued or purchased on the open market) will be 95% of the average of the closing sales prices of EUA's common shares as reported by The Wall Street Journal as composite transactions during the last five trading days immediately preceding the Investment Date, if such purchase is made with reinvested dividends. Purchases made with optional cash payments (whether the shares are newly issued or purchased on the open market) will be made at 100% of such average closing prices.

The proceeds from the sale of common shares under the Plan will be added to EUA's general funds and will be used for any or all of the following purposes: investment in EUA's subsidiaries, through purchases of additional shares of their capital stocks, capital contributions, loans, or open-account advances; payment of any indebtedness of EUA; or EUA's general purposes.

EUA requests an exception for the proposed issuance and sale of common shares from the competitive bidding requirements of Rule 50 pursuant to paragraph (a)(5) thereof.

The post-effective amendment and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their veiws in writing by August 23, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-20418 Filed 8-1-84; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

First Bankers Corp. of Florida
Common Stock, $1 Par Value (File No. 7-7727)

Foote, Cone and Belding Communications, Inc.
Common Stock, $.33⅓ Par Value (File No. 7-7728)

Fort Howard Paper Co.
Common Stock, $1 Par Value (File No. 7-7729)

First Virginia Banks, Inc.
Common Stock, $1 Par Value (File No. 7-7730)

Fisher Foods, Inc.
Common Stock, No Par Value (File No. 7-7731)

Grubb & Ellis Co.
Common Stock, $1 Par Value (File No. 7-7732)

Geico Corp.
Common Stock, $1 Par Value (File No. 7-7733)

General Housewares Corp.
Common Stock, $33⅓ Par Value (File No. 7-7734)

Heritage Communications
Common Stock, $.50 Par Value (File No. 7-7735)

International Aluminum Corp.
Common Stock, $1 Par Value (File No. 7-7736)

Informatics General Corp.
Common Stock, $.15 Par Value (File No. 7-7737)

Kidde, Inc.
Common Stock, $2.50 Par Value (File No. 7-7738)

Knogo Corp.
Common Stock, $.01 Par Value (File No. 7-7739)

Knight-Ridder Newspapers, Inc.
Common Stock, $.04⅛ Par Value (File No. 7-7740)

Lee Pharmaceuticals
Common Stock, $.10 Par Value (File No. 7-7741)

LL&E Royalty Trust
Common Stock, No Par Value (File No. 7-7742)

These securities are listed and registered on one or more other national securities exchange and are reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 16, 1984, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-20419 Filed 8-1-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-13211]

Public Service Company of New Hampshire; Application and Opportunity for Hearing

July 27, 1984.

Notice is hereby given that Public Service Company of New Hampshire (the "Company") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the successor trusteeship of J. Henry Schroder Bank & Trust Company ("Schroder") under three indentures qualified under the Act as well as one 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 Schroder from acting as successor trustee under either 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 (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section of the Act provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commissioner, and after opportunity for hearing thereon, that the trusteeships under the indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any such indentures.

The Company alleges that:

1. The Company had outstanding as of June 19, 1984 $75,000,000 of its 15¾% Debentures due 1988 (the "Debentures") issued under an Indenture dated as of October 1, 1982 (the "1982 Indenture"), between the Company and Manufacturers Hanover Trust Company, as Trustee ("Manufacturers"), which was heretofore qualified under the Act. The Debentures were registered under the Securities Act of 1933.

2. The Company had outstanding as of June 19, 1984, $100,000,000 of its 14¾% Debentures due 1991 (the "Debentures") issued under an Indenture dated as of February 1, 1983 (the "February 1983 Indenture"), between the Company and Manufacturers which was heretofore qualified under the Act. The Debentures were registered under the Securities Act of 1933.

3. The Company had outstanding as of June 19, 1984 $100,000,000 of its 15% Debentures due 2003 (the "Debentures") (the Debentures issued under the 1982 Indenture, the February 1983 Indenture and the November 1983 Indenture are sometimes collectively referred to herein as the "Debentures") issued under an Indentures dated as of November 1, 1983 (the "November 1983 Indenture") (the 1982 Indenture, the February 1983 Indenture and the November 1983 Indenture together are sometimes collectively referred to herein as the "Qualified Indentures"), between the Company and Manufacturers which was heretofore qualified under the Act. The Debentures were registered under the Securities Act of 1933.

4. The Company is the Guarantor to $30,000,000 of 17% Notes due August 15, 1986 (the "Notes") issued by PSNH International Finance N.V. ("Finance N.V.") and PSNH International Finance B.V. ("Finance B.V."), which are

subsidiaries to the Company, pursuant to an Indenture dated as of August 15, 1981 (the "1981 Indenture"), among Finance N.V., Finance B.V., the Company and Morgan Guaranty Trust Company of New York ("Morgan"). The 1981 Indenture was not qualified under the Act and the Notes were not registered under the Securities Act of 1933.

5. On April 27, 1984 Schroder was appointed the successor Trustee under each of the Qualified Indentures.

6. The Company appointed Schroder to act as successor Trustee under the 1981 Indenture on June 19, 1984. The Instrument of Resignation, Appointment and Acceptance dated as of June 19, 1984 among the Company, Finance, N.V., Finance B.V. and Schroder, by which Schroder was appointed successor Trustee under the 1981 Indenture and accepted its appointment thereunder, provides that, if prior to September 19, 1984, the Commission does not issue an order under section 310(b)(1)(ii) of the Act that Schroder is not disqualified from acting as successor Trustee under the 1981 Indenture, Schroder shall resign, and upon such resignation by Schroder, the Company shall promptly appoint Morgan as successor Trustee under the 1981 Indenture and Morgan shall accept such appointment.

7. The Company may presently be in default under the terms of the Qualified Indentures as well as the 1981 Indenture.

8. The Company's obligations under the Qualified Indentures and the 1981 Indenture, as well as the securities issued thereunder are wholly unsecured and rank *pari passu inter se*. There are no material differences between the Qualified Indentures and the 1981 Indenture except for variations as to aggregate principal amounts, dates of issue, maturity and interest payment dates, interest rates and redemption prices.

9. The provisions of the aforementioned Qualified Indentures and the 1981 Indenture are not so likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of any holder of any of the securities issued under such indentures to disqualify Schroder from continuing to act as successor Trustee under the Qualified Indentures and the 1981 Indenture.

The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than August 27 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 Fifth Street, NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A Fitzsimmons,

Secretary.

[FR Doc. 84-20489 Filed 8-1-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21178; File No. SR-BSECC-84-1]

Self-Regulatory Organization; Filing of Proposed Rule Change by Boston Stock Exchange Clearing Corp.

July 27, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 29, 1984, the Boston Stock Exchange Clearing Corporation ("BSECC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change revises BSECC's rules to more accurately reflect BSECC's current operations. The proposed rule change covers, among other things, qualifications for membership; maintenance and use of clearing fund; member services; business conduct; establishment of fees; audit and other financial reporting; termination of membership; and disciplinary procedures. The purpose of the rule change is to establish the relationship between, and respective duties of, BSECC and its members in conformance with the Division of Market Regulation's Standards for clearing agency registration under the Act (*See* Release No. 34-16900, June 17, 1980).

BSECC believes that the proposal is consistent with sections 17A(b)(3) and 17A(b)(5) of the Act because the proposed amendments, among other things, provide: (i) Minimum qualifications for membership; (ii) adequate safeguards for securities and funds which are in BSECC's custody or control or for which it is responsible; (iii) equitable allocation of reasonable dues, fees and other charges among its participants; (iv) fair procedures with respect to disciplining participants, denying participation status to any applicant and prohibiting or limiting any person's access to BSECC's services; and (v) authority for appropriate disciplinary actions for violations of BSECC's rules.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-BSECC-84-01.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendment also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-20491 Filed 8-1-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21180; File No. SR-BSE-84-2]

Self-Regulatory Organization; Filing of Proposed Rule Change by Boston Stock Exchange, Inc.

July 27, 1984.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 5, 1984, the Boston Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The BSE is proposing to expand the pilot program established for the execution of standard odd-lot market orders to purchase or sell shares in American Telephone and Telegraph ("AT&T") and the equity issues created as a result of the AT&T divestiture to include all BSE issues.[1] The BSE is proposing to implement these procedures on a two-month pilot basis and has stated in its filing that during those two months, it will be monitoring the effect of the procedures on the pricing of odd-lots.

Under the proposed procedures, standard odd-lot orders received prior to the opening shall be executed at the consolidated opening price. In addition, the BSE is proposing to provide that any customer or his representative may request and be provided an execution based upon the opening in the primary market. An odd-lot differential may be charged on these orders.[2] Standard odd-lot market orders received after the opening in all BSE issues will receive an execution price based on the best consolidated quotation in the stock at the time such order is received by the specialist. No odd-lot differential will be charged on these orders.

The Exchange has stated that implementation of the pilot will provide for more efficient executions and reporting of the odd-lot orders and is consistent with section 6(b)(5) of the Securities Exchange Act of 1934.

[1] The Commission approved the adoption of a nine month pilot program (SR-BSE-83-14) on November 18, 1983. (Securities Exchange Act, No. 20399, 48 FR 54151, November 30, 1983). The pilot procedures were applicable only to a limited number of issues: American Information Technologies Corporation, American Telephone & Telegraph Co., Bell Atlantic Corporation, Bell South Corporation, NYNEX Corporation, Pacific Telesis Group, Southwestern Bell Corporation and U.S. West, Inc.

[2] In instances in which quotation information is not available (e.g., when the quotation is in a "non-firm" mode) standard odd-lot market orders will be executed on the last consolidated round-lot sale. An odd-lot differential may be charged on these orders.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No SR-BSE-84-2.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-20490 Filed 8-1-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21182; File Nos. SR-MCC-84-2 and SR-MSTC-84-1]

Self Regulatory Organization; Order Approving Proposed Rule Changes of Midwest Clearing Corp. and Midwest Securities Trust Co.

July 27, 1984.

I. Introduction

On March 28, 1984, Midwest Clearing Corporation ("MCC") and Midwest Securities Trust Company ("MSTC") filed with the Commission[1] proposed rule changes that substantially revise their respective rules.[2] Notices of the proposals were published in the Federal Register to solicit comment.[3] No comment was received.

For the reasons stated below, the Commission is approving MCC's and MSTC's proposals. In this Order, unless MCC or MSTC is specifically identified, discussion is applicable to both MCC and MSTC (referred to together as "MCC/MSTC").

II. Description

MCC/MSTC propose a comprehensive revision of their rules to more accurately reflect the services provided to, and the rights and obligations of, their respective participants. The proposals also are intended to clarify MCC/MSTC rights and obligations and increase protection from financial loss in connection with services provided to participants. The filings represent a continuing effort on the part of MCC/MSTC to keep their rules current as required by the Commission's full registration order.[4]

A. Financial Safeguards for MCC/MSTC

The proposals clarify MCC/MSTC's credit limit rules, which prohibit participants from receiving securities valued in excess of their credit limit unless funds are deposited with MCC/MSTC in the amount of the excess. Under the proposal, MCC/MSTC would have discretion in setting the amount of each participant's credit limit, but would do so according to procedures to be adopted by MCC/MSTC.

MCC/MSTC propose to add several provisions authorizing them to reverse credits and certain transactions. In particular, the proposals give MCC/MSTC the right to reverse credit given their participants for stock or cash dividends or interest payments not received by MCC/MSTC from the issuer or paying agent, provided that MCC/MSTC reverses such credits within ten business days from the payment date of the dividend. Also, in the event of a default in payment by a contra-participant or paying agent, the proposals generally authorize MCC/MSTC to reverse any money adjustments or any non-CNS transactions with respect to issues subject to a reorganization.

If comparison data are not submitted to MCC by times designated in its rules and procedures, MCC's proposal would authorize MCC to require settlement of

[1] The filings were made pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act").

[2] On July 10, 1984, MSTC and MCC filed amendments to these proposed rule changes. In this Order the proposals will be discussed as amended only.

[3] See Securities Exchange Act Release Nos. 34-20877 and 34-20878 (April 17, 1984), 49 FR 17836 (April 25, 1984).

[4] See Securities Exchange Act Release No. 20221 (September 23, 1983), 48 FR 45167 (October 3, 1983).

the compared trade through the Trade-By-Trade settlement system. Alternatively, until MCC receives appropriate protection through a mark to the market payment or a guarantee from another clearing corporation, MCC would be authorized to reverse such a trade prior to settlement in the event of a member or contra-party default or insolvency.

MCC's proposal sets a 26 day time period for maintaining Short Value Positions. After that time, the proposal would authorize MCC to borrow or buy in securities and debit the account of the participant having the Short Value Position for the securities' value.

The proposals add new provisions governing services with respect to securities of a corporation undergoing reorganization. The proposals would authorize MCC/MSTC to establish a cut-off date for each reorganization, after which MCC/MSTC will not exchange securities for cash, exercise dissenters' rights, or credit stock dividends. The proposals specify that MCC/MSTC act as agents in providing these services during corporate reorganizations, and that MCC/MSTC will take shareholder action as directed by participants. As a result, MCC/MSTC would have the right to reverse relevant debits and credits in the event of default by the issuer, tender offeror, or other appropriate party.

The proposal would authorize MCC/MSTC to require participants to indemnify MCC/MSTC for losses resulting from registration of securities held in nominee name, particularly losses resulting from the exercise of shareholder rights by MCC/MSTC's nominee at the direction of participants. Such indemnification, however, would not apply to losses resulting from MCC/MSTC's negligence of willful misconduct.

The proposals would enable MCC/MSTC to require contributions to their Participants Funds in addition to contributions based on usage of facilities. The proposal also would establish priorities for use of each participant's contribution to MCC/MSTC Participants Funds to satisfy unpaid obligations of that participant to MCC/MSTC affiliates. Under the proposals, a MCC participant's contributions to the MCC Participants Fund first would be used to satisfy that participant's obligations to MCC, and then to satisfy that participant's obligations to MSTC, the Midwest Stock Exchange, and the MBS Clearing Corporation, in that order. Similarly, MSTC participants' contributions to the MSTC Participants Fund first would be used to satisfy that participant's obligations to MSTC, and then to satisfy that participant's obligations to MCC, the Midwest Stock Exchange, and the MBS Clearing Corporation, in that order.

B. Other Protections

The proposals broaden participants' appeal rights. Specifically, the proposals provide MCC/MSTC participants the right to appeal from a MCC/MSTC decision to cease providing any services to particular participants.

The proposals would clarify MCC/MSTC's ability to delegate authority to promulgate binding procedures. Under the proposals, the authority to prescribe procedures would be limited to the Boards of Directors or, if the Boards delegate this authority in a resolution, to the Chairmen of the Boards, Presidents, Executive Vice-Presidents or Vice-Presidents of MCC/MSTC.

C. Operations and Services

MCC has substantially revised its rules concerning trade comparison and recording to more accurately describe its present comparison and recording functions. The proposals specify more clearly which contracts MCC can compare, its procedures for comparison, and procedures for contracts that are pre-compared by another source.

MCC's proposal also provides procedures for correcting erroneous trade data. Such errors can be corrected by cancellation of incorrect trade data and submission of correct trade data, or by execution of a new trade.

MCC's proposal would establish a clear preference for settlement by CNS in MCC's settlement rules. Unless trade inputs specify Trade-By-Trade settlement, all trades in CNS-eligible securities will be processed in the CNS system.

MCC has proposed additional rules concerning buy-ins in the Trade-By-Trade system. Under present MCC rules, buy-ins may result from participants' failure to deliver securities pursuant to receive and deliver orders for settlement of trades. The proposal would authorize MCC to arrange a buy-in of securities as a result of a participants' failure to deliver securities in connection with member-to-member stock loans.[5]

The proposed would amend existing rules to establish priorities for allocating liabilities resulting from buy-ins executed to eliminate Short Value Positions when there is a deficiency of particular securities in the CNS system. Under the proposal, MCC first may request all participants having a Short Value Position in the security to satisfy their delivery obligation voluntarily. If that fails to eliminate the deficiency, MCC may arrange to buy in securities and will allocate the resulting liabilities to participants having had Short Value Positions in the security for the longest time, thereby eliminating or reducing those positions. However, specialists are given preference and, except for deficiencies relating to reorganizations, specialists having Short Value Positions will not be allocated liabilities until all non-specialist Short Value Positions are eliminated.

The proposed rules would permit MCC participants for the first time to participate in a member-to-member stock loan program. Under this program, MCC participants could either borrow or lend securities and would have several options. First, participants could instruct MCC to initiate stock loan arrangements with a designated participant. Alternatively, participants that do not indicate the identity of a specific borrower or lender may instruct MCC to notify them of the identity of the prospective borrower or lender before completion of the loan. If the requesting party neither designates a specified borrower or lender nor requests notification of the identity of the proposed borrower or lender, MCC would be authorized to arrange a loan between the requesting participant and any other participant in the program. The proposals specify, however, that in all of these cases MCC would be acting as an agent only and would not be responsible for satisfying loan obligations of participants.

MCC's proposal would revise its rules for allocating liabilities from security loans needed to satisfy security withdrawal requests in excess of deliveries to MCC. Under existing rules, such requests result in movement of securities from the Loan Free Position of the participant that has had a Loan Free Position for the longest time without a movement to Loan Value Position. Under the proposal, if there is more than one participant with equal priority, the request will be allocated among all such participants, resulting in movements of securities from the Loan Free Position of each. If the request is still not satisfied, participants having the next oldest Loan Free Position will have securities moved to their Loan Value Position. This will continue until all withdrawal requests are satisfied or all Loan Free Positions are depleted.

The proposals would create for the first time a collateral loan (pledge) program. Through this program, MCC participants that have established an

[5] Member-to-member stock loans are a new service provided by MCC. See discussion *infra* at page 4.

acceptable line of credit with MCC, and made arrangements with a participating pledgee bank, could use securities held in certain designated accounts [6] as collateral for a loan from the pledgee bank to finance debit balances owed to MCC on any given day.

The proposals would add to MCC/MSTC's rules several settlement services presently offered to MCC/MSTC participants. These services have been provided pursuant to written procedures published in MCC/MSTC bulletins. The proposals would merely update MCC/MSTC's rules by incorporating these services and do not propose substantive changes in services. MCC/MSTC's traditional safeguarding and monitoring mechanisms apply to these services. The added services are the Envelope Settlement Service ("ESS"), Special Security Movements ("SSM"), Correspondent Delivery and Collection Service ("CDCS"), Correspondent Receipt and Payment Service ("CRPS"), and the Underwriting Program. Through the ESS, participants may instruct MCC to act as its agent to deliver securities in a special ESS envelope to another MCC participant. Each envelope must have a credit list showing its contents and value. MCC will not examine the contents of the envelopes, but upon receipt will credit the delivering participant's account and debit the receiving participant's account for the stated value. If the receiving participant discovers irregularities in the contents of the envelope, that participant may reject the envelope and return the envelope to the delivering participant through ESS. The SSM service is similar to ESS, except that MCC will verify the number of shares or the principal dollar amount and other aspects of the delivery. Through CDCS and CRPS, a participant can instruct MCC to act as its agent for receipt and delivery of securities and funds with non-participants. The Underwriting Program is basically a consolidation of the above services to facilitate underwriting syndicate securities distribution either through book-entry movement or physical delivery of securities.

III. MCC/MSTC's Rationale for the Proposals

MCC/MSTC state in their filings that the proposals are designed to more accurately reflect the services provided to, and the rights and obligations of, their respective participants. In addition, MCC/MSTC believe that these proposals clarify their respective rights and obligations and reduce their risks in connection with the services they provide. MCC/MSTC believe that the proposals will facilitate the prompt and accurate clearance and settlement of securities transactions and promote the safekeeping of securities and funds. Accordingly, MCC/MSTC believe that their proposals are consistent with the Act generally, and with Section 17A in particular.

IV. Discussion

The Commission agrees that the proposals are consistent with the Act. The Commission reaches this conclusion because it is convinced that the proposals more accurately reflect MCC/MSTC's current policies and operations, thereby making the rules more useful for participants in their daily operations. Also, the Commission agrees with MCC/MSTC that several areas of the rules amended by the proposal, discussed more specifically below, increase significantly MCC/MSTC's ability to safeguard securities and funds.

The Commission believes that the authority to create credit limits provides a significant degree of financial protection while preserving flexibility to adjust restraints on participant activity based on the unique financial needs and condition of each participant. Through credit limit rules, MCC/MSTC may limit the possibility of financial loss from member default or insolvency by placing a ceiling on the activity of each participant. Because the proposed credit limit rules contemplate the setting of limits for each participant based upon that participant's individual financial condition and clearing activity, the Commission believes that MCC/MSTC's proposals would result in fair credit limits.[7] Finally, because credit limits may be exceeded if additional funds are deposited, the Commission believes that the credit limit rules would not unreasonably restrict participant activity.

The Commission believes that the proposals' reversal provisions would increase significantly MCC/MSTC's protection from financial loss, without threat to the safeguarding of fully paid for securities. For example, in the event of default or insolvency by a participant or contra-party, MCC/MSTC would have the right to reverse trades prior to settlement until protection is received in the form of a mark to the market payment or guarantee from another clearing corporation. This right protects MCC/MSTC from adverse market movement prior to settlement. Also, the Commission believes that the addition and clarification of reversal provisions address an important aspect of participant rights and obligations. Specifically, participants will be better informed of when MCC/MSTC's guarantee of participant obligations attaches, and the extent to which credits may be reversed in the event of default or insolvency.

The Commission believes that MCC's proposed buy-in and sell-out requirements under its Trade-By-Trade rule add significantly to MCC's protection as well as that of its participants. Such mechanisms are important for limiting risk of loss due to market movement in the event a participant fails to deliver or receive securities. Also, buy-in and sell-out requirements provide an efficient method for administering remedies for failure to perform trade contracts.

The Commission believes that the addition of a member-to-member stock loan service to MCC/MSTC's rules is beneficial for several reasons. Generally, participants needing to borrow securities often rely upon unregulated and often unsupervised stock loan finders. Encouraging this activity to take place in the clearing and depository environment should reduce stock loan risks because of available mark payment systems. In addition, MCC/MSTC's ability to monitor closely their participants' activities would be enhanced by bringing more of each participant's total financial activity within the clearing and depository environment.

V. Conclusion

The Commission finds that the proposals add a significant degree of financial protection for MCC/MSTC and their participants, and provide greater clarity and certainty to participants using MCC/MSTC rules in their daily operations. Therefore, the Commission finds the proposals consistent with the Act in general, and Section 17A in particular, because they facilitate development of a national system for clearance and settlement of securities transactions.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes referenced above be, and they hereby are, approved.

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[6] These accounts consist of participants' Clearing Free and Loan Free Positions. Physical securities underlying those positions would be maintained by MCC at MSTC.

[7] MCC and MSTC, as self-regulatory organizations, must administer their rules in an impartial manner. *See* sections 17A(b)(3)(F) and (3)(I) of the Act.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-20493 Filed 8-1-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21183; File No. SR-PSDTC-84-08]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Pacific Securities Depository Trust Company

July 30, 1984.

On June 22, 1984, the Pacific Securities Depository Trust Company ("PSDTC") filed with the Securities and Exchange Commission a proposed rule change under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1). The proposed rule change would establish a dividend reinvestment program [the "Program"] for participants with positions in eligible securities and would institute fees to reflect PSDTC's costs for providing this service. The proposed rule change was amended on July 18, 1984, when PSDTC filed its proposed dividend reinvestment procedures with the Commission. The Commission is publishing this notice to solicit comment on the proposed rule change.

Generally, the Program will allow PSDTC participants to reinvest cash dividends and retain the resulting securities on deposit with PSDTC. PSDTC will notify its participants when a dividend is declared with respect to a security that is subject to a dividend reinvestment plan. If it so elects, a participant may specify the number of shares on deposit at PSDTC as of the record date with respect to which it elects to receive stock, and the number with respect to which it elects to receive a cash dividend.

Securities that are or will be eligible for this Program must meet certain requirements. First, the securities must be PSDTC eligible. In addition, the administrator of each dividend reinvestment plan ("DRP") must agree to comply with PSDTC procedures. Finally, the terms of each DRP must be compatible with PSDTC's DRP processing. Currently, 8 securities are eligible for this program.

According to the proposed rule change, PSDTC would announce the terms of each dividend reinvestment approximately five business days prior to the announced record date, and would include the deadline for acceptance of participant instructions. PSDTC states in its filing that it will accept provisional reinvestment instructions by telephone pending receipt of a DRP participant instruction form. If the participant instruction form is not received timely, however, PSDTC retaoins the right to cancel the telephone instructions. Participants that wish to cancel their DRP instructions would be required to contact PSDTC immediately. PSDTC then will contact the plan administrator and, if the administrator accepts them, the instructions will be cancelled.

PSDTC will aggregate participant DRP instructions and request dividend reinvestment plan administrators to reinvest the appropriate quantity of dividends due PSDTC for those participants. The actual DRP payment is approximately three weeks after the cash dividend payment date. Upon receipt of payment, PSDTC will process a stock dividend adjustment for the amount of full shares due to each participant and a cash dividend adjustment for fractional shares at a rate determined by each plan administrator.

PSDTC proposes to charge $18.00 for each DRP instruction processed, plus $5.00 for each special request. These proposed fees would be in addition to other applicable dividend processing fees.

To assist the Commission in determining whether to approve the proposed rule change or to institute disapproval proceedings, you are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. If you decide to comment on this filing, please file six copies of your views in writing with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-PSDTC-84-08.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all other written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. 20549. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of PSDTC.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-20492 Filed 8-1-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 09/09-0348]

BNP Venture Capital Corp. Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1984)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

Applicant: BNP Venture Capital Corporation.

Address: 3000 Sand Hill Road, Building Four, Suite 160 Menlo Park, California 94025.

The officers and directors of the Applicant are:

Name and Position

Michael Bouissou, 5, Allee de la Doucerie, 78620 Etang-La-Ville, France; Director (Chairman of the Board)

Jacques Boulanger, 139 East 79th Street, New York, New York 10021; Director

Claude Ossart, 11 chemin du Clos-Roy, 91530 Le Val St. Germain, France; Director

Edgerton Scott, II, 740 Stanford Avenue, Menlo Park, California 94025; President and Director

Robert D. Tinus, 1227 Rainier Avenue, Pacific, California 94044; Secretary and Treasurer

George M. Cohen, 20 Butler Road, Scarsdsale, New York 10583; Assistant Secretary and Director

BNP Venture Holding Corp., 306 South State Street, Dover, Delaware 19901 is the sole shareholder of the applicant. All of the issued shares of BNP Venture Holding Corp. are owned by Banque Pour L'Expansion Industrielle ("BANEXI"). BANEXI is a wholly owned French Banking subsidiary of Banque National de Paris (BNP) which in turn is owned by the Republic of France.

The applicant, a Delaware Corporation, with its principal place of

business at 3000 Sand Hill Road, Building Four, Suite 160, Menlo Park, California 94025, will begin operations with $1,100,000 paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in the State of California.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this Notice should be published in a newspaper of general circulation in the Menlo Park, California area.

Dated: July 27, 1984.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-20514 Filed 8-1-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2162]

Montana; Declaration of Disaster Loan Area

Carter County and the adjacent County Powder River in the State of Montana constitutes a disaster loan area because of damage from severe snowstorms and high winds which occurred on April 24–27, 1984. Applications for loans for physical damage may be filed until the close of business on September 24, 1984, and for economic injury until April 26, 1985, at the address listed below: Disaster Area 4 Office, Small Business Administration, 77 Cadillac Drive, Sacramento, CA 95825, or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 216211 for physical damage and for economic injury the number is 619800.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 26, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-20513 Filed 8-1-84; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 09/09-5343]

New Kukje Investment Co; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to §107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1984)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

Applicant: New Kukje Investment Company.

Address: 958 South Vermont Avenue, Suite C, Los Angeles, California 90006.

The proposed officers, and directors of the Applicant are as follows:

Name and Position

George Chey, 3266 Lowry Road, Los Angeles, California 90027; President and Chairman of the Board

Chong Keun No, 18803 Roselle Avenue, Torrance, Califorina 90504; Vice President/Chief Financial Officer and Director

Chul Ho Kim, 2740 Kennington, Glendale, California 91206, Secretary and Director

Daniel D. Clough, 11954 Washington Place, Los Angeles, California 90006; Director

Lowell D. Thorson, 13940 Paramount Boulevard, Paramount, California 90723; General Manager

No person, corporation, partnership, trust or other entity owns or proposes to own, either directly or indirectly, 10 or more percent of the securities issued or to be issued by the Applicant.

The Applicant, a California corporation, will begin operations with $1,020,000 paid-in capital and paid-in surplus.

The Applicant will conduct its activities principally in the State of California.

As a small business investment company under section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act and will provide assistance solely to small concerns which will contribute to a well balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act, and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice should be published in a newspaper of general circulation in the Los Angeles, California area.

Dated: July 27, 1984.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-20515 Filed 8-1-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular on Qualification of Fuels, Lubricants and Additives for Aircraft Engines; Request for Comments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft Advisory Circular (AC) Availability and Request for Comments.

SUMMARY: This AC, which proposes to revise AC No. 20–24, Change A dated April 14, 1967, provides information relating to the qualification of fuels, lubricants and additives for aircraft engines.

DATE: Commenters must identify File AC 20–24 Change B; Subject: Qualification of Fuels, Lubricants and Additives for Aircraft Engines.

Comments must be received by September 30, 1984.

ADDRESS: Send all comments on the draft AC to: Federal Aviation Administration, Aircraft Certification Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. W. Locke Easton, Engine and Propeller Standards Staff, ANE–110, Aircraft Certification Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7330.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this draft AC by writing to: Federal Aviation Administration, Aircraft Certification Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

Background

In certificating an engine, the Administrator has responsibility under Federal Aviation Regulations (FARs), Part 33, for establishing the limitations for its operation on the basis of the engine-operating conditions demonstrated during the block tests. Such operating limitations include those items relating to power, speeds, temperatures, pressures, fuels, and lubricants which he finds necessary for safe operation of the engine. The limitations on fuels and lubricants include the additives that may be blended with the fuel or lubricant. The suitability and durability of all materials used in the engine are established on the basis of experience or tests, and all materials used in the engine must conform to approved specifications. Experience and test data should be on engine models which are at least similar in configuration, materials, operating characteristics, and power category to those of the engine in which these materials are intended to be used. The AC revises AC No. 20–24, Change A, dated April 14, 1967.

Comments Invited

Interested parties are invited to submit comments on the draft AC. The draft AC and comments received may be inspected at the office of the Aircraft Certification Division, Engine and Propeller Standards Staff, (ANE–110), Room 408, 12 New England Executive Park, Burlington, Massachusetts, between the hours of 8:00 a.m. and 4:30 p.m. on weekdays, except Federal Holidays.

Issued in Burlington, Massachusetts, on July 18, 1984.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 84–20376 Filed 8–1–84; 8:45 am]

BILLING CODE 4910–13–M

Flight Service Station at Key West, FL; Closing

Notice is hereby given that on or about July 29, 1984 the Flight Service Station at Key West, Florida, will be closed.

Services to the general aviation public of Key West, formerly provided by this office, will be provided by the Flight Service Station in Miami Florida. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Atlanta, GA., on July 19, 1984.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 84–20377 Filed 8–1–84; 8:45 am]

BILLING CODE 4910–13–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 150
Thursday, August 2, 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

Change 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, July 30, 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 matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: Penn Square Bank, National Association, Oklahoma City, Oklahoma

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(9)(B), and (c)(10)).

Dated: July 30, 1984.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[FR Doc. 84-20627 Filed 7-31-84; 3:36 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, July 30, 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 matter:

Memorandum and Resolution re: Extension of Comment Period on Proposed Statement of Policy on Disclosure of Bank and Thrift Information.

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: July 30, 1984.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[FR Doc. 84-20628 Filed 7-31-84; 3:36 pm]

BILLING CODE 6714-01-M

3

FEDERAL ELECTION COMMISSION

DATE AND TIME: Thursday, August 2, 1984, 10:00 a.m.

Pursuant to 11 CFR 3.5(d)(1), the Commission is adding the following matter to the open meeting agenda:

Revised Draft Advisory Opinion #1984-28
Alton H. (Bill) Starling, Candidate for United States House of Representatives

DATE AND TIME: Tuesday, August 7, 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, August 9, 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 #1984-21
Mary Lou Butler on behalf of Studds for Congress
Draft Advisory Opinion #1984-31
James B. Cardle on behalf of First Bank & Trust Company
Draft Advisory Opinion #1984-32
David A. Myers on behalf of the Don Pease for Congress Committee
Finance Committee Report
Fiscal Year 1986 budget request
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. 84-20527 Filed 7-31-84; 10:22 am]

BILLING CODE 6715-01-M

4

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, August 16, 1984.

PLACE: Suite 316, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mr. Earl R. Ohman, Jr., (202) 634-4015.

Dated: July 31, 1984.

Earl R. Ohman, Jr.,

Acting General Counsel.

[FR Doc. 84-20608 Filed 7-31-84; 2:50 pm]

BILLING CODE 7600-01-M

5

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, August 23, 1984.

PLACE: Suite 316, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mr. Earl R. Ohman, Jr., (202) 634–4015.

Dated: July 31, 1984.

Earl R. Ohman, Jr.,

Acting General Counsel.

[FR Doc. 84–20608 Filed 7–31–84; 2:50 pm]

BILLING CODE 7600–01–M

6

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

(Northwest Power Planning Council)

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open. An executive session to discuss pending litigation and personnel matters will follow the meeting on August 9.

TIME AND DATE: August 8, 1984 at 1:30 p.m.; August 9, 1984 at 9:00 a.m.

PLACE: Outlaw Inn, Winchester Room, 1701 Highway 93 South, Kalispell, Montana.

MATTERS TO BE CONSIDERED:

1. Council Decision on Comments to Bonneville Concerning the Proposed Near-Term Intertie Access Policy
2. Staff Presentation on Rivers Assessment Issue Paper
3. Council Decision on the Big Horn Sheep Project at Libby Dam and Wildlife Loss Estimates for the Willamette Basin, Grand Coulee, and Palisades Projects
4. Council Decisions on Amendments to Sections 14.1 and 1E of the Power Plan
5. Council Decision on Comments to the California Energy Commission on Appliance Efficiency Standards
6. Presentation on Appendix J Errata and Other Technical Changes
7. Additional Public Comment on Resource Options Issue Paper
8. Public Comment on Surcharge Methodology Issue Paper
9. Council Business
10. Public Comment

Note.—Council Meeting Calendar Change—The locations for the meetings on September 19 and 20 and October 10 and 11 have been reversed. September 19 and 20 will now be held in Yakima, Washington, and October 10 and 11 will be in Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–20518 Filed 7–31–84; 9:47 am]

BILLING CODE 0000–00–M

7

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (49 FR 29896 July 24, 1984).

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Thursday, June 19, 1984.

CHANGE IN THE MEETING: Closed meeting.

The following items were considered at a closed meeting held on Thursday, July 26, 1984, following the 2:30 p.m. open meeting.

Subpoena enforcement action.

Settlement of administrative proceeding of an enforcement nature.

Settlement of injunctive action.

Chairman Shad and Commissioners Treadway, Cox and Peters determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Marianne Keler at (202) 272–2014.

Dated: July 27, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–20597 Filed 7–31–84; 1:15 pm]

BILLING CODE 8010–01–M

8

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of July 30, 1984, at 450 Fifth Street, NW., Washington, D.C.

A closed meeting will be held on Tuesday, July 31, 1984, at 10:00 a.m. An open meeting will be held on Thursday, August 2, 1984, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b (c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Treadway, Cox, Marinaccio and Peters voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, July 30, 1984, at 10:00 a.m., will be:

Formal order of investigation.
Settlement of injunctive action.
Institution of injunctive actions.

The subject matter of the open meeting scheduled for Thursday, August 2, 1984, at 2:30 p.m., will be:

1. Consideration of whether to adopt amendments to the Commission's Uniform Net Capital Rule (Rule 15c3–1) and to Form X–17A–5 ("the FOCUS Report") to reflect amendments to the Commodity Futures Trading Commission's ("CFTC") net capital and reporting rules in connection with commodity option transactions. The amendments will affect particularly those broker-dealers who are also registered with the CFTC as futures commission merchants. For futher information, please contact Steven J. Gray at (202) 272–3113.

2. Consideration of whether to propose for public comment withdrawal of annual reporting Forms N–1R, N–5R, N–30A–2, N–30A–3, and 2–MD; the adoption of Form N–SAR pursuant to Section 30b–1 of the Investment Company Act of 1940; and the adoption of rule amendments necessary to implement these form changes. For further information, please contact Gene A. Gohlke at (202) 272–2024, with respect to proposed forms and Elizabeth Norsworthy at (202) 272–2048, with respect to proposed rule amendments.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Angela Hall at (202) 272–3085.

Dated: July 27, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–20598 Filed 7–31–84; 1:15 pm]

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federal register

Thursday
August 2, 1984

Part II

Environmental Protection Agency

40 CFR Part 80

Regulation of Fuels and Fuel Additives; Lead Phase Down; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS-FRL 2620-4]

Regulation of Fuels and Fuel Additives; Lead Phase Down

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a lead content standard of 0.10 gram of lead per gallon of leaded gasoline (gplg), effective January 1, 1986. This standard would replace the current standard of 1.10 gplg.

There are two reasons for EPA's proposal to reduce lead in gasoline. The misuse of leaded gasoline in vehicles designed for unleaded gasoline ("misfueling" or "fuel switching") is widespread and persistent. Misfueling poisons catalytic converters, resulting in a very high increase in emissions of several pollutants that adversely affect the public health and welfare (hydrocarbons, carbon monoxide, and nitrogen oxides). It has also resulted in higher lead usage than predicted by the Agency. The Agency is also increasingly concerned about the adverse health effects of lead in gasoline since its previous rulemaking on this subject in 1982, newly published studies and reanalyses of previously available information have heightened the Agency's concern about such effects.

The Agency is proposing a 1986 standard of 0.10 gplg instead of an immediate ban to effect EPA's objective because a large number of older vehicles (as well as other types of equipment) require a valve lubricant and it appears that no environmentally acceptable alternative to lead as such a lubricant is currently available. The Agency believes that the proposed standard of 0.10 gplg would provide an adequate amount of lead for this purpose. In order to assure that these vehicles receive an adequate amount of lead, EPA is also proposing elimination of the provisions in the regulations that allow the averaging of lead usage by refineries. The effective date of January 1, 1986, for the standard has been selected in order to allow the refining industry sufficient time to take actions needed to produce adequate amounts of unleaded and very low-lead gasoline, which the Agency believes is generally possible through the use of existing refinery equipment. In case comments lead EPA to believer that 1986 is not a feasible date, EPA is also considering alternative compliance schedules for a phased-in approach, such as 0.50 gplg on July 1, 1985, 0.30 gplg on January 1, 1986, 0.20 gplg on January 1, 1987, and 0.10 gplg on January 1, 1988.

The Agency is proposing two approaches relating to long term lead usage. The first would ban lead in gasoline by about 1995 by regulation. The second would impose no additional regulatory action beyond the 0.10 gplg standard on the premise that the reduction in total lead usage caused by vehicle and engine turnover would eliminate the need for lead and therefore its use.

EPA expects that its proposed 0.10 gplg standard would reduce lead usage in gasoline by at least 91 percent starting in 1986. The amount of fuel switching, and hydrocarbon/carbon monoxide/nitrogen oxide emission increases that are caused by this practice, should also be reduced significantly. The benefits from such reductions include reduced blood lead levels and related medical costs, benefits from reductions in tailpipe emissions of other pollutants, and savings in vehicle maintenance costs. A total ban on lead usage would have been greater health and other benefits.

DATES: A public hearing will be held on August 30 and 31, 1984, from 9:00 a.m. to 4:30 p.m. at the location listed below, in order to provide an opportunity for oral presentations of data, views, or arguments concerning the regulations proposed in this notice. Persons who wish to testify at this hearing should notify Richard Kozlowski at the address listed below prior to August 17, 1984.

Written comments must be submitted to the location listed below by October 1, 1984.

ADDRESSES: The public hearing will be held at the Hyatt Arlington (at Key Bridge), 1325 Wilson Blvd., Arlington, Virginia.

Written comments should be sent to Docket No. EN-84-05, Central Docket Section (LE-131), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The docket is located in the West Tower Lobby of EPA, 401 M Street, SW., Washington, D.C., and may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays. As provided in 40 CFR Part 2, a reasonable fee may be charged for photocopying. To expedite review, it is also requested that a duplicate copy of written comments be sent to Richard Kozlowski at the address listed below.

FOR FURTHER INFORMATION CONTACT: Richard G. Kozlowski, Director, Field Operations and Support Division (EN-397F), EPA, 401 M Street, SW., Washington, D.C. 20460. Telephone (202) 382-2633.

SUPPLEMENTARY INFORMATION:

I. Background

A. February 22, 1982, Notice of Proposed Rulemaking

On February 22, 1982, EPA announced that it would consider whether conditions justified rescission or modification of its regulations (promulgated in 1973) requiring refiners to meet a 0.5 gram of lead per gallon of total (leaded and unleaded) gasoline (gptg) standard for the average lead content of gasoline. 47 FR 4812. This standard was then in effect for all refineries except those then classified as small refineries. Small refineries would have been subject to this standard beginning on October 1, 1982, absent any change in the regulations. EPA's decision to reconsider these regulations was based on the question or whether the standard was still necessary due to the ever-increasing use of unleaded gasoline in this country, as all new cars now require the use of unleaded fuel to protect their emission control systems. EPA's notice listed alternative actions ranging from retention of the 0.5 gptg standard to rescission of the regulations, and requested comments on the various alternatives. On the same date, EPA proposed to suspend indefinitely the October 1, 1982, compliance data for small refineries to comply with the 0.5 gptg standard, pending completion of the review of the regulation. 47 FR 4814.

B. August 27, 1982, Rulemaking Notices

Based on a review of voluminous comments and testimony on the February 22 NPRM, as well as on information developed by the Agency, EPA issued three rulemaking notices on August 27, 1982.

In the first notice, EPA announced that it would not relax or rescind the overall standard of 0.5 gptg and therefore was withdrawing that portion of the February 22 proposal. 47 FR 38070. The Agency noted that the lead phasedown program had been based on the premise that gasoline lead emissions should be controlled to the extent possible. 47 FR 38072. EPA determined that rescinding or relaxing the lead standard would result in an increase in lead emissions to the atmosphere, that environmental lead exposure contiuned to be a national health concern, and that there was no new information that would lead EPA to determine that continuing control of lead in gasoline is not appropriate.

In a second notice, EPA proposed regulations to replace the standard of 0.5 gptg (based on the average lead content of all gasoline produced by a refinery) with a two-tiered standard regulating the lead content of leaded gasoline only. 47 FR 38078. Under the proposal, larger refineries would have been subject to a standard of 1.10 gplg while small refineries would have been subject to a 2.50 gplg standard. This notice also proposed to amend the definition of a small refinery in a manner that would have reduced the number of facilities eligible for the less stringent 2.50 gplg standard. Another major element of the proposed regulations was a requirement that the average lead content of imported leaded gasoline sold or offered for sale not exceed 1.10 gplg. The final major element of the proposed regulations was a provisons that would have permitted two or more refineries, whether owned by the same refiner or not, and importers to average their lead usage over a calendar quarter.

In the third notice of rulemaking, EPA suspended the compliance date of the 0.5 gptg standard for small refineries from October 1, 1982, to October 31, 1982. 47 FR 38090.

C. October 29, 1982, Notice of Final Rulemaking

On October 29, 1982, EPA promulgated revised regulations governing the allowable lead content of leaded gasoline. 47 FR 49322. Effective November 1, 1982, large refineries and importers were made subject to a lead content standard of 1.10 gplg, as proposed. Small refineries were made subject to the 1.10 gplg standard starting on July 1, 1983, with an interim standard of 1.90 gplg for the November 1, 1982, to June 30, 1983, period. The eight-month interim period was designed to compensate for the period of uncertainty caused by the Agency's consideration or revisions to the lead content regulations. The small refinery definition was also significantly revised, resulting in a substantial decrease in the number of qualifying facilities. Finally, the regulations were revised to permit all refineries and importers to average their lead usage with each other.

In this notice, the Agency indicated its intention to take whatever action is necessary to assure that lead usage in gasoline continues to be reduced, should leaded gasoline consumption not decrease substantially in the future. 47 FR 49324.

D. Actions by the U.S. Court of Appeals for the District of Columbia Circuit and EPA Responses

Petitions to review the regulations were filed by the Small Refiner Lead Phase-Down Task Force (SRTF), Plateau Incorporated, and Simmons Oil Company. These petitioners challenged various portions of the promulgated regulations, including the interim and permanent small refinery standards and the small refinery definition.

On January 26, 1983, the U.S. Court of Appeals for the District of Columbia Circuit issued an order in response to the challenges brought by SRTF and Plateau Inc. With one exception, the Court upheld the regulations. The exception was that the Court found the interim 1.90 gplg standard for small refineries to be defective because EPA did not give adequate notice that it might immediately require these facilities to reduce lead use significantly. As a result, the Court vacated that part of 40 CFR 80.20(b)(1)(i) that required small refineries to limit immediately the lead content of leaded gasoline to 1.90 gplg for gasoline production not exceeding the refinery's historic production level.

The Court delayed issuing its mandate in order to give EPA an opportunity to promulgate an emergency lead content regulation for the interim period. On February 1, 1983, the Agency issued an emergency rule, generally reinstituting until July 1, 1983, the lead content standards applicable to the affected small refineries prior to November 1, 1982 (2.15 and 2.65 gptg). See 48 FR 5724 (Feb. 8, 1983.).[1] Starting on July 1, 1983, the distinction in these regulations between large and small refineries was no longer applicable, as all refineries became subject to a 1.10 gplg standard on that date.[2]

On February 9, 1983, the Court issued an order in response to Simmons Oil's petition, which challenged the portion of the small refinery definition that precluded a facility from qualifying as a small refinery if, "during any period of ownership or control since July 1, 1981," it was owned or controlled by a refiner with total gasoline production greater than 70,000 barrels per day. 40 CFR 80.2(p)(3). The Court found that the addition of a past ownership requirement was procedurally flawed due to a lack of notice, and vacated this criterion in § 80.2(p)(3). The Court left in force the current ownership criterion in the provision.

On April 22, 1983, the Court issued an opinion explaining more fully the underlying reasoning for its February 9 order concerning the Simmons petition as well as for its January 26 order dealing with the other petitions. *Small Refiner Lead Phase-Down Task Force ("SRTF")* v. *E.P.A.*, 705 F.2d 506 (D.C. Cir. 1983). On issues related to the health effects of gasoline lead, the Court concluded:

> In summary, the demonstrated connection between gasoline lead and blood lead, the demonstrated health effects from blood lead levels of 30 ug/dl or above, and the significant risk of adverse health effects from blood lead levels as low as 10–15 ug/dl, would justify EPA in banning lead from gasoline entirely.

705 F.2d at 531.

On November 1, 1983, EPA took final action to revise § 80.2(p)(3) so as to be consistent with the Court's order concerning the Simmons petition. 48 FR 50482.

II. Statutory Authority

Section 211(c)(1) of the Clean Air Act, 42 U.S.C. 7545(c)(1), confers broad authority on the Administrator to "control or prohibit the manufacture . . . or sale" of any fuel or fuel additive whose emission products cause, or contribute to, "air pollution which may be reasonably anticipated to endanger the public health or welfare" or which "will impair to a significant degree the performance of any emission control device or system . . . in general use . . ." Section 211(g) of the Act authorizes the Administrator to promulgate "such regulations as he deems appropriate with respect to the reduction of the average lead content of gasoline refined by small refiners on or after October 1, 1982," subject only to the condition that he "take into account" experience under the small refinery sliding scale standards mandated by the statute prior to that date.

EPA's authority to control usage of lead as an additive in gasoline under section 211(c)(1)(A) to protect public health is well-established, and prior regulations significantly curtailing lead additive usage have been upheld in court. *Ethyl Corp.* v. *EPA*, 541 F.2d 1 (D.C. Cir. (en banc)), cert. denied, 426 U.S. 941 (1976); *SRTF* v. *EPA*, *supra*. On review of the current regulations, the Court of Appeals for the District of Columbia Circuit concluded that, in view of the "demonstrated connection between gasoline lead and blood lead"

[1] The Agency also published technical corrections to the October 29, 1982, final rules on the same date. 48 FR 5727.

[2] On March 31, 1983, the Agency announced its enforcement policy concerning the interim standards and its interpretation of the inter-refinery averaging provision in 40 CFR 80.20(d)(l)(iii), in light of different compliance periods for large and small refineries. 48 FR 13428.

and a "significant risk of adverse health effects" even from relatively low blood lead levels, any reduction in gasoline lead necessarily reduces the risk from lead to the public health. *SRTF* v. *EPA*, EPA 705 F.2d at 531.

In deciding whether to restrict fuel additives such as lead under section 211(c)(1)(A), the Administrator is required by section 211(c)(2)(A) to "consider" all relevant scientific and medical evidence available to him. The Agency has considered all such information in developing the current proposal, as described in Part III.C of this notice.

Similarly, before restricting an additive under section 211(c)(1)(B)—to prevent damage to emission control systems—the Administrator is required by section 211(c)(2)(B) to consider available scientific and economic data, including a cost-benefit analysis comparing emission control devices which are (or will be) in general use that require such protection to those that do not. The Agency has considered these data in the regulatory impact analysis that has been placed in the rulemaking docket (see Part VII.A, below). Since EPA has determined that there are not (and will not be in the foreseeable future) emission control devices in general use for gasoline-powered vehicles that do not require protection from lead contamination, the cost-benefit analysis called for in section 211(c)(2)(B) cannot be performed.

In addition, if requested by a manufacturer of motor vehicles, engines, fuels or fuel additives, the Administrator must hold a public hearing on the regulations proposed under section 211(c)(1)(B), and publish his findings with respect to the issues he is required to consider under this provision at the time of promulgation of final regulations. As indicated above, EPA will hold a public hearing on the proposed regulations, and findings on the required issues will be made at the time of final rulemaking.

Finally, before prohibiting use of any fuel additive altogether, the Administrator is required by section 211(c)(2)(C) to find that such a prohibition will not result in the use of other fuel additives that will endanger the public health or welfare to the same or greater degree than the additive being prohibited. Since EPA is requesting comments on whether it should ultimately prohibit the use of all lead in gasoline, EPA has evaluated this issue in Part VI.C, below.

Comments by interested parties on the findings that must be made and information that must be considered under these provisions are requested.

III. Basis for Current Rulemaking Actions

A. Magnitude of Fuel Switching and Impact on Lead Usage and Vehicle Emissions

The use of leaded gasoline in vehicles designed and certified by EPA to use only unleaded gasoline, termed "fuel switching" or "misfueling," is of major concern to the Agency. Misfueling can occur by removing or damaging the nozzle restrictor installed in the fuel filler inlet of a vehicle equipped with a catalytic converter, by using an improper size fuel nozzle, or by funneling leaded gasoline into the gas tank. Sometimes gasoline retailers sell gasoline that is mislabeled or contaminated, but this accounts for less than one-half of 1% of misfueling. It is believed that the motivations for intentional misfueling are attempts to save money and/or to improve vehicle performance, since leaded regular gasoline is cheaper and higher in octane than unleaded regular gasoline. This practice is of great concern to the Agency both because it results in greater use of lead in gasoline, as discussed in Part III.B of this notice, and because leaded gasoline poisons catalytic converters and thereby causes very large increases in several pollutants, as discussed below.

The 1982 EPA motor vehicle emissions tampering survey (the most recent compiled by the Agency) has quantified this problem, based on inspections for three indicators of such fuel switching: the removal of the vehicle's filler inlet restrictor, the presence of leaded gasoline in the tank, and the detection of lead deposits on the tailpipe by a lead sensitive "Plumbtesmo" test paper. EPA considers the vehicle to be misfueled if any of these indicators is observed. In the 1982 tampering survey, the unadjusted average fuel switching rate was 10.6% of vehicles designed for use of unleaded gasoline. The survey covered ten sites: five in areas with inspection/maintenance (I/M) programs, and five in areas without such programs. The fuel switching rate was 6.2% in I/M areas and 15.1% in non-I/M areas, based on 2637 vehicles comprising model years 1975 through 1982. Adjusting the fuel switching rates to account for the relative percentages of vehicles in I/M and non-I/M areas results in an estimated national fuel switching rate of 13.5% of unleaded-designed vehicles.

Misfueling rates apparently vary by the ages of vehicles, by whether the vehicles are in localities that have inspection and maintenance (I/M) programs (17–18% of the light-duty fleet were in I/M areas at the time of the 1982 survey), by whether they are part of a commercial fleet, and by other factors. Table 1 provides 1982 misfueling rates by model year of vehicle and I/M status.

TABLE 1.—1982 MISFUELING RATES BY AGE OF VEHICLE AND BY I/M STATUS

Model year	In percentage		
	Overall misfueling rates	I/M areas	Non-I/M areas
1982	5.2	4.4	6.3
1981	7.5	4.3	9.6
1980	8.1	5.7	10.1
1979	12.1	4.9	20.3
1978	12.2	5.9	19.5
1977	12.4	9.9	16.5
1976	14.5	9.6	20.2
1975	17.7	6.3	30.9
Weighted average [1]	13.5	6.2	15.1

[1] This weighted average does not take into account the number of miles driven by each model year. Taking this factor into account, the weighted average is 12.2%

The EPA survey probably underestimates real misfueling rates. One of the main reasons for this is that in this survey vehicle inspections for misfueling are voluntary, which might bias the results downward. In some areas, the rates of driver refusals of inspections were very high, ranging from less than 1% to 8% in I/M areas, and from 3% to 44% in non-I/M areas.

The increase in tailpipe emissions of pollutants other than lead due to fuel switching is quite high. The catalytic converter, responsible for the major portion of reductions in vehicle emissions, is disabled and vehicle emissions increase significantly. EPA has recently estimated the increase in emissions due to the repeated misfueling (5–10 tankfuls) of a vehicle that has an intact catalyst. For vehicles with oxidation catalysts, average emission increases are 2.47 grams per mile (gpm) for hydrocarbons (HC) and 20.96 gpm for carbon monoxide (CO), an increase in each of these pollutants of over 300% compared to a properly tuned vehicle. Vehicles equipped with a three-way converter will have estimated increases for three tailpipe pollutants: 1.57 gpm for HC, 11.30 gpm for CO, and 0.76 gpm for nitrogen oxides (NO_x). These increases, which are due solely to misfueling and not to any other form of tampering, represent an approximately 500% increase in HC, an approximately 300 percent increase in CO, and an over 100% increase in NO_x compared with the emissions of properly fueled vehicles.

The Agency currently is taking several measures to combat fuel switching and its resulting impact on emissions and lead usage. These measures include the vigorous enforcement of the misfueling regulations at gas stations and fleet

facilities, the allowance of state implementation plan credits for anti-tampering and anti-misfueling programs, and a multi-media public information campaign. Despite these efforts, misfueling is expected to persist as long as leaded gasoline with a higher octane rating and a lower price than unleaded gasoline remains available on the market.

B. Current Lead Usage

Lead usage under the current 1.10 grams of lead per leaded gallon (gplg) standard has been significantly higher than that anticipated in projections included in the October 27, 1982, notice of final rulemaking. 47 FR 49329. As shown in Table 2, total lead usage during 1983 was 51.83 billion grams, 4.87 billion grams or 10.4% more than that predicted by the Agency. The major portion of this increase occurred in the third and fourth quarters, when actual lead usage exceeded projections by 3.80 billion grams, or 17.4%. This excess lead usage over EPA's 1982 projections does not result from widespread exceedances of the standard by refineries or importers, since the national average lead content of gasoline during this period was 1.09 gplg. Rather, it appears to result from differences between projected and actual total and leaded gasoline demand figures. Total gasoline demand during 1983 exceeded the projections by 6.4%. Moreover, the portion of the total demand that was for leaded gasoline failed to decline as quickly as the Agency expected. In the fourth quarter of 1983 (the last reporting period for which data are currently available), the leaded share of the market was 45.2%, about 10% higher than the 41.1% share projected by EPA in 1982. This higher-than-expected lead usage results from a combination of factors, including improper use of leaded gasoline in newer vehicles certified for use of unleaded gasoline only, more total gasoline demand than expected, and longer retention and greater use of older vehicles that may legally use leaded gasoline.[3]

TABLE 2.—PROJECTED AND ACTUAL GASOLINE AND LEAD USE UNDER CURRENT REGULATIONS

Quarters in 1983	Total gasoline demand (bil. gal.)		Percent leaded		Total lead (bil. gm.)		
	Projected	Actual	Projected	Actual	Projected	Actual	Percent difference
I [1]	24.40	24.35	45.6	46.8	12.78	12.42	−2.9
II [1]	24.15	25.73	44.1	47.2	12.27	13.70	+11.7
III	23.90	27.23	42.6	46.3	11.21	13.64	+21.7
IV	23.65	25.28	41.1	45.2	10.70	12.07	+12.8
1983 (total)	96.10	102.59	43.4	46.4	46.96	51.83	+10.4

[1] Total gasoline demand, the percentage of demand that was leaded, and total lead usage for the first two quarters are partially based on estimates. This was necessary because compliance periods under the regulations did not always coincide with calendar quarters: small refinery compliance periods were November 1, 1982, to January 31, 1983, and February 1, 1983, to June 30, 1983; non-small refinery (and importer) compliance periods were November 1, 1982, to March 31, 1983, and April 1, 1983, to June 30, 1983. In developing these estimates, EPA assumed that during compliance periods that did not coincide with calendar quarters (i.e., both small refinery and the first non-small refinery compliance periods), gasoline demand and lead usage were divided equally among the months in the periods.

C. Health Effects of Lead in Gasoline

1. 1982 Rulemaking

For the 1982 lead phasedown rulemaking, EPA examined the existing health evidence and made findings and conclusions which largely formed the basis for the final rule. As part of this proposal, the Agency has reexamined those findings and conclusions in light of newly published information and reanalysis of previous data, which has enabled EPA to make a better assessment of the health effects, with particular attention to the relationship of leaded gasoline and human health effects.

The entire discussion of the analysis leading to the previous findings and conclusions is not repeated in this notice, as they essentially are being reaffirmed, but can instead be found in the preamble to the 1982 proposed regulations (47 FR 38070) and in the document, "Supplemental Response to Comments on the February 22, 1982, and August 27, 1982, Proposals to Amend the Gasoline Lead Content Regulations," ("Response to Comments") submitted to the 1982 docket (A–81–36) at the time of final rulemaking. However, the main conclusions reached in 1982 are an important reference point for further discussion, and they are summarized as follows:

(1) EPA concluded that environmental lead exposure is a national health problem. In particular, EPA was concerned about elevated blood lead levels in young children.

(2) EPA concluded that gasoline lead is a major source of lead exposure, accounting for 90% of total airborne emissions and contributing significantly to non-air pathways of exposure, e.g., ingestion of dust and dirt lead. In addition, the Agency found that gasoline lead usage is correlated with blood lead levels.

(3) EPA concluded that the evidence available at that time on neurological effects at low blood lead levels tended to confirm the Agency's judgment on the need to take all reasonable steps to control lead emissions (47 FR 38077).

Based on this rationale, EPA concluded that it should adopt more stringent gasoline lead content regulations. In this notice current information on this subject area, including new studies, will be examined within the context of this regulatory rationale.

In a separate proceeding, EPA is undertaking a review of the national ambient air quality standards (NAAQS) for lead and the air quality criteria document for lead, as required by sections 108 and 109 of the Clean Air Act, 42 U.S.C. sections 7408 and 7409. See 49 FR 22021 (May 24, 1984). This review process involves extensive public comment, public meetings, and scientific and medical reviews by the Clean Air Scientific Advisory Committee of EPA's Science Advisory Board (SAB). The medical significance of the new studies discussed in this notice and related health effects are also under review by the SAB as part of that process. Because the NAAQS review process is very elaborate and time-consuming, it is unlikely to be concluded soon. Although the process may shed further light on some of the issues discussed in this notice, particularly with regard to low-level effects of lead, EPA believes it is unnecessary and would be inappropriate to defer further action to reduce the use of lead in gasoline until the NAAQS review is concluded. See *SRTF* v. *EPA*, *supra*, 705 F.2d at 516–518. The rationale for today's proposal is unlikely to conflict with any plausible outcome of the NAAQS review, and any delay in reducing gasoline lead usage would unnecessarily reduce the benefits sought to be achieved by this proposal. As in the 1982 rulemaking, conclusions reached in this proceeding will be based on EPA's current assessment of available information, including any preliminary results of the NAAQS review process, and are not intended to preempt or prejudge further aspects of

[3] A portion of the excess lead usage in the second quarter of 1983 is also attributable to the replacement of the 1.90 gplg small refinery standard with standards of 2.15 gptg and 2.65 gptg, as discussed in Part I.D. of this notice.

the NAAQS review process, including any findings or recommendations of the SAB.

2. *Exposure to Environmental Lead as National Health Problem*

Since the 1982 rulemaking, new information has become available that confirms and reinforces EPA's previous conclusion that there is a national health problem associated with exposure to environmental lead for the general population and, in particular, pre-school children. The Centers for Disease Control (CDC) of the U.S. Department of Health and Human Services are also concerned about this problem. An open meeting of the CDC Childhood Lead Poisoning Prevention Advisory Committee was held on May 17–18, 1984. The recommendation of this Committee is to lower the definition of elevated blood lead level from the current 30 micrograms per deciliter (μg/dl) to 25 μg/dl and to consider elevated blood lead levels combined with erythrocyte protoporphyrin levels above 35 μg/dl as evidence of lead toxicity. This recommendation is under review by the Department of Health and Human Services, whose Secretary must approve any change in the definition. An elevated blood lead level reflects an undue absorption of lead warranting medical action to reduce a child's blood lead level. EPA is also becoming concerned about health effects newly reported to be associated with lower level lead exposures (at blood lead levels below 30 μg/dl). These effects are discussed in Part III.C4 of this notice.

In addition, as discussed above, with the current rate of misfueling, prior projections of lead usage in gasoline are inaccurate. For example, the 1982 rulemaking predicted that lead usage in 1988 would be 21.4 billion grams, but estimates for 1988 which incorporate current misfueling rates amount to 35.7 billion grams, 67% more than previously anticipated. Because of the relation between gasoline lead usage and blood lead levels, as discussed below, this unexpectedly high level of lead usage would result in more cases of elevated blood lead levels (>30μg/dl) in young children than previously anticipated.

In conclusion, because of the Agency's existing concerns about lead exposure (particularly by pre-school children), its increased concern about low lead level effects, and a slowing of expected progress towards reducing lead usage, the only prudent conclusion is that a serious public health problem still exists.

3. The Relationship Between Gasoline Lead and Blood Lead Levels

In the 1982 rulemaking, EPA reviewed the studies submitted to the docket on the issue of whether gasoline lead was a contributor to blood lead levels. 47 FR 38074–38076. These studies consisted of various statistical analyses of population blood lead data and various indicators of gasoline lead consumption (Sinn 1980, 1981; billick 1982a, 1982b, 1980, 1979; EPA/ICF 1982; NCHS/CDC 1982; Oxley 1982). A full discussion of the EPA analysis of the strengths and weaknesses of these studies can be found in the preamble to the August 27, 1982, proposal (47 FR 38070) and in the Response to Comments. EPA used these analysis in deciding to further regulate lead in gasoline. EPA's conclusion was that environmental exposure to lead from gasoline is a significant contributor to total lead exposure of the public. While some of the statistical analyses had some methodological flaws, EPA was convinced that they provided an important qualitative indicator of the contribution of gasoline lead to total lead exposure, However, because of the problem of unaccounted variation in other source variables, any quantitative use of these analyses was made with caution.

a. *Analysis of Gasoline Lead/Blood Lead Relationships Involving NHANES II Data.* As part of the NAAQS review process, an expert review group was convened by the Agency to examine several studies that used data from the National Center for Health Statistics (NCHS) Second National Health and Nutrition Examination Survey (NHANES II) in determining blood lead/gasoline lead relationships. The final report of the review group has been submitted to the docket of this proceeding. The following specific studies were examined:

(1) An Ethyl Corporation analysis (two documents, dated May 14, 1982, and October 8, 1982, submitted to the docket of the 1982 rulemaking) found no evidence of associations between blood lead and gasoline lead.

(2) Two EPA consultant analyses, one by ICF, Inc., and one by Energy and Resource Consultants, Inc. (EPA analyses), found a clear relationship between gasoline lead and blood lead.

(3) A CDC/NCHS analysis (dated February 26, 1983) and a series of ralated appendices found a clear relationship between gasoline lead and blood lead.

After reviewing these analyses, the review group concluded:

(1) Two variables used by Ethyl to describe gasoline lead use, population density and gasoline use per unit area, led to a signficant difference between the Ethyl analysis and the other studies examined. The review group deemed these variables to be inappropriate and concluded that the Ethyl analysis contributed little to understanding the gasoline lead/blood lead relationship.

(2) The NHANES II data can be used for time trend analysis, and the magnitude of blood lead changes over time can be estimated. Care should be taken in interpreting changes in blood lead levels over time due to sampling error, measurement error, non-response rate and the need to adjust for time-related imblance in the survey design.

(3) The EPA and CDC analyses demonstrate a strong correlation between gasoline lead usage and blood lead levels. In the absence of scientifically plausible alternative explanations, the hypothesis that gasoline lead is an important causal factor for blood lead levels must receive serious consideration. Despite this strong relationship, the NHANES II survey and the analyses do not confirm the causal relationship. Rather, the finding of a correlation is based on the qualitatively consistent results obtained from extensive analyses done in different but complementary ways.

(4) The results of the EPA and CDC/NCHS analyses have been used to quantify the effect of gasoline lead on blood lead levels. The review group found that such inferences required strong assumptions about the absence of effects from other unmeasured sources of lead (principally lead paint and dietary lead), the adequacy of national gasoline lead usage as a proxy for local lead exposure, and the adequacy of a cross-sectional sample design. The adequacy of these assumptions could not be determined by the panel. Further, the review group cautioned against extrapolations beyond the time period of the NHANES II sampling period (1976–1980).

b. *Additional Studies of the Gasoline Lead/Blood Lead Relationship.* Several new studies on the relationship of gasoline lead to blood lead levels have become available since the 1982 rulemaking. These studies include the following:

(1) An updated report of the Italian Lead Isotope Study (Facchetti and Geiss 1982) was designed based on the fact that non-radioactive isotopes of lead are stable. By examining the varying proportions of isotopes present in the blood and in environmental samples, the source of the blood lead can be determined. In this study, the isotope ratio of lead in gasoline in Northwest

Italy was altered and the contribution of gasoline lead to blood lead levels was analyzed by monitoring the lead isotope ratio in blood lead. The results to date show that from 3 to 5 μg/dl of the blood lead in adult males came from gasoline lead. This study clearly demonstrates gasoline lead uptake by adult males and confirms an earlier study in Dallas (Manton 1977; Stephens 1981).

(2) The published version of the CDC/NCHS studies (Annest 1983) reports the same conclusions as the earlier analyses examined by the NAAQS time trend review group (see Part III.C.3.a., above).

(3) An EPA study (Schwartz, Pitcher and Janney 1983) examined the blood lead/gasoline lead relationship using three different blood lead data bases—NHANES II, CDC blood lead screening data, and Chicago Health Department blood lead data. This study, an expansion of that reviewed by the NAAQS time trend review group, was done specifically to address issues of causality and potential confounding factors. It does not differ in results from the earlier version. The study found a strong relationship between blood lead and gasoline lead for each blood lead data base. In analyzing the Chicago blood lead data, the study also found that reduced paint lead exposure did not confound the relationship between blood lead and gasoline lead because the relationship was significant ever for children who lived in houses with no lead paint. Moreover, the EPA study found that the coefficient of gasoline lead influence on blood lead in the Chicago data was virtually identical to the coefficient in the NHANES data, after adjusting for the proportion of national gasoline sold in Chicago. The study also analyzed adults separately and found the same effect, which again indicates that paint lead is not a confounding factor since adults do not eat paint chips. A supplementary paper (Schwartz 1984) shows that changes in lead solder used in cans (the most significant source of lead in canned foods) does not confound the blood lead/gasoline lead relationship.

(4) A study on umbilical cord lead (Rabinowitz and Needleman 1983) showed a strong relationship between gasoline lead and umbilical cord lead levels in Boston.

c. *Conclusions.* After reexamining the previously available information, as well as new information, EPA concludes that its previous finding that there is a relationship between gasoline lead usage and blood lead levels is still valid. In addition, EPA also believes that while some of the earlier cautions on the use of certain data to support this correlation are still appropriate, the diversity of analyses that continue to produce consistent results allows the Agency to place more confidence in these studies with respect to their usefulness in the development of regulatory options.

Specifically, the Agency finds that the studies provide strong evidence demonstrating the existence of a relationship between gasoline lead and blood lead levels. This information supports EPA's existing position that from a national health standpoint, the rapid reduction and eventual end to the use of lead in gasoline is an appropriate objective.

As discussed in Part V.C of this notice, EPA has used relationships between gasoline lead and blood lead levels to estimate the numbers of incidences of children's blood lead levels exceeding 30 μg/dl (and other blood lead levels) that would be prevented by the proposed 0.10 gplg standard. Since the number of children with blood lead levels of 30 μg/dl or higher is a major health concern, regulatory options have been analyzed with respect to mitigating the incidences of such blood lead levels. EPA has used the quantitative results of these new analyses in examining various regulatory alternatives and impacts, such as the impact on blood lead levels of children as gasoline lead levels are varied, and EPA expects to consider these results in formulating any final rule. Specific comment is requested on this approach to the use of these studies and this type of analysis.

4. Effects of Elevated Blood Lead Levels

In the process of setting the current NAAQS for lead in 1978, EPA defined a blood lead level of 30 μg/dl as the maximum safe individual blood lead level for children. This determination was in agreement with the 1978 CDC definition of 30 μg/dl as the screening criteria level for undue lead exposure in children. This was a screening level established by CDC in order to avoid unacceptable risks from certain lead-induced health effects. As indicated above, the CDC is reevaluating the 30 μg/dl criteria level and an expert advisory committee has recommended lowering the level to 25 μg/dl.

The list of demonstrated health effects at blood lead levels exceeding 30 μg/dl is well-established. The existing air quality criteria document for lead (1978) and the first external review draft of a revised criteria document (1983) contain excellent summaries of such effects, which include: (1) Death due to lead encephalopathy and renal dysfunction at blood lead levels of 80+ μg/dl; (2) frank anemia, anorexia, abdominal pain, and vomiting at 70 μg/dl; (3) reduced hemoglobin, cognitive/central nervous system (CNS) deficits and slowed nerve condition velocity at 40 μg/dl; and (4) vitamin D metabolism interference at 30+ μg/dl.

While there is much debate about neurological effects in children at low blood lead levels (<30 μg/dl), there is better evidence of such effects at elevated levels. The De la Burde and Choate studies (1972, 1975) are examples of several studies providing evidence of neurological effects in non-overtly lead intoxicated children. These studies found (at levels of 30+ μg/dl) significant fine motor and neurological dysfunctions, impaired concept formation, lower IQ, and altered behavior among 70 pre-school children. The follow-up study indicated significant CNS impairment for the lead-exposed group, in addition to a greater incidence of this group being required to repeat a grade in school or being referred to the school psychologist for behavior problems. Other studies (e.g., Needleman et al. (1979) and the recently conducted reanalysis of that study's data set) also provide results qualitatively indicative of likely IQ effects at blood lead levels in excess of 30 μg/dl.

Among the variety of biochemical effects seen at blood lead levels approaching or exceeding 30 μg/dl is the effect of lead on vitamin D metabolism. Rosen et al. (1980, 1981) and Mahaffey et al. (1982) have shown a negative correlation between the active vitamin D metabolite and blood lead levels in children across a range of 33–120 μg/dl. Reductions in vitamin D levels are associated with both (1) reduced absorption and utilization of calcium and other essential elements crucial for normal growth and development; and (2) a concomitant increased uptake of lead, thus creating an adverse interactive cycle of increasingly greater lead absorption/retention as a function of reduced vitamin D metabolism as blood lead level increase.

5. Low Level Lead Effects

a. *Introduction.* Effects from low level lead exposure on biochemical, hematological, neurological, and other systems are known to exist. For purposes of this proposal, low level effects are considered to be those observed to occur at blood lead levels less than 30 μg/dl. The importance of these effects was examined in the 1982 rulemaking, in which EPA made two findings concerning low level effects. First, EPA found that there is a continuum of effects from low level lead

exposures related to biochemical changes to death at high exposures. Second, EPA focused on neurological effects due to low level lead exposures and concluded that such effects could only be judged qualitatively, but were supportive of EPA's decision to take all reasonable steps to reduce lead emissions. 47 FR 38077 (August 27, 1982). In addition to the neurological effects associated with low level lead exposures on which EPA primarily focused in the 1982 rulemaking, the Agency now believes that other low level effects are also of concern and should be taken into account in any further rulemaking actions regarding gasoline lead.

b. *Pathophysiological Effects.* Based on several summaries of the scientific and medical literature (e.g., National Academy of Sciences (1980); EPA Air Quality Criteria for Lead (1978), (1983 external review draft); EPA Draft Cost/Benefit Analysis (1984)), it is reasonable to conclude that there exists and apparent continuum of pathophysiological effects associated with low level lead exposure. This continuum is illustrated by the following effects:

(1) Inhibition of pyrimidine-5'-nucleotidase (PY–5–N) observed to begin at 10 μg/dl of blood lead (Angle et al. 1982);

(2) Inhibition of delta-aminolevulenic acid dehydrase (ALA–D) activity (50% at about 16 μg/dl) (Hernberg and Nikkanen 1970);

(3) Elevated levels of zinc protoporphyrin (ZPP or FEP) in red blood cells (erythrocytes) at about 15 μg/dl (indicative of a general interference in heme synthesis in the body) (Piomelli et al. 1977);

(4) Changes in electrophysiological responses (e.g., altered slow wave EEG patterns or increased latencies for brainstem auditory evoked potentials) indicative of central nervous system dysfunction, starting at about 15 μg/dl, and altered peripheral nerve conduction velocities evident at similar or somewhat higher blood lead levels (Otto et al. 1981, 1982; Benignius et al. 1981; Landrigan et al. 1976).

(5) Increased levels of aminolevulenic acid (ALA) at levels of 15 μg/dl or lower (Meredith et al. 1978);

(6) Inhibition of vitamin D pathways detected at levels as low as 10–15 μg/dl with possible enhanced inhibition and lead absorption as blood lead levels increase (Rosen et al. 1980, 1981; Mahaffey et al. 1982); and

(7) Inhibition of globin synthesis beginning at about 20 μg/dl (White and Harvey 1972; Dresner et al. 1982).

The medical significance of these pathophysiological effects is not yet fully understood, although further insights may be developed during the NAAQS review process. However, the deleterious nature of such effects and the vital nature of the affected physiological functions suggest potential public health benefits associated with mitigation of these effects through action on gasoline lead content.

c. *Additional Effects of Potential Concern.* As part of the NAAQS review process, EPA and the SAB are evaluating a number of newly available studies that raise additional potential concerns at lead levels below 30 μg/dl. These studies, which will also be considered by the Agency in this rulemaking, include:

(1) *Hematological Effects.* EPA's draft cost/benefit analysis (1984, Chapter VI.B) reports significant correlations between hematological effects indicators and blood lead levels below 30 μg/dl.

(2) *Fetal Effects.* Needleman et al. (1984) reports a significant association between congenital anomalies and umbilical cord blood lead levels. Erickson et al. (1983) reported an association between lung and rib lead levels and Sudden Infant Death Syndrome (SIDS).

(3) *Neurological Effects.* McBride et al. (1982), Yule et al. (1981), Smith et al. (1983), Yule and Landsdowne (1983), Harvey et al. (1983), and Winneke et al. (1982), all examined cognitive (IQ) and other behavioral effects from low level lead exposure and found variable results that, collectively, suggest possible small effects on IQ and/or other behavioral dysfunctions.

While there is much controversy surrounding the interpretation of many of these individual studies, and care must be exercised in drawing firm conclusions from them, EPA believes that the aggregate results of these studies are suggestive enough of low level effects of lead to cause concern that lead exerts such effects on human populations, especially children.

d. *Conclusions on Low Level Effects.* EPA tentatively concludes that evidence exists for some types of neuro-psychological effects due to low level lead exposure among children. Other effects, e.g., interference with vitamin D metabolism; have been more clearly demonstrated at blood lead levels below 30 μg/dl and are of much concern to the Agency. While today's proposal is not based solely on low level effects, in the development of a final rule EPA intends to consider, absent compelling information to the contrary, the mitigation of these effects to be a significant health benefit.

6. Conclusion

After a thorough review of the 1982 rulemaking and new information that has been made available, EPA reaffirms its original rationale for regulating lead in gasoline. It is the Agency's opinion that a national health problem still exists with regard to environmental lead, that gasoline lead is a major contributor to lead exposure, that lead emissions should be controlled to the extent possible, and that all reasonable efforts should be taken to reduce lead exposure to the population as rapidly as possible.

In addition, it is the opinion of the Agency that there is no health-based reason to continue the use of lead in gasoline, as this is the most readily controlled and most ubiquitous source of lead emissions into the environment. A prudent health objective is the rapid reduction and eventual end to the use of lead in gasoline.

As noted above, this conclusion is consistent with the Court of Appeals decision upholding the 1982 regulations, which stated that "the demonstrated connection between gasoline lead and blood lead, the demonstrated health effects of blood lead levels of 30 μg/dl and above, and the significant risk of adverse health effects from blood lead levels as low as 10–15 μg/dl, would justify EPA in banning lead from gasoline entirely." 705 F.2d at 531.

IV. EPA Proposed Actions

A. Gasoline Lead Content Standards

1. 0.10 gplg Standard

In promulgating the current gasoline lead content standard of 1.10 gplg, the Agency concluded that there was a continued need for control of lead in gasoline and that further action to reduce lead in gasoline was needed to protect the public health. 47 FR 49330. For the period 1983–90, the Agency predicted that the 1.10 gplg standard would result in approximately 34% less lead usage in gasoline than would have occurred under the former regulations. 47 FR 49329. Promulgation of a leaded gasoline-only standard was expected to result in such an accelerated reduction in lead usage because the market share of leaded gasoline was predicted to shrink rapidly over this period (from 43% in 1983 to 18% in 1990) due to the replacement of older vehicles with newer vehicles designed for unleaded gasoline. Under this regulation, reductions in lead usage are dependent

on a decreasing demand for leaded gasoline.

As noted above, however, gasoline lead usage is not being reduced as rapidly as expected by the Agency. A major reason is the widespread occurrence of fuel switching, which is presently found in about 13.5% of vehicles designed for unleaded gasoline. Use of leaded gasoline in such vehicles poisons their catalytic converters, causing a substantial increase in HC, CO and NO_x emissions. Such increased use of leaded gasoline also results in increased tailpipe lead emissions. Fuel switching at the rate found today is likely to cause an indefinite general demand for leaded gasoline. For example, misfueling is predicted to account for close to 40% of the demand for leaded gasoline by 1990.

In addition, as also noted above, EPA's latest review of available information on the health implications of lead usage confirms and reinforces its previous conclusion that the public health is endangered through the continued use of lead in gasoline. EPA has also developed information on the public health benefits of removing lead from gasoline, in terms of reduced blood-lead levels, reduced lead-related medical costs, and reduced adverse effects of other pollutants (ozone, CO, HC and NO_x). These benefits are described in Part V of this notice, along with other benefits of the proposed regulations.

Because of its effect on motor vehicle catalytic converters and its impact on public health, the Agency would like to reduce and ultimately eliminate the use of lead in gasoline as quickly as feasible. EPA believes that the refining industry may be able to produce all unleaded gasoline as early as 1986. However, such an action could have an adverse impact on older automobiles, as well as certain trucks and other vehicles, as described below. In order to prevent this impact, the Agency at this time is proposing a leaded gasoline standard of 0.10 gplg, effective January 1, 1986. This would result in a 91% reduction in the allowable amount of lead in each gallon of leaded gasoline and should significantly reduce the adverse impacts of lead on public health, as well as reduce a large percentage of the HC, CO and NO_x emission increases due to fuel switching. Further, the Agency is requesting comments on a "no-lead" standard to be effective on January 1, 1995, as discussed in Part IV.A.3 of this notice.

The proposed standard of 1.10 gplg is intended to provide the minimum amount of lead needed to prevent valve-seat recession in older automobiles, certain trucks and other vehicles. In many older engine designs, cylinder heads are made of cast iron. In these engines, exhaust valve seats are ground directly into the cylinder head itself without special surface treatment. Under high temperatures, loads or speeds, use of fuel in such engines that does not contain some amount of lead or other additive may result in valve-seat recession or abnormal valve-seat wear. Lead compounds produced by combustion of fuel containing such additives form deposits on the valve-seat, producing an anti-welding, lubricating film between the valve-seat and face during engine operation. Valve-seat recession causes leaking valves, loss of compression pressure in the cylinders, degraded vehicle performance, and significant increases in hydrocarbon emissions.

EPA estimates that in 1986 there will be about 20.5 million light-duty vehicles (automobiles) and light-duty trucks on the road that may require use of a fuel containing some amount of lead or other additive to protect against valve-seat recession. In 1971, vehicle manufacturers began to take steps to prevent valve-seat recession in anticipation of the widespread use of unleaded gasoline. Valve-seats in cast iron cylinder heads have been induction-hardened or surfaced with a particularly hard metal, such as nickel. General Motors Corporation (GM) (which had a market share of about 50%) began to make these improvements on all of its light-duty vehicle engines in 1971. After that date, other manufacturers phased in these changes and since the 1975 model year, essentially all light-duty vehicles and light-duty trucks under 6000 pounds gross vehicle weight (GVW) have been treated so that they may run on unleaded gasoline. Light-duty trucks between 6000 and 8500 pounds GVW are assumed to have been treated to run on unleaded gasoline since the 1979 model year.

In addition, many of the approximately ten million heavy-duty gasoline-fueled trucks (greater than 8500 pounds GVW) expected to be on the road in 1986 will be able to run on unleaded gasoline (e.g., Ford and Chrysler vehicles). However, a portion of heavy-duty trucks (e.g., GM vehicles), as well as a portion of other engines such as motorcycles, boats, and gasoline-powered equipment, may need a valve lubricant such as lead in 1986.

EPA has examined the available studies on the amount of lead needed to protect against valve-seat recession, which are summarized in a January 16, 1984, memorandum that has been placed in the docket. The minimum lead level sufficient for this purpose, as reported in the literature, ranges from "more than 0.03 grams per gallon" (gpg) to 0.50 gpg. In evaluating these studies, EPA has given the most weight to the Doelling (1971) study, which is the only analysis that had as an objective the determination of the minimum lead level needed to prevent valve-seat recession. In this study, tests were conducted at lead levels, recession was not found, while at 0.04 gpg it was experienced. Thus, Doelling concluded that between 0.04 and 0.07 gpg was needed to protect against valve recession. A similarly low amount of lead as the minimum amount needed for this purpose was also found by Giles (1971), who concluded that less than 0.03 gpg led to valve-seat recession, and by Pahnke and Conte (1969), who concluded that gasoline containing 0.10 gpg was adequate to prevent this problem. EPA has placed less weight on other studies which cite higher levels of lead as being necessary, since these were not designed to determine the minimum amount of lead needed to prevent valve-seat recession. In particular, studies which concluded that 0.50 gpg is needed for this purpose may have been affected by the knowledge that the first 0.50 gpg of lead provides a large octane boost.

Since the minimum amount of lead needed to prevent valve-seat recession has not been precisely determined, EPA is proposing a standard of 0.10 gplg. This level is supported by the three studies cited above, all of which found such a lead level adequate to protect against this problem. This level should assure that all engines actually receive an adequate amount of lead for this purpose.

The Agency is proposing a January 1, 1986, effective date for the 0.10 gplg standard because its analysis using the Department of Energy linear programming model (discussed in Part V.B.1 of this notice) suggests that that date is feasible for the industry as a whole and because it maximizes the net benefits of the standard. The industry would be provided approximately one year from the anticipated date of promulgation of the standard, which could allow adequate time to enter into contracts for any different types of feedstock needed to produce the low-lead leaded gasoline. Use of more light crude oil is one strategy that may be used, since such oil requires less processing at a refinery. The proposed regulation may not necessitate the construction of any additional equipment at refineries, since they are currently running at approximately 74%

of capacity. The DOE linear programming model suggests that an adequate supply of low-lead gasoline could be made by running existing catalytic crackers at full capacity and by running existing reformers at a higher severity (i.e., higher temperature and pressure), as well as by using reformers to further process some of the catalytic-cracked gasoline. Reformers would not be run at full capacity, however, since an adequate amount of naphtha usable in this process is not projected to be available. Refiners might also switch to other additives to boost octane in low-lead gasoline, which could result in lower refiner costs than the EPA estimates listed below and in Part V.B of this notice.

However, the Agency realizes that there may be problems for individual refiners in meeting a 0.10 gplg standard on January 1, 1986. Although EPA's modeling indicates the possibility of this standard for the industry as a whole, it might result in adverse impacts on some portions of the refining industry. It may also provide an inadequate margin of safety for unexpected disruptions of gasoline-producing equipment. In case comments indicate that the impact of a 0.10 gplg standard on January 1, 1986, is expected to be adverse for a substantial portion of the industry, the Agency is also considering alternative compliance schedules. Specifically, the Agency is considering promulgation of a phased-in 0.10 gplg standard (for example, a 0.50 gplg standard starting on July 1, 1985, a 0.30 gplg standard starting on January 1, 1986, a 0.20 gplg standard starting on January 1, 1987, and a 0.10 gplg standard effective January 1, 1988). The Agency believes that a 0.10 gplg standard is clearly feasible by January 1, 1988, since it would allow time for the construction of additional petroleum processing equipment. EPA also believes that incremental reductions in allowable lead usage on earlier dates should also be feasible. While such a phased-in low-lead standard would provide additional time to the industry, a rapidly-effective 0.50 gplg standard and other phased-in interim standards would still result in significant lead usage reductions and commensurate health benefits.

The Agency therefore specifically requests comments on the feasibility of a January 1, 1986, date for refiners to comply with a 0.10 gplg standard. If a refiner believes that it cannot meet that date, it should indicate by what date the 0.10 gplg standard could be met, what standard(s) could be met earlier, and what the economic impacts would be to it of a 0.10 gplg standard effective on that date. Comments on a phased-in 0.10 gplg standard, such as that outlined above, are also requested.

Although a January 1, 1986, effective date (if feasible) would not provide enough time for construction of new processing equipment (primarily isomerization units) and would therefore be somewhat more costly to the industry than if additional time were provided for such construction, the increased benefits from the earlier date would more than offset this extra cost. EPA has compared the costs and benefits of a 0.10 gplg standard effective on January 1, 1986, with those of the same standard effective on January 1, 1987, and January 1, 1988.[4] The last date would allow approximately three years for construction of isomerization units (including time needed to obtain necessary environmental permits). Total annualized costs to refiners of the 0.10 gplg standard are estimated to be $575 million in 1986, $532 million in 1987, and $503 million in 1988 (all in 1983 dollars). Most of the cost differences are due to the higher projected volume of leaded gasoline in the earlier years. Total annualized benefits for which a monetary value can be assigned (vehicle maintenance savings, conventional pollutant benefits from eliminating misfueling, and medical and educational costs that would have accrued for lead-poisoned children) are estimated to be $1,819 million in 1986, $1,710 million in 1987, and $1,604 million in 1988. Net benefits are $1,244 million in 1986, $1,178 million in 1987, and $1.101 million in 1988. Since a 1986 standard would result in net benefits in both 1986 and 1987 that would not be achieved by a 1988 standard, the net benefits of a 1986 standard would be more than $2.4 billion higher than a 1988 standard. These costs and benefits are summarized in Table 3.

TABLE 3.—COMPARISON OF ANNUALIZED COSTS AND BENEFITS OF 0.10 GPLG STANDARD: 1986–1988

[Millions of 1983 dollars]

	1986	1987	1988
Benefits: [1]			
Maintenance	840	784	737
Fuel efficiency	360	329	298
Conventional Pollutants	348	351	344
Lead (medical and educational)	271	246	225
Total	1,819	1,710	1,604
Costs (total)	575	532	503
Net benefits	1,244	1,178	1,101

[1] For a summary of the types of benefits evaluated by EPA and a discussion of how both costs and benefits were calculated, see Part V.B of this notice.

[4] An extensive discussion of the costs and benefits of the proposed standard is found in Part V.B of this notice and in the preliminary regulatory impact analysis concerning this proposal.

The Agency has also analyzed the costs and benefits of the phased-in standard outlined above (i.e., 0.50 gplg on July 1, 1985, 0.30 gplg on January 1, 1986, 0.20 gplg on January 1, 1987, 0.10 gplg on January 1, 1988). The estimated costs to refiners of such a phased-in standard for the 1985–87 period would be $833 million, while estimated total benefits would be $2,704 million. The net benefits of such a standard would, therefore, be $1,871 million for this period.

The Agency specifically requests comments on the adequacy of the 0.10 gplg standard to protect vehicle engines and on the feasibility of the effective date of the refining industry.

2. Marketing Restrictions

EPA intends that this rulemaking will eliminate or drastically reduce fuel switching by vehicle owners. The proposed standard of 0.10 gplg is intended to allow only enough lead in gasoline to prevent valve problems in certain engines, mainly in trucks and older cars. The Agency anticipates that leaded gasoline will continue to be produced at the 89 octane level ((R+M)/2) and therefore be more costly to make than unleaded gasoline produced at an 87 octane level. This would result from the fact that the blending stock for leaded gasoline would have to have greater than 88 octane prior to the addition of the allowable 0.10 gram of lead. Production of such a blending stock would by itself be more costly than production of unleaded gasoline at the lower octane level. Since leaded gasoline is expected to cost more to produce than unleaded, the Agency would hope that its retail price would reflect this cost differential and that leaded gasoline would no longer be marketed as a lower-priced "loss leader", as it is today. Thus, there would no longer be an incentive to vehicle owners to buy leaded gasoline as the least expensive grade. This would therefore eliminate the major incentive for fuel switching.

In addition, EPA will continue its aggessive enforcement program to stop fuel switching. The Agency will also continue to seek legislative authority to hold individual fuel switchers liable for their actions. States and local governments will continue to be encouraged to adopt and enforce their own anti-misfueling laws, and will be able to obtain emission reduction credits in their state implementation plans for such programs. Finally, the Agency is conducting a major public relations effort to pass the message to potential

fuel switchers that such actions are not in their own best long-term interests.

Over the last year, the Agency has met extensively with representatives of environmental groups, public interest groups, the auto industry, and the various segments of the automotive fuel marketing industry to discuss the problem of fuel switching. Many suggested solutions to the fuel switching problem were received during these meetings. The one that appears to be most effective is the accelerated phasedown of lead being proposed here. Some of the other suggested solutions, however, may have merit in conjunction with the use of a low-lead leaded gasoline standard if low-lead gasoline will not be priced higher than unleaded gasoline. These additional strategies are being studied by the Agency for possible adoption in conjunction with the rule proposed today should the Agency conclude that such additional assurances against fuel switching are desirable.

To assist in determining the need for such additional measures, the Agency specifically solicits comments, both in writing and at the public hearing, from the gasoline producing and marketing industries and others as to how leaded gasoline with a lead content of 0.10 gplg would be marketed. Such comments should address the octane level at which this type of leaded gasoline would be marketed, its price relative to unleaded gasoline, other marketing practices likely to occur should EPA take final action to adopt such a lead content standard, and whether low-lead leaded gasoline would be marketed by the industry in such a way that fuel switching would be discouraged without additional regulatory measures.

The additional regulatory actions being considered by the Agency for potential adoption to discourage fuel switching include the following:

(1) EPA could focus enforcement efforts against those retailers who encourage the practice of fuel switching by violating EPA's fuel regulations. The Agency would give priority to enforcing the fuel switching regulations against those retailers who, despite the higher cost of leaded gasoline at 0.10 gplg, continue to price this product below the price of unleaded gasoline.

(2) Sale of leaded gasoline could be restricted to full-serve pumps only (i.e., only a station operator or attendant would be allowed to fill a vehicle tank with leaded gasoline). Under such a regulation, filling a vehicle (even those designed for leaded gasoline) with leaded gasoline by any other person, including a vehicle owner or operator, would be prohibited. Offering leaded gasoline at a self-serve pump would be a per se violation of such a regulation. Such a regulation could further reduce fuel switching because this practice is believed to occur more frequently at self-serve pumps than at full-serve. A recent survey by Energy and Environmental Analysis, Inc., (EEA) for EPA indicates that the fuel switching rate at full-serve pumps is less than that at self-serve pumps.

(3) The Agency could require that leaded gasoline be sold at a higher price than unleaded gasoline. Since the relative price of the two types of gasoline is believed to be the major cause of fuel switching, such a regulation could significantly reduce this practice.

(4) The Agency could institute controls of the type described in (2) above, but only at stations at which the price of leaded gasoline is lower than the price of unleaded fuel. Such a requirement could be less restrictive than either (2) or (3), while producing an equivalent result in the reduction of fuel switching.

(5) The Agency could require that leaded gasoline be produced at a specified octane level (e.g., 89 octane). Such a requirement could be expected to assure that the production costs of such leaded gasoline would be higher than that of unleaded gasoline with an 87 octane level, as explained above.

EPA specifically solicits comments on these and any other actions that could be adopted by the Agency in conjunction with the proposed low-lead standard to eliminate or reduce fuel switching.

3. No-Lead Standard

EPA's overall objective is to end the use of lead as a gasoline additive to prevent unacceptable health effects and misfueling while protecting engines designed strictly for the use of leaded fuel. In the short term we are reducing lead use by over 90%. That level will protect public health without harming vehicles in use that were designed for leaded gasoline.

In the long run, we can probably stop using lead as a gasoline additive completely since few engines designed for leaded gasoline are expected to be in use, and since we expect other additives or other approaches to be developed as a lead alternative for those remaining vehicles. These estimates, however, may turn out to be incorrect should manufacturers continue to produce vehicles which need leaded gasoline or should leaded gasoline continue to be cheaper.

EPA is proposing two alternatives relating to long term lead usage:

(a) No further regulatory action beyond the 0.10 gplg standard. We expect fewer and fewer vehicles reguiring lead to be in use and this will make it more difficult to purchase low lead. Low lead will likely become more expensive as its production cost increases and demand decreases. The above trend should force the design of engines not requiring lead for these few remaining applications and should create an incentive for development of other additives and other alternatives. This trend, if it occurs, would lead to the elimination of the need for lead and hence the elimination of its use.

(b) A ban on the future use of lead as a gasoline additive, specifically by about 1995. This alternative assures that the use of lead is stopped by some specific date and hence creates a strong incentive for development of alternative engines and additives. However, it is difficult to pick a date that we can be certain provides enough time for the development of alternatives. If we are wrong, a ban could leave owners of those few vehicles needing lead with problems, if other solutions are not found.

EPA is soliciting comments on these issues and alternatives and specifically on the following items:

1. What engines are still being produced requiring lead? How quickly can designs be changed? What incentives are necessary to ensure the design changes are made?

2. What alternatives to leaded gasoline for engines designed for lead are possible; how quickly could they be developed; what incentives are necessary? What could be done to modify existing engines to run on unleaded gasoline and at what cost?

3. How many vehicles will be in use in 1995 and other dates that were designed strictly for the use of leaded gasoline?

4. Is a ban necessary to end the use of lead as a gasoline additive? if so, when should it go into effect? What should be done if alternatives are not available by that date?

5. What other alternatives are there to assure an end to the need for and use of lead as a gasoline additive?

6. If a ban is not imposed now, what should be done if lead continues to be used as a gasoline additive with resulting adverse impacts, and when?

In addition, EPA is soliciting comments on the need for the goal in terms of protecting public health and to eliminate the misfueling of vehicles.

The Agency has analyzed issues related to a ban in lead in gasoline effective in 1995. These are outlined below in subsections a, b, and c.

a. *Light-Duty Vehicles and Trucks.* As noted in Part IV.A.1 of this notice, most light-duty vehicles (automobiles) manufactured since 1971 have been designed so that they can run on unleaded gasoline. Nearly all U.S. gasoline-powered automobiles manufactured since 1975 have been certified by EPA for the use of unleaded gasoline only, and all such automobiles manufactured since 1980 have been so certified. With normal vehicle turnover, 95.2% of the automobiles on the road in 1988 will be designed to run only on unleaded gasoline. By 1995, 99.8% of automobiles will be so designed.

A comparable situation exists for light-duty trucks (8,500 pounds GVW or less). Light-duty trucks under 6,000 pounds GVW manufactured since the 1975 model year are able to use unleaded gasoline, and all other light-duty trucks manufactured since the 1979 model year also use unleaded gasoline. With normal vehicle turnover 76.0% of light-duty trucks will be designed to use only unleaded gasoline by 1988, and 98.9% will be so designed by 1995.

Therefore, the population of automobiles and light-duty trucks that will be on the road in 1995 and that will require leaded gasoline will be very small. Further, most of these vehicles will be antiques and classics that are not likely to be run under conditions (high speed and heavy load) that are most likely to cause valve damage. In addition, these vehicles will also have lead deposits already built up in the valve-seats, and vehicle that see only limited use under light load conditions may continue to be protected by this build-up.

b. *Heavy-Duty Trucks.* Many gasoline-powered heavy-duty trucks now on the road and currently being manufactured do not need lead as a valve lubricant (for example, all Ford gasoline-powered trucks on the road now can run on unleaded gasoline). Although some such trucks still require the use of lead in gasoline, all but the heaviest trucks will be equipped with catalytic converters starting in 1987 as the result of stricter emission standards, and therefore will require unleaded gasoline. See 48 FR 52170 (Nov. 16, 1983) (to be codified at 40 CFR 86.087–10). Those trucks that are not required to use unleaded gasoline by 1987 could be redesigned to do so within three to four years of the time that a band on lead in gasoline is promulgated.

Heavy-duty truck engines last for a shorter period of time than automobiles or light-duty engines. Within eight years, half of the heavy-duty engines are no longer in service. Based on this, by 1995, the agency estimates that about 80% of the heavy-duty trucks on the road will be able to use unleaded gasoline, assuming that all new heavy-duty trucks are designed to be run on unleaded gasoline by 1990. However, since truck vehicle miles traveled decrease dramatically with age, by 1995 only 4% of the vehicle miles traveled by all heavy-duty trucks will be driven by such trucks requiring leaded gasoline.

c. *Other Engines.* In addition to automobile and truck engines, there are other engines that may require lead as a valve lubricant. These include small engines (e.g., lawn mowers, chain saws, snow blowers), marine engines, farm equipment engines, and motorcycle engines. EPA knows less about the lead needs of these types of engines than it does for automobiles and trucks.

A recent survey of small engine manufacturers by EPA indicates that most of such engines now in use could use unleaded gasoline. (In fact, many manufacturers suggest unleaded gasoline as the preferred fuel to minimize engine deposits and corrosion.) On the other hand, the Agency believes that a large portion of marine engines and motorcycles are designed to use lead gasoline. Since some of these two types of engines can already use unleaded gasoline, the Agency believes that newly manufactured engines could be redesigned quickly to use this type of fuel. Since the useful life of these engines is short (approximately 5 years), most of the current engines designed for leaded gasoline would be out of use by 1995.

The Agency has been unsuccessful in obtaining specific information on smaller equipment used on farms, with the exception of gasoline-powered utility tractors, which generally have automotive-type four-cylinder engines and would be compatible with unleaded gasoline. The Agency anticipates, however, that a large portion of other farm equipment is designed to use leaded gasoline. By 1995, most of these engines requiring leaded gasoline should have been rebuilt or replaced.

B. Inter-Refinery Averaging

The gasoline lead content regulations currently provide that refiners and importers may demonstrate compliance with the 1.10 gplg standard through inter-refinery averaging via the constructive allocation mechanism. See 40 CFR 80.20(d). These provisions generally allow the allocation of lead usage from one refinery to another refinery, whether or not owned by the same refiner. The refinery to which the lead usage is allocated reports this amount (and calculates its average lead usage) as if it were actually used there, while the allocator-refinery does not include this amount of lead usage in its calculations.

The regulations proposed today would not permit use of the constructive allocation mechanism after January 1, 1986, the proposed effective date of the 0.10 gplg standard. Continuance of the averaging provision would thwart the purpose of the 0.10 gplg standard, as it would encourage the production of some leaded gasoline with lead levels that may be lower than needed to prevent valve/seat recession. If a phased-in approach is adopted, however, EPA would consider continuation of the constructive allocation mechanism until the effective date of the 0.10 gplg standard.

For the purpose of preventing contamination of catalysts, under the proposed (as well as current) standard, gasoline is required to be sold as leaded gasoline if any amount of lead is added during its production. EPA is also concerned, however, that vehicles that need lead get an adequate amount of this substance. While removal of the averaging provisions from the regulations would eliminate the major incentive to produce leaded gasoline containing lead in amounts significantly lower than allowed by the regulatory standard, there may be other incentives to do so. Because EPA is concerned that each gallon of leaded gasoline sold contain the minimum amount of lead needed to prevent valve-seat recession, the Agency requests comments on whether regulatory provisions should be modified or added to accomplish this goal. Specifically, the agency request comments on whether the present quarterly averaging period should be shortened (e.g., to a monthly, weekly, or daily averaging period). The Agency also requests comments on whether a minimum lead content standard should be established for each gallon of leaded gasoline sold by a retail outlet or used by a wholesale purchaser-consumer.

C. Other Proposed Amendments

The proposed regulations would also make several changes that the Agency believes are needed to clarify and/or simplify the gasoline lead content regulations:

(1) The definition of "unleaded gasoline" at § 80.2(g) would be amended to make clear that this type of gasoline may not include any amount of lead that has been intentionally added during its production. This change would reflect a parallel provision already contained in the definition of "leaded gasoline" at § 80.2(f). In addition, the level of

allowable lead contamination (i.e., lead that is not intentionally added by a refiner, but results during the marketing process) in unleaded gasoline would be substantially reduced, from the current 0.05 gram of lead per gallon (gpg) to 0.01 gpg. The 0.01 gpg level is currently feasible, since over 98% of the retail unleaded gasoline samples collected by an Agency contractor to date during fiscal year 1984 that met the 0.05 gpg standard did not exceed the 0.01 gpg level. In addition, the substantial reduction in the allowable amount of lead in *leaded* gasoline proposed in this notice should serve to further reduce the levels of inadvertent contaminations.

(2) The definition of a "small refinery" (§ 80.2(p)), the provisions for special small refinery standards (§ 80.20(b)), and other special provisions related to small refineries would be revoked. These provisions are no longer necessary, since both small and non-small refineries have been subject to the same gasoline lead content standard since July 1, 1983. The definition of "owned or operated" in § 80.2(q) would also be revoked, since this definition is relevant only to the small refinery definition. Other provisions that relate only to past compliance periods are also proposed to be deleted.

(3) The right of entry, test and inspection provisions in § 80.4 would be amended to clarify that they apply to the premises of an importer of gasoline.

(4) Three minor changes would be made to the importer portion of the regulations. The reporting requirements for importers (§ 80.20(c)(3)(ii)) would be amended to correct an error in the existing regulations by changing the last reference to "gasoline" in this provision to "gasoline blending stocks or components." The requirement for reporting of the name and address of any consignee of a shipment of imported leaded gasoline would be deleted as unnecessary, and a requirement for reporting the place of entry of a shipment would be added. The latter two changes affect § 80.20(c)(3)(v).

(5) A change would be made to the inter-refinery averaging provisions in § 80.20(d) to clarify the Agency's previous intent concerning this mechanism. This change would be effective starting in the first full calendar quarter after promulgation and ending in the last quarter of 1985 (after which averaging would be eliminated), and is designed to make this mechanism more workable while it is permitted to be used. A new § 80.20(d)(1)(iv) would be added to make clear that this mechanism is only available if a constructive allocation agreement is made no later than the final day of the compliance period in which the lead usage allocated was actually used. EPA notified all refiners and importers of this interpretation in a December 16, 1983, letter. The proposed change would reflect this interpretation.

V. Impact of Proposed Actions

A. Total Lead Usage

The proposed regulations would substantially reduce the amount of gasoline lead used by motor vehicles. EPA has estimated the total lead that would be used in leaded gasoline under the proposed standard of 0.10 gplg. These estimates are provided in the form of a range. Table 4 shows the estimated amount of lead usage based on two assumptions. The highest total lead usage (and hence lowest reduction) would occur if it is assumed that the proposed standard will have no impact on demand for leaded gasoline, but will simply reduce the amount of lead in each gallon of leaded gasoline. The reduction in gasoline lead for this case during the period 1986–94 would be 90.9 percent, compared to the amount of lead predicted to be used during this period under the current 1.10 gplg standard.

However, the proposed standard is also designed to deter or prevent fuel switching. Assuming that this goal is fully achieved, lead usage in gasoline would be reduced over the period 1986 through 1994 by 94.4 percent, compared to the current standard. Table 4 shows the drop in both leaded gasoline demand and lead usage that would occur if fuel switching stopped. If fuel switching were only partly eliminated, the lead usage reduction would be somewhere between 90.9% and 94.4%.

TABLE 4.—PROBABLE LEAD USAGE UNDER CURRENT AND PROPOSED REGULATIONS

Calendar year	Total gasoline (billion gals.)	Leaded demand (billion gals.)		Lead usage expected (billion grams)		
		Current projection [1]	No fuel-switching [2]	Existing Regs. (1.10 gplg)	Current demand, 0.10 gplg	No fuel-switching 0.10 gplg
1986	102.2	39.6	30.3	43.6	3.96	3.03
1987	101.7	35.3	25.3	38.8	3.53	2.53
1988	100.7	32.4	22.2	35.7	3.24	2.22
1989	100.0	29.8	19.3	32.8	2.98	1.93
1990	99.4	27.3	16.9	30.0	2.73	1.69
1991	99.1	25.3	14.9	27.8	2.53	1.49
1992	99.4	24.7	13.4	27.2	2.47	1.34
1993	100.1	24.0	12.4	26.4	2.40	1.24
1994	100.7	23.3	11.5	25.7	2.33	1.15
Total				287.9	26.17	16.61

[1] Leaded gasoline demand for this case is based on current projections and assumed to be the same under either the existing or proposed regulations.
[2] This case removes only the effect of fuel switching from otherwise projected leaded gasoline demand.

It is possible that under the proposed standard the owners of vehicles that currently legally use leaded gasoline, but do not require lead to prevent valve-seat recession problems, would choose to fuel them with unleaded gasoline. Such a scenario is possible because it is expected that the 0.10 gplg standard will cause leaded gasoline to be sold at a higher price than unleaded regular gasoline. If this were to occur, additional reductions in lead usage would result.

B. Economic Impact

EPA has analyzed the costs and the benefits of reducing the lead content of gasoline to 0.10 pglg. They are discussed in detail in the preliminary regulatory impact analysis (RIA) and in the March 1984 EPA Office of Policy Analysis draft report, "Cost and Benefits of Reducing Lead in Gasoline" ("EPA cost/benefit analysis"), both of which have been placed in the docket. The Agency has also analyzed the costs and benefits of a total ban on lead in gasoline. These costs and benefits are summarized below.

1. Refinery Costs of 0.10 gplg Standard

Lead is an inexpensive way for refiners to boost the octane of gasoline. If they are required to use less lead, they must use more expensive methods to increase the octane of their gasoline.

EPA has analyzed the increase in manufacturing costs that would occur if less lead were allowed to be used in making gasoline. Nationwide costs have been estimated using the Department of Energy's linear programming model. This model was originally developed by private consultants to the refining industry for use by the industry itself. It has been used by EPA in its study of the overall costs of environmental regulation to the refining industry, by the Department of Energy for many analyses of the refining industry, and by EPA in previous analyses of gasoline lead restrictions.

The model recently has been subject to verification testing by the Department of Energy. Given the same inputs as actually occurred in 1982, it was able to accurately predict production of the petroleum products that were made in 1982. It correctly projected the loss of products during processing that occurred in the industry, and the cost differentials it predicted between petroleum products compared well with actual price differentials at the refinery gate.

EPA also has verified the model's previous predictions of the cost of gasoline lead content regulations indirectly. In the analysis performed for the 1982 rulemaking, the model predicted that the marginal cost of removing lead from gasoline would be

one cent per gram. EPA has examined the lead usage allocation reports submitted to it by refiners since the 1982 regulations went into effect. Many of them included price information, and the average price at which lead rights sold was well below one cent. Since sales and purchases of lead rights represent a small percentage of total lead use by any given refiner, the cost of these should represent the marginal cost of using one gram less of lead. If these sales occurred at less than one cent per gram, this suggests that the model does not understate costs and may overstate them.

The annual costs of the proposed 0.10 gplg standard for the refinery industry as a whole are shown in Table 5. A more detailed discussion is found in the preliminary RIA and in the EPA cost/benefit analysis.

TABLE 5.—COST OF REDUCING LEAD TO 0.10 GPLG

Year	Total cost (millions of dollars)
1986	575
1987	532
1988	503
1989	480
1990	463
1991	440
1992	432

In addition to analyzing the cost of the proposed standard to the industry as a whole, EPA has examined the impact of a tighter lead standard on certain segments of the refining industry. EPA has focused on small refineries as one segment that might have higher costs than the national average. Small refineries were further divided into three sub-categories: (1) Refineries with both cracking and reforming capacity; (2) refineries with only reforming capacity; and (3) topping plants. Cracking is a process that converts petroleum products that are too heavy to use in gasoline into lighter gasoline grade components that are high in octane. Reforming increases the octane of gasoline components. Refineries with cracking and reforming capability can make high octane gasoline and can convert (through cracking) a larger fraction of their heavier petroleum fractions to gasoline. Topping plants do not have enough equipment to make any of their product into gasoline directly. They purchase additives and blending components to bring their gasoline components up to required specifications.

EPA has modeled each sector of the small refinery industry, and cost estimates for each sector are contained in the initial regulatory flexibility analysis, which has been included in the docket. Assuming that current gasoline production volumes are maintained, small cracking refineries will have increased costs of $19.1 million per year, and small reforming refineries will have increased costs of $15.1 million per year. The cost increases for topping plants could not be directly calculated, since these depend on the price of blending components that they must purchase. However, EPA estimated the increase in the value of blending components to the refiners that sell them. Assuming that they pass such increased costs on to the topping plants when they sell them, their costs are estimated to increase by $2 million.

2. Benefits of 0.10 gplg Standard

EPA also has estimated the value of the benefits that it believes would result from the proposed standard of 0.10 gplg. These benefits fall into three categories: (1) Vehicle maintenance savings; (2) benefits from reduced misfueling; and (3) health benefits from lead emission reductions.

a. *Vehicle Maintenance Benefits.* First, lead has long been known to result in increased maintenance costs for vehicles. EPA has estimated the maintenance savings that would accrue to owners of cars and light-duty trucks that use gasoline with a reduced lead content of 0.10 gplg.

Use of leaded gasoline increases the rates at which mufflers and tailpipes rust out, spark plugs foul, engine deposits build up, and oil is contaminated necessitating more frequent oil changes. In addition, lead-induced fouling of spark plugs leads to poorer fuel economy between spark plug changes, even if they are changed more frequently with leaded fuel. Use of leaded gasoline tends to plug catalytic converters, increasing back pressure and decreasing engine performance, and also degrades the performance of oxygen sensors in newer vehicles. This results in incorrect fuel metering, which may reduce performance and fuel economy. Lead is also corrosive in heavy-duty gasoline engines used in medium and heavy-weight trucks, and will adversely affect their spark plugs, mufflers and engine oil.

EPA has quantified several of these maintenance and fuel efficiency benefits, including exhaust system (muffler and tail pipe), spark plug, and engine oil maintenance benefits for cars and light-duty trucks. Fuel efficiency benefits calculated include those from improved oxygen sensor performance and from the higher BTU content of unleaded gasoline. These are shown in Table 6. The derivation of these maintenance and fuel efficiency savings is discussed in the preliminary RIA and the EPA cost/benefit analysis. In addition, EPA is working on the quantification of benefits for heavy-duty and off-the-road vehicles. These will be placed in the rulemaking docket if timely completed.

TABLE 6-A.—MAINTENANCE BENEFITS OF REDUCING LEAD TO 0.10 GPLG [1]

[Millions of 1983 dollars]

Year	Spark plugs	Oil changes	Exhaust systems	Total [2]
1986	74	314	452	840
1987	68	296	420	784
1988	62	282	393	737
1989	52	273	376	701
1990	55	262	356	672
1991	52	255	344	651
1992	53	262	351	665

[1] Estimates assume that there is no misfueling.
[2] Columns may not add due to rounding.

TABLE 6-B.—FUEL EFFICIENCY BENEFITS OF REDUCING LEAD TO 0.10 GPLG [1]

[Millions of 1983 dollars]

Year	Oxygen sensor	Btu content	Total
1986	22	338	360
1987	26	303	329
1988	29	269	298
1989	31	201	232
1990	33	133	166
1991	35	133	168
1992	37	133	170

[1] Estimates assume that there is no misfueling.

b. *Benefits from Reducing Misfueling.* Because leaded gasoline with 0.10 gram of lead per gallon, assuming it remains at the current 89 octane level, is more expensive to make than unleaded regular gasoline at its standard 87 octane level, EPA believes that the current price differential between unleaded and leaded gasoline will be reversed, with unleaded gasoline becoming the less expensive product. EPA believes that this price differential change will eliminate virtually all fuel switching.

Fuel switching destroys the effectiveness of catalytic converters, thereby increasing emissions of hydrocarbons, carbon monoxide, and nitrogen oxides. EPA has estimated the benefits of avoiding this damage in two ways. The simplest and most straightforward approach is to estimate the value of the pollution control equipment destroyed by misfueling. Because all cars are not misfueled in their first year, EPA estimated the

depreciated value of catalysts in older vehicles in order to compute the benefits of not destroying such pollution controls. EPA did this by estimating the total lifetime amount of pollutants removed by a catalyst in the average car, and repeating that calculation for the pollutants removed in the remaining lifetime of the vehicle. If, for example, a two-year-old catalyst had already achieved 20% of its expected lifetime emissions reduction and thus only had 80% left, it was valued at 80% of its original price. This methodology is described more fully in the EPA cost/benefit analysis noted above. EPA's estimate of the value of avoiding misfueling by this method is shown in Table 7.

Table 7 also shows the Agency's estimate of this value derived by directly estimating the benefits to the health and welfare of the U.S. population from better control of HC, NO_x and CO emissions. The control of the first two types of emissions would likely result in fewer cases of asthma attacks, minor illnesses leading to restrictions in activity, crop loss, and property damage, because reducing HC and NO_x emissions leads to reductions in ozone levels. However, we were unable to obtain reliable estimates of changes in long-term chronic health conditions due to reducting ozone levels, or to value the reductions in CO emissions. The data and calculations used to estimate these benefits are discussed in more detail in the preliminary RIA and the EPA cost/benefit analysis.

TABLE 7.—BENEFITS OF REDUCED EMISSIONS OF HC, CO, AND NO_x DUE TO REDUCING LEAD TO 0.10 GPLG

[Millions of 1983 dollars]

Year	Implicit value of catalysts	Direct estimates	Average of 2 estimates
1986	332	363	348
1987	335	366	351
1988	334	354	344
1989	339	358	348
1990	345	365	355
1991	355	376	365
1992	364	385	375

c. *Health Benefits from Lead Emission Reductions.* EPA also estimated the benefits of reducing the number of incidences of children whose blood lead levels exceed the level currently considered to require medical assistance. For children who meet the CDC definition of lead toxicity (see Part III.C.2, above), the Agency estimated the savings in medical costs that would occur due to the reduced number of incidences at those levels. As noted below, monetary benefits were not estimated for reductions in the number of incidences at lower blood lead levels. The CDC recommendations for medical testing and treatment were used to estimate the average medical cost of $950 that would be saved for each child whose blood lead level would be brought below 30 μg/dl.

EPA also calculated benefits due to avoiding reduced performance in school among children in the higher categories of lead toxicity. These children were considered equivalent to the children in the exposed group in the studies of De la Burde and Choate (1972, 1975). De la Burde and Choate found a statistically significant 4–5 point IQ difference between 70 high-lead children and a control group of children drawn from the same clinic population and matched by relevant socioeconomic characteristics. These studies were favorably reviewed in EPA's 1978 NAAQS criteria document for lead. The 1975 follow-up study also found that reduced performance persisted three years later, even after treatment and reduced blood lead levels, and that the children in the exposed group were seven times more likely to be left back a grade or referred to a school psychologist as were children in the control group. Based on this reduced performance, EPA estimated the benefits of avoiding such a loss as equal to the cost of tutoring or special education programs that might help to restore these children's performance. These benefits, and the avoided medical costs, are shown in Table 8. A more detailed discussion of the calculation of these benefits is contained in the preliminary RIA and the EPA cost/benefit analysis.

TABLE 8.—HEALTH BENEFITS OF REDUCING LEAD TO 0.10 GPLG

[Millions of 1983 dollars]

Year	Medical	Reduced performance	Total
1986	$49	$222	$271
1987	45	201	246
1988	41	184	225
1989	37	167	204
1990	35	154	189
1991	31	137	168
1992	30	132	162

d. *Other Benefits.* Reducing lead in gasoline would also result in public health benefits for which EPA has not been able to assign monetary values, but which may be significant. These benefits are reductions in the number of incidences of children whose blood lead levels exceed levels at which adverse health effects occur. These benefits are discussed in the following portion of this notice, Part V.C.

3. Costs and Benefits of Total Ban

EPA has also calculated the costs and benefits of a 1995 total ban on lead in gasoline. These numbers are subject to considerable uncertainty because they require projecting petroleum demand and leaded/unleaded splits far into the future. If leaded gasoline demand is higher than projected, the cost will be higher, as will the benefits (including the lead health benefits). EPA has estimated that the costs of going to a no-lead standard in 1995 would be $468 million, compared to the current standard. This would result in 29,000 fewer incidences of lead toxicity (using the current CDC definition) and monetized benefits of $1,374 million. These are divided into maintenance benefits of $681 million, conventional pollution benefits of $405 million, fuel efficiency benefits of $138 million, and lead health benefits of $150 million. Net monetized benefits are therefore estimated to be $906 million in 1995.

C. Health Impacts

The primary impact of this proposal would be to reduce human exposure to environmental lead, in particular to reduce such exposure by the group most at risk, pre-school children. Based on the discussion in Part III.C of this notice concerning the health effects of gasoline lead, the impacts of the lead emissions discussed in Part V.A can be quantified in terms of reductions in the number of incidences of children whose blood lead levels exceed various levels.

EPA's methodology in determining these numbers of incidences is discussed in Chapter V of the EPA cost/benefit analysis. Using this methodology, EPA has estimated the number of incidences of children whose blood lead levels would exceed various levels under the proposed 0.10 gplg standard.

Blood lead levels above 30 μg/dl are of particular concern because this is the level of undue exposure to lead established by the Centers for Disease Control. A 0.10 gplg standard effective in 1986 would result in 52,000 fewer incidences of children exceeding a blood lead level of 30 μg/dl in that year. In 1988, the number is predicted to be 43,000 incidences. The lower number of incidences in 1988 is due to the fact that such numbers decline over time due to the increased use of unleaded gasoline. The impact on other blood lead levels may also be estimated. For example, the proposal would result in 1,726,000 fewer incidences of children exceeding a blood

lead level of 15 μg/dl in 1986, and 1,476,000 fewer incidences in 1988. Over the period 1986 to 1992, the proposed 0.10 gplg standard is estimated to result in an aggregate 280,000 fewer incidences of children exceeding a blood lead level of 30 μg/dl and 9.6 million fewer incidences exceeding a level of 15 μg/dl. Table 9 summarizes these impacts.

In addition to the beneficial health impacts from reducing lead emissions, excess emissions of HC, CO and NO_x that result from misfueling will be reduced to the extent that misfueling is reduced as a result of this proposal. The EPA cost/benefit analysis contains a detailed discussion of the health impacts that may be achieved through such a reduction in emissions of these pollutants.

TABLE 9.—NUMBER OF INCIDENCES OF CHILDREN WHOSE BLOOD LEAD GOES FROM ABOVE TO BELOW THE INDICATED BLOOD LEAD LEVEL

[Thousands of incidences] [1]

Blood lead level	Year						
	1986	1987	1988	1989	1990	1991	1992
30 (μg/dl)	52	47	43	39	36	32	31
25	172	157	144	130	119	106	103
20	563	518	476	434	400	357	348
15	1,726	1,597	1,476	1,353	1,252	1,125	1,098

[1] Assumes no misfueling.

Emissions of ethylene dibromide (EDB), a potential human carcinogen, would also be reduced as a result of this proposal. EDB is used as a lead scavenger in leaded gasoline to prevent undue build-up of lead deposits in engines and exhaust systems. Based on emission factors derived by Sigsby et al. (1982), national motor vehicle tailpipe emissions of EDB in 1986 under the 0.10 gplg proposal would be reduced by 94%, or 143 metric tons. In addition, EPA has calculated that motor vehicle evaporative emissions of EDB would be reduced by 34 metric tons and that EDB emissions from the distribution of leaded gasoline would decrease by 7 metric tons. Total emissions of EDB would therefore be reduced by 184 metric tons not counting tank leakage and spillage. These calculations are explained in the preliminary RIA.

D. Air Quality Impacts

This proposal would result in reduced emissions of several motor vehicle pollutants. The reductions in lead emissions have been previously discussed in Part V.A of this notice. Analysis of ambient lead levels in the past has indicated a close relationship between gasoline lead use reductions and ambient air lead concentrations in areas where lead air quality is not significantly impacted by the stationary sources. For example, a March 1984 EPA report ("National Air Quality and Emissions Trend Report, 1982") indicated a 64% drop in ambient lead concentrations at 46 urban sites over the period 1975–82, a period in which gasoline lead dropped 69%. Thus, it is predicted that ambient lead readings at monitors affected by mobile sources would be reduced substantially. The magnitude of such reductions approaches that of the decrease in lead use on a locality-by-locality basis. Thus, for a standard of 0.10 gplg, the improvement in air quality could be by as much as 91% in the year that the standard is implemented. Under a no lead standard, ambient lead readings at monitors affected solely by mobile sources could drop to as low as zero.

As discussed earlier, when misfueling occurs there will be, in addition to lead emissions, increased emissions of HC, CO, and NO_x. These excess emissions are due to lead affecting the combustion process in the engine and, more importantly, to lead altering the efficiency of the catalytic converter, which can result in its total deactivation. To the extent the proposed 0.1. gplg standard limits or prevents misfueling, there will be a positive benefit in the form of reductions in the amount of emissions of these pollutants.

Under the proposed 0.10 gplg standard, EPA believes that leaded gasoline would cost more to produce than unleaded gasoline. Under the assumption that this would eliminate all misfueling, it is possible to estimate the emission reductions that would result. A vehicle misfueled to the extent of permanent damage to the catalyst will emit excess emissions throughout its life. Preventing a vehicle from ever misfueling would avoid this future stream of excess emissions. The "value" of this stream of avoided emissions in the year the program is implemented can be calculated. The EPA cost/benefit analysis has calculated the magnitude of such avoided emissions for a number of years, assusing that all misfueling is discountinued in the indicated year. These emission reductions are listed in Table 10.

TABLE 10.—REDUCTIONS IN EMISSIONS

[Thousands of metric tons]

Pollutant	1986	1987	1988	1989	1990	1991	1992
CO	1,646	1,650	1,653	1,670	1,697	1,749	1,794
HC	247	247	236	237	241	248	254
NO_x	81	90	97	103	109	112	115

E. Energy Impacts

Because many of the alternatives to lead for boosting octane require additional processing of gasoline components, the proposed 0.10 gplg standard would result in increased use of energy. This reflects the fact that energy is expended in the course of operating this processing equipment. EPA has estimated that this increase in energy use would not exceed the equivalent of 10,000 barrels per day of crude oil in any year, less than 0.1% of current crude oil usage in the United States. Compared to the benefits that would result from this proposal, this increased energy usage is not substantial. The results of the EPA analysis have been placed in the rulemaking docket.

F. Impacts on Use of Other Additives

To prohibit the use of a fuel additive under section 211(c), section 211(c)(2)(C) of the Act requires the administrator to find that such a prohibition will not cause the use of another fuel or fuel additive that will produce emissions that will endanger the public health or welfare to the same or greater degree than the fuel additive to be banned. Accordingly, the Agency considered the possibility that a low-lead standard or a total ban on the use of lead in gasoline might (in the absence of further regulatory action) cause the use of other additives as lubricating agents for valves and/or as octane enhancers. EPA looked at both the direct health effects of the additives and their effect on catalytic converters.

Under a total ban on the use of lead in gasoline, refiners might consider use of other additives for one or both of the following purposes: to serve as an engine valve lubricant; and/or to increase the octane of gasoline. Under the proposed 0.10 gplg standard, however, they would likely be considered for use only as an octane enhancer because such a standard would provide an adequate amount of lead for valve lubrication.

Under a total ban on lead, refiners might consider use of substances such as phosphorous, sodium, or MMT for the purpose of valve lubrication. The additive most likely to be considered for this purpose is phosphorus because it is believed that this substance, used in the same quantity as lead, can serve the same function as a value lubricant. Unfortunately, phosphorus is more harmful to catalysts than lead. Since phosphorus presently costs more than lead and does not appear to increase octane, its use in gasoline would

probably not cause the amount of fuel switching to increase. However, since the catalyst is more easily damaged by phosphorus than by lead, the damage caused by any given amount of misfueling with phosphorus would be greater than for the same amount of misfueling with lead. Further, although not much research has been done on the health effects of phosphorus, some organophosphorus pesticides have been shown to be potentially harmful. MMT and sodium have also been mentioned in the literature as possible substitutes for lead. However, there is very little information available about their properties as a valve lubricant.

To increase the octane of gasoline, various methods are technically feasible for use in the production both of unleaded gasoline and of low-lead leaded gasoline under the proposed 0.10 gplg standard. Octane in these products could be enhanced by the use of one or more of the following means: (1) Further refinery processing with catalytic crackers and reformers (and possibly isomerization units); (2) increased use of MMT or other chemical additives; and/or (3) increased use of alcohol. Further refinery processing will not result in damage to catalysts or in adverse health effects, and is not coverd by section 211(c)(2)(C) of the Act in any case since it does not involve the use of an additional fuel or fuel additive. The other two means of octane enchancement are of more concern to the Agency.

MMT is a manganese additive whose use is currently allowed only in leaded gasoline. MMT may not be added to unleaded gasoline unless a waiver has been granted under section 211(f)(4) of the Act. Under section 211(f)(2) of the Act, concentrations of manganese in gasoline under any such waiver may not exceed 0.0625 gram (1/16 gram) per gallon of unleaded gasoline. Two waivers for the use of MMT in unleaded gasoline have been requested by Ethyl Corporation, but both were denied by EPA due to the lack of complete date concerning the emissions effects of this additive. 43 FR 41424 (Sept. 18, 1978) and 46 FR 58363 (Dec. 1, 1981).

The other known octane enhancer is alcohol. Ethanol or methanol may presently be used in leaded gasoline. Their use in unleaded gasoline is allowed only if a waiver under section 211(f)(4) of the Act has been issued (to date, 5 such waivers have been granted and 4 have been denied). The use of high levels of alcohols (in excess of that allowed by existing waivers) may have some adverse emission impacts. Their effect on catalysts is not great, although there may be some adverse effects on the carbon canisters used to control evaporative HC emissions. Unwaived alcohols may also have adverse effects on the polymers and elastomers in vehicles. Since vehicles that use leaded gasoline are generally older, some of these parts are already worn, so the alcohol may increase their wearout. Further, the use of such alcohol in the tank of an older vehicle may cause clogged fuel filters, since it picks up old dirt particles. If the fuel metering system is affected adversely, the vehicle may run poorly. For these driveability reasons, it is unlikely that major refiners would use high levels of alcohols in low-lead gasoline produced for older vehicles.

The Agency has broad authority under section 211(f) of the Clear Air Act to prohibit or control the use of new additives in unleaded gasoline. Generally, a waiver must be obtained under section 211(f)(4) of the Act for the use of any fuel additive in unleaded gasoline unless it is "substantially similar" to an additive use in the certification of 1975 or later model year vehicles under section 206 of the Act, 42 U.S.C. 7525. Under section 211(f)(4), a waiver may be granted only if the Administrator finds that an additive and its emission products—

> will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206.

Thus, the Agency has broad authority to control the use of octane enhancers such as alcohol and MMT in unleaded gasoline. As noted above, the Agency has in the past denied waivers to several products containing these additives when their manufacturers were unable to demonstrate that the statutory criteria for approval would be met. The Agency will continue to utilize its authority under section 211(f) to assure that vehicle emission standards are met and that emission control equipment is protected. While this mechanism would not be available to control the use of additives in leaded gasoline produced under a 0.10 gplg standard, the Agency has broad authority under section 211(c) to control such additives should they pose a greater danger to the public health or welfare, or to emission control devices, than is now anticipated. This authority is, of course, also available in regard to unleaded gasoline.

Based on presently-available information, therefore, the Agency believes that a prohibition on the use of lead in gasoline would not cause the use of another fuel or fuel additive that will produce emissions that will endanger the public health or welfare to the same or greater degree than the use of lead. In any case, should use of any alternative additive or fuel pose a danger to the public health or welfare, the Agency has ample authority under section 211 (c) and (f) to prohibit or control its use, as outlined above.

The Agency is aware, however, that there is not a great deal of information currently available on some of the issues related to alternatives to lead usage in gasoline. Therefore, the Agency specifically requests comments on: (1) What additives might be used in place of lead as a valve lubricant and/or octane enhancer in unleaded gasoline (upon a total ban on lead in gasoline) or in leaded gasoline produced under a 0.10 gplg standard; (2) the extent to which such additives are likely to be used; (3) the health effects of such additives; and (4) the effects of such additives on emission control devices, particularly catalytic converters.

VI. Other Alternatives Considered

A. Incentives for State/Local Anti-Fuel Switching Enforcement Programs

On January 1, 1984, EPA announced the availability of a technical report on anti-tampering and anti-fuel switching programs designed to reduce in-use motor vehicle emissions. 49 FR 1984. This report includes the most recent data on fuel switching rates, information on the effects of misfueling on vehicle emissions, and detailed estimates of HC and CO emission reduction benefits achievable through various types of control programs. Programs to control misfueling generally include a check for tampering with the fuel filler inlet and the catalytic converter, and may also include use of a lead-sensitive paper to detect lead deposits in vehicle tailpipes. These programs may be included by states as control strategies in their state implementation plans (SIP's) for CO and/or ozone, and the emission reduction benefits provided in the report may be used as part of a demonstration of attainment or maintenance of these ambient air quality standards.

While EPA strongly encourages states to include these types of programs in their SIP's, the provision of SIP credits for these activities will have only a partial effect on the elimination of fuel switching. First, only certain areas are likely to establish anti-fuel switching programs. The most likely are those areas unable to demonstrate attainment

of the CO and/or ozone ambient standards by the end of 1987 through the use of reasonably available control technology (RACT). However, SIP revisions demonstrating attainment of these standards were required to be submitted to EPA by July 1, 1982, and nearly all states have submitted at least draft revisions. Thus, some states which may have considered inclusion of these programs in their SIP's if SIP credits had been available earlier may now be committed to other control measures. Other areas may, however, consider these programs in order to provide a margin for economic growth and/or as a strategy to maintain the ambient air quality standards.

Because the provision of SIP credits is only likely to encourage anti-misfueling programs in certain areas, this policy will not be enough by itself to solve the nationwide fuel switching problem described in Part III.B of this notice, above. Any anti-misfueling program of the types discussed in the SIP credit document that would be aimed at the nationwide fuel switching problem would likely be very expensive and burdensome for state/local governments, since they would necessitate programs to inspect all vehicles in the U.S. and to assure that misfueled vehicles are repaired. Nor would such programs do anything to solve the lead-related health problems caused by the legal use of leaded gasoline. Therefore, the Agency does not consider the SIP credit policy to be an adequate substitute for the regulatory program proposed in this notice, nor does it consider the requirement of a national anti-misfueling inspection program to be a feasible alternative.

B. Federal Ban on Fuel Switching by Individuals

Another alternative considered by the Agency is a Federal ban on fuel switching by individual vehicle owners and operators. Under § 80.22(a) of the current regulations (Title 40, Code of Federal Regulations), only retailers and wholesale purchaser-consumers (and their employees and agents) are liable for the introduction of leaded gasoline into a vehicle designed for unleaded gasoline. Such persons are also liable for causing or allowing the introduction of leaded gasoline into such vehicles, but others (e.g., non-fleet vehicle operators) are not themselves liable for such introductions.

The Agency believes that a direct prohibition on individual fuel switching, coupled with a vigorous enforcement effort, would be effective in reducing the amount of fuel switching. However, the Clean Air Act presently does not clearly authorize such a prohibition, and the Agency recently asked Congress to amend the Act to specifically prohibit both fuel switching and tampering with emission control equipment by individuals. Even if such authority is available, however, it is unlikely to eliminate this practice entirely, because fuel switching by retailers and others currently liable under the regulations occurs today at a significant rate and because enforcement of regulations affecting millions of gasoline refuelings would be difficult. Furthermore, such a ban would not affect the legal use of leaded gasoline or the adverse health impacts caused by lead emissions from such use. Therefore, this alternative would not achieve all of the purposes of the proposed rule.

VII. Additional Information

A. Executive Order 12291

Executive Order (E.O.) 12291 requires the preparation of a regulatory impact analysis for major rules, defined by the Order as those likely to result in:

(1) An annual adverse 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 government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

EPA has determined that this proposed regulation meets the definition of a major rule under E.O. 12291, and has prepared a preliminary regulatory impact analysis (RIA). That document, along with this notice of proposed rulemaking, has been submitted to the Office of Managment and Budget (OMB) for review under Executive Order 12291. Any comments from OMB and any EPA responses to such comments are available for public inspection at the Central Docket Section, U.S. Environmental Protection Agency, West Tower Lobby, 401 M Street, SW., Washington, D.C. 20460 (Docket EN–84–05). A copy of the preliminary RIA has also been placed in the rulemaking docket.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that Federal agencies examine the impacts of their regulations on small entities. Under 5 U.S.C. 604(a), whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available for public comment an initial regulatory flexibility analysis (RFA). Such an analysis is not required if the head of an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, pursuant to 5 U.S.C. 605(b). EPA has prepared an initial regulatory flexibility analysis for the regulations proposed in this notice, and this initial RFA has been placed in the rulemaking docket.

The initial LRFA examines the impact of the proposed regulations on small refineries, as currently defined in 40 CFR 80.2(p). As part of its analysis, the Agency considered three alternatives to the proposed regulations in order to determine whether they would meet the same environmental goals in a manner that would reduce adverse impacts on such refineries. The alternatives analyzed are: (1) Make no changes to the current regulations; (2) establish a higher gasoline lead content standard for small refineries than for the other refineries; (3) allow small refineries more time than others to meet a uniform gasoline lead content standard. EPA concluded that these alternatives would not meet the same environmental goals as the proposed regulations, and for this and other reasons outlined in the initial RFA rejected these alternatives.

C. National Academy of Sciences Recommendations.

Section 307(d)(3) of the Clean Air Act, 42 U.S.C. 7607(d)(3), requires that rulemaking proceedings under section 211 of the Act, 42 U.S.C. 7545, take into account any pertinent findings, comments, and recommendations by the National Academy of Sciences. Pertinent findings by the National Academy of Sciences are contained in the 1980 report, "Lead in the Human Environment," prepared by the Committee on Lead in the Human Environment of the National Academy of Sciences. The major recommendations in this report pertinent to regulatory controls are the following:

(1) "Efforts to control exposure to lead should proceed, with full acknowledgement of the necessary imprecision of estimates of the costs, risks, and benefits."

(2) "Control strategies should be based on coordinated, integrated measures to reduce exposures from all significant sources "

(3) "Improved institutional mechanisms should be developed to permit a more systematic, consistent approach to the management of lead hazards."

(4) "Expanded and more concerted efforts should be made to identify children at risk and remove sources of lead from their environments. A serious effort should also be made to reduce the 'background' level of exposure of the general population to lead. The most important elements in control strategies include population screening, lead paint removal, reduction of lead emissions from gasoline combustion, and reduction of lead levels in foods."

The Agency has taken these recommendations into account in the development of this regulatory proposal and believes the proposal is fully consistent with them. The proposed gasoline lead content standard of 0.10 gplg would reduce by at least 91% lead emissions from gasoline consumption, which adversely affect children and other "at risk" groups in the population.

D. Paperwork Reduction Act

The information collection requirements contained in the rule which this notice proposes to amend have been cleared previously by OMB under control number 2000–0041. See 48 FR 13430 (March 31, 1983). The changes to the information requirements proposed in this notice have been submitted to OMB for review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The major change in information collection requirements that would result from the proposed regulatory revisions involves the inter-refinery averaging provisions. Since this notice proposes to eliminate these provisions starting on January 1, 1986, the amount of time now needed to comply with related reporting requirements would be eliminated. EPA estimates that this change would result in an approximately one-third reduction in the total reporting burden associated with the gasoline lead content regulations. Comments on proposed changes to the information collection requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Officer for EPA."

List of Subjects in 40 CFR Part 80

Fuel additives, Gasoline, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

(Secs. 211 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7545 and 7601(a)))

Dated: July 30, 1984.

William D. Ruckelshaus,

Administrator.

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

For the reasons set out in the preamble, Part 80 of Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

1. Section 80.2 is proposed to be amended by revising paragraph (g) and by rescinding, removing and reserving paragraphs (p) and (q), to read as follows:

§ 80.2 Definitions.

* * * * *

(g) "Unleaded gasoline" means gasoline which is produced without the use of any lead additive and which contains not more than 0.01 gram of lead per gallon and not more than 0.005 gram of phosphorus per gallon.

* * * * *

(p)–(q) [Reserved]

* * * * *

2. Section 80.4 is propoed to be revised to read as follows:

§ 80.4 Right of entry; tests and inspections.

The Administrator or his authorized representative, upon presentation of appropriate credentials, shall have a right to enter upon or through any refinery, retail outlet, wholesale purchaser-consumer facility, the premises or property of any distributor or importer, or any place where gasoline is stored, and shall have the right to make inspections, take samples and conduct tests to determine compliance with the requirements of this part.

3. Section 80.20 is proposed to be revised to read as follows:

Note.—Text enclosed in arrows indicate language which would be included if the Agency promulgates a total ban on the use of lead in gasoline effective on January 1, 1995.

§ 80.20 Controls applicable to gasoline refiners and importers.

(a) *Refiners.* (1) In the production of gasoline at a refinery, a refiner shall not:

(i) Produce leaded gasoline whose average lead content during any calendar quarter ending prior to January 1, 1986, exceeds 1.10 grams of lead per gallon of leaded gasoline.

(ii) Procedure leaded gasoline whose average lead content during any calendar quarter beginning on or after January 1, 1986, ►and ending prior to January 1, 1995,◄ exceeds 0.10 gram of lead per gallon of leaded gasoline.

►(iii) Produce leaded gasoline on or after January 1, 1995.◄

(2) Except as provided in paragraph (d)(1) of this section, compliance with the requirements of paragraph (a)(1) (i) and (ii) of this section shall be determined by dividing the total grams of lead used in the production of leaded gasoline (including the lead in gasoline blending stocks and components used in such production) at a refinery during a calendar quarter by the total gallons of leaded gasoline produced at the refinery in the same calendar quarter.

(3) For each calendar quarter ►ending prior to January 1, 1995,◄ each refiner shall submit to the Administrator a report which contains the following information for each refinery:

(i) The total grams of lead in the refinery's inventory (including its lead additive inventory and its inventory of gasoline blending stocks and components) on the first day of the calendar quarter;

(ii) The total grams of lead (including lead additives and lead in gasoline blending stocks and components) received by the refinery during the calendar quarter;

(iii) The total grams of lead additives shipped from the refinery during the calendar quarter;

(iv) The total grams of lead in the refinery's inventory (including its lead additive inventory and its inventory of gasoline blending stocks and components) on the last day of the calendar quarter;

(v) The total gallons of leaded gasoline produced by the refinery during the calendar quater;

(vi) The total gallons of unleaded gasoline produced by the refinery during the calendar quarter;

(vii) The total grams of lead used in the production of leaded gasoline (including lead additives and the lead in gasoline blending stocks and components used in such production) by the refinery during the calendar quarter;

(viii) The average lead content of each gallon of leaded gasoline produced by the refinery during the calendar quarter;

(ix) The total grams of lead used in the production of products other than gasoline by the refinery during the calendar quarter, by type of product;

(x) The total gallons of products other than gasoline in which lead was used that were produced by the refinery during the calendar quarter, by type of product; and

(xi) If any of the products listed in paragraph (a)(3)(x) were sold or otherwise transferred to another refinery during the calendar quarter, the total gallons of each product so transferred, the total grams of lead in each product so transferred, the name

and address of the refinery to which the transfer was made, and the date of such transfer.

Reports shall be submitted within 15 days after the close of the calendar quarter on forms prescribed by the Administrator.

(b) [Reserved]

(c) *Importers.* (1)(i) No importer shall sell or offer for sale leaded gasoline which has been imported into the United States and whose average lead content during any calendar quarter ending prior to January 1, 1986, exceeds 1.10 grams of lead per gallon of such gasoline.

(ii) No importer shall sell or offer for sale leaded gasoline whose average lead content during any calendar quarter beginning on or after January 1, 1986, ►and ending prior to January 1, 1995,◄ exceeds 0.10 grams of lead per gallon of such gasoline.

►(iii) No importer shall sell or offer for sale leaded gasoline on or after January 1, 1995.◄

(2) Except as provided in paragraph (d)(1) (i) and (ii) shall be determined by calculating:

(i) The lead content of each shipment of imported leaded gasoline sold by the importer during a calendar quarter, determined by the performance by the importer of the test for lead in gasoline set forth in Appendix B of this part upon a representative sample of gasoline in the shipment;

(ii) The total gallons of leaded gasoline in each such shipment;

(iii) The total grams of lead in each such shipment, determined by multiplying the lead content of the shipment by the total gallons of leaded gasoline in the shipment;

(iv) The total grams of lead in such shipments sold during the calendar quarter;

(v) The total gallons of leaded gasoline in all such shipments sold during the calendar quarter;

(vi) The average lead content of all imported leaded gasoline sold during the calendar quarter, determined by dividing the total in paragraph (c)(2)(iv) by the total in paragraph (c)(2)(v).

(3) For each calendar quarter ►ending prior to January 1, 1995, ◄each importer who sells imported leaded gasoline or imported gasoline blending stocks or components shall submit to the Administrator a report which contains the following information:

(i) The information described in paragraphs (c)(2) (i) through (vi) of this section;

(ii) The lead content of each shipment of imported gasoline blending stocks or components sold by the importer during the calendar quarter determined by performance by the importer of the test for lead in gasoline set forth in Appendix B of this Part upon a representative sample of gasoline blending stocks or components on the shipment;

(iii) The total gallons of gasoline blending stocks or components in each such shipment;

(iv) The total grams of lead in each such shipment, determined by multiplying the lead content of the shipment by the total gallons of gasoline blending stocks or components in the shipment;

(v) For each shipment of imported leaded gasoline or imported gasoline blending stocks or components sold during the calendar quarter: name and address of importer; date and place of entry; and vessel or carrier number (where applicable); and

(vi) For each shipment of imported leaded gasoline blending stocks or components sold during the compliance period, the name and address of the refinery or the other person to which the sale was made, the total gallons of product sold, the total grams of lead in the product sold and the date of such sale.

Reports shall be submitted within 15 days after the close of the calendar quarter on forms prescribed by the Administrator.

(4) Any importer who adds lead to gasoline or gasoline blending stocks or components during a compliance period shall also submit a report pursuant to paragraph (a)(3) of this section.

(d) *Inter-refinery averaging.* (1) As an alternative means of demonstrating compliance with the requirements of paragraph (a)(1)(i) or paragraph (c)(1)(i) of this section, one or more refiners may demonstrate such compliance by constructively allocating lead usage between or among two or more refineries in any manner agreed upon by the refiner(s), so long as:

(i) The average constructive lead content of leaded gasoline produced in a calendar quarter by each refinery does not exceed 1.10 grams of lead per gallon of leaded gasoline produced;

(ii) The total amount of lead usage in a calendar quarter by all such refineries, as constructively allocated and reported, is equal to the total amount of lead actually used in the calendar quarter by all such refineries;

(iii) The actual or constructive lead content of gasoline produced by each refinery does not exceed any applicable state statutory or regulatory standards; and

(iv) The constructive allocation agreement is made no later than the final day of the calendar quarter in which the lead allocated is actually used.

(2) Any refiner who demonstrates compliance with the requirements of this section pursuant to paragraph (d)(1) of this section shall submit to the Administrator, as an additional part of the report required by paragraph (a)(3) or paragraph (c)(3) of this section, the following information:

(i) The total grams of lead actually used by the reporting refinery during the calendar quarter and constructively allocated to another refinery, and the name and address of such other refinery (for each such constructive allocation);

(ii) The total grams of lead actually used by another refinery during the calendar quarter and constructively allocated to the reporting refinery, and the name and address of such other refinery (for each such constructive allocation);

(iii) The total grams of lead constructively used in the production of leaded gasoline by the reporting refinery during the calendar quarter, as determined by performing the following calculations upon the total grams of lead actually used by the reporting refinery during the calendar quarter: (A) Subtracting the total grams of lead indicated in paragraph (d)(2)(i) of this section, and (B) adding the total grams of lead indicated in paragraph (d)(2)(ii) of this section; and

(iv) For each refinery, the constructive average lead content of leaded gasoline produced by the reporting refinery during the calendar quarter, as determined by dividing the total grams of lead indicated in paragraph (d)(2)(iii) of this section by the total gallons of leaded gasoline produced by the reporting refinery during the calendar quarter; and

(v) When compliance is demonstrated pursuant to paragraph (d)(1) by more than one refiner, each such report shall also include supporting documentation adequate to show the agreement of all such refiners to the constructive allocation of lead usage stated in the report.

(3) For purposes of paragraphs (d)(1) and (d)(2) of this section, the total amount of imported leaded gasoline sold during a compliance period of each importer shall be treated as the output of a single refinery, and each importer shall be treated as a refiner.

(4) The provisions of paragraph (d)(1), (d)(2), and (d)(3) of this section shall not be applicable during any calendar quarter beginning on or after January 1, 1986.

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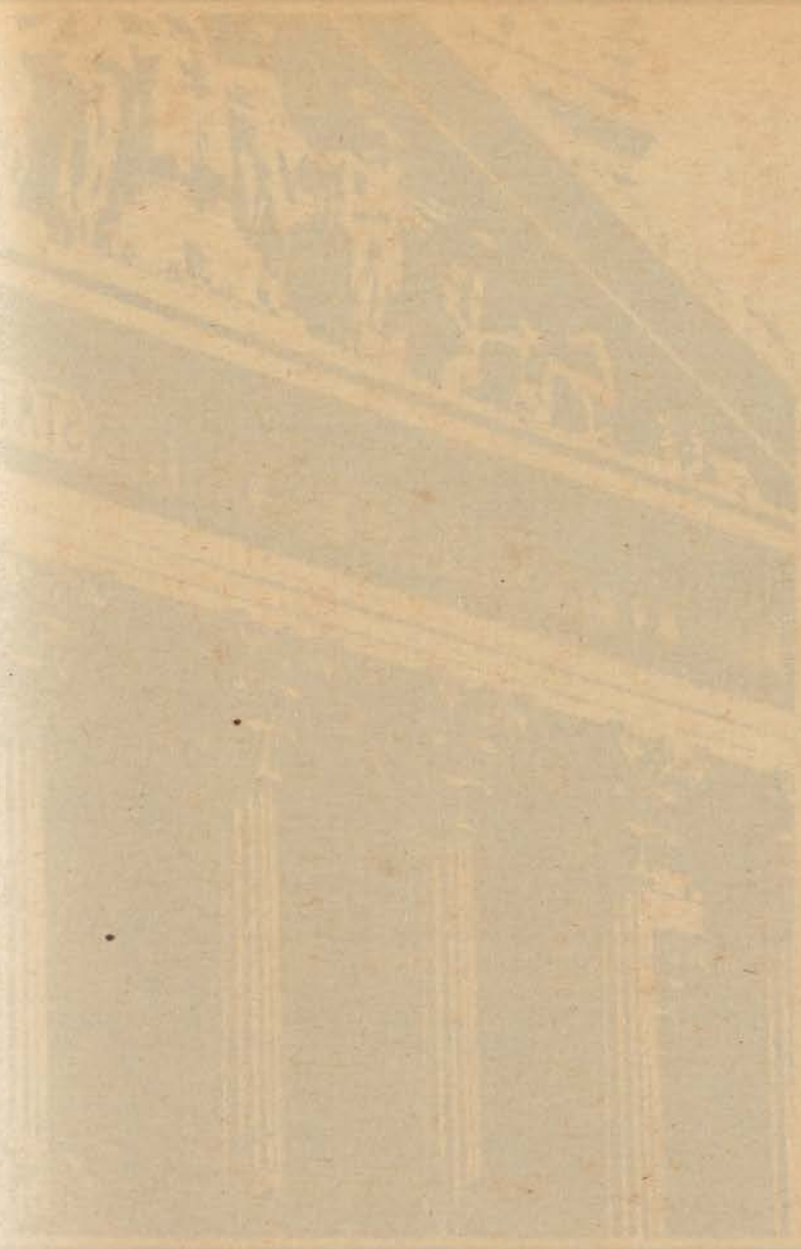

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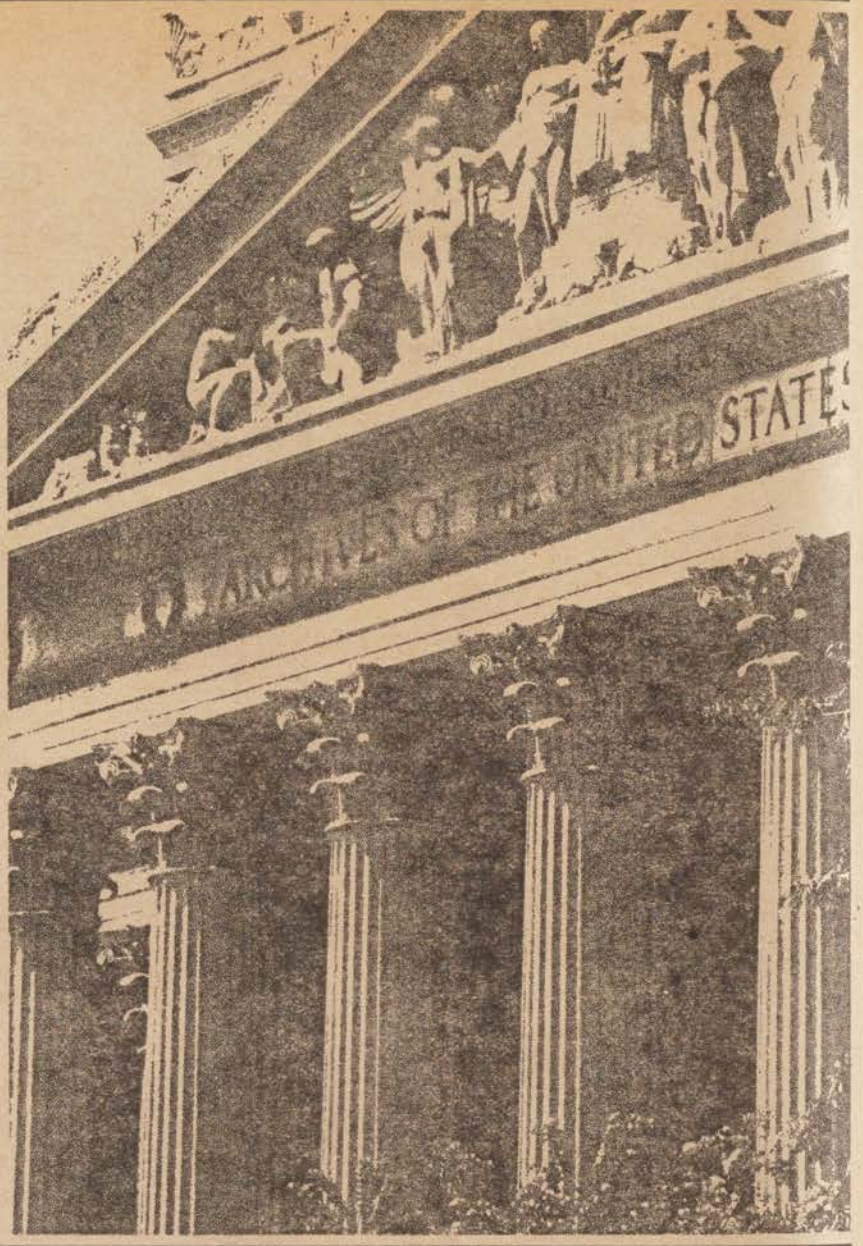

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