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Federal Aviation Administration

**Aviation Safety**
Federal Aviation Administration

**Bridges**
Coast Guard

**Color Additives**
Food and Drug Administration

**Fisheries**
National Oceanic and Atmospheric Administration

**Flood Insurance**
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**Marketing Agreements**
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Interstate Commerce Commission

**Nuclear Materials**
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**Postal Service**
Postal Service

**Savings and Loan Associations**
Federal Home Loan Bank Board

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# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 966

### Tomatoes Grown in Florida; Amendment No. 3 To Handling Regulation

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

**ACTION:** Final rule.

**SUMMARY:** This final regulation requires that tomatoes shipped from the regulated area be packed at permanent nonportable facilities. This should help to maintain quality standards and result in fewer order violations by eliminating field-packed tomatoes.

**EFFECTIVE DATE:** January 1, 1985.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Matthews, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447-5764.

**SUPPLEMENTARY INFORMATION:** This final rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "nonmajor" rule. Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) William T. Manley, Acting Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966) regulate the handling of tomatoes grown in designated counties of Florida. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Florida Tomato Committee, established under the order, is responsible for its local administration.

Because requirements under this program have changed infrequently, in September 1982 the committee recommended, and the Secretary approved, a regulation which continues in effect from marketing season to marketing season unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary.

Interim Amendment No. 3 to the handling regulation became effective October 10, 1984, and will terminate December 31, 1984. The provisions of Interim Amendment No. 3 are the same as those hereafter set forth.

Notice was given in the October 4, 1984, **Federal Register** (49 FR 39153) allowing interested persons until November 9, 1984, to file written comments. One comment was received in support of the proposal.

At its annual meeting at Marco Island on September 7, 1984, the committee recommended the regulation be continued but with three changes. These changes specify that tomatoes must be packed with proper equipment and at the registered handler's facilities. Also, a new definition for "adequate facilities" is added.

For a number of years many handlers have packed tomatoes in the field or in primitive sheds without the benefit of the kind of grading and sizing equipment used by the larger packing houses. These smaller, transient handlers glean from the tomato fields whatever the regular harvesting crews miss or pass by. They are sometimes local residents who often salvage those tomatoes too ripe to ship any great distance and offer them in local, nearby markets within the regulated area. More often, however, they are itinerant handlers from adjoining or nearby States who buy from the producer a field of tomatoes previously harvested and pack the salvageable fruit in whatever containers are available.

Handlers who pack and distribute their tomatoes solely within the regulated area are neither required to register with the Florida Tomato Committee nor to have their tomatoes inspected. Handling regulation § 966.323 specifically requires that only tomatoes for shipment outside the regulated area must meet the grade, size, container and inspection requirements unless exempted.

The order specifies in § 966.60 that handlers register with the Florida Tomato Committee upon applying for inspection. Once this is done the handler is then a registered handler as defined in § 966.113. Since all tomatoes leaving the regulated area must be inspected, and since a handler must register with the committee in order to secure inspection, all handlers of tomatoes leaving the area are required to be registered handlers.

The current handling regulation § 966.323 requires only that a registered handler have the tomatoes inspected and certified prior to being shipped out of the regulated area. This amends § 966.323 to require that in addition to inspection, all regulated tomatoes be packed at the facilities of a registered handler and further that the "adequate facilities" set forth in § 966.113 be defined as those being in a permanent location using nonportable equipment. The effect of this rule will be that henceforth all tomatoes shipped from the regulated area must be packed in a packing house or facility of a permanent nonportable nature. This will eliminate field packing operations for all but those tomatoes marketed locally within the area.

It is the belief of the committee that requiring standardized packing facilities should help reduce marketing order violations in the form of interstate movement of off-size, off-grade or uninspected tomatoes.

*Findings.* After consideration of all relevant matters including the proposal recommended by the Florida Tomato Committee, it is hereby found and determined that the amendment, as hereinafter set forth, will tend to effectuate the declared policy of the act.

**List of Subjects in 7 CFR Part 966**

Marketing agreements and orders, Tomatoes, Florida.

## PART 966—[AMENDED]

Section 966.323 (47 FR 58213, 48 FR 26757, 48 FR 52027 and 49 FR 39153) is hereby further amended by revising paragraphs (a) (2)(i) and (3)(ii) and adding the definition "adequate facilities" after "Certified Tomato Repacker" to paragraph (e) to read as follows:

**§ 966.323 Handling regulation.**

* * * * *

(a) *Grade, size, container and inspection requirements.*

* * * * *

(2) *Size.* (i) Tomatoes shall be at least 2$^{5}/_{32}$ inches in diameter and be sized with proper equipment in one or more of the following ranges of diameters. Measurements of diameters shall be in accordance with the methods prescribed in Paragraph 51.1859 of the U.S. Standards for Grades of Fresh Tomatoes.

* * * * *

(3) *Containers.*

* * * * *

(ii) Each container or lid shall be marked to indicate the designated net weight and must show the name and address of the registered handler (as defined in § 966.7) in letters at least one-fourth (¼) inch high, and such containers must be packed at the registered handler's facilities.

* * * * *

(e) *Definitions.*

* * * * *

"Adequate facilities" as referred to in the definition of registered handler in §§ 966.7 and 966.113 are defined as those being in a permanent location with nonportable equipment for the proper grading, sizing and packing of tomatoes.

* * * * *

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

Dated: November 27, 1984.

**Thomas R. Clark,**

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

[FR Doc. 84-31440 Filed 11-30-84; 8:45 am]

BILLING CODE 3410-02-M

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**7 CFR Part 991**

## Hops of Domestic Production; Expenses of the Hop Administrative Committee, and Rate of Assessment for the 1984–85 Marketing Year

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

**ACTION:** Final rule.

**SUMMARY:** This regulation authorizes expenses and a rate of assessment for the 1984–85 marketing year, to be collected from handlers to support activities of the Committee which locally administers the Federal marketing order covering hops of domestic production.

**DATES:** Effective August 1, 1984 through July 31, 1985.

**FOR FURTHER INFORMATION CONTACT:** Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–5053.

**SUPPLEMENTARY INFORMATION:** This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule.

William T. Manley, Deputy Administrator, Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities.

The hop marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Committee established under the marketing order, and upon other information. Pursuant to this, it is found that the expenses and rate of assessment as hereinafter provided, will tend to effectuate the declared policy of the act.

The Committee recommended for approval expenses totalling $338,829. That total included $68,759 for legal fees and economists' fees associated with a hearing to amend the hop marketing order held in June 1984. Payment of these fees must be approved separately by USDA and the matter of these fees is still under review.

Hence, at this time, only those expenses associated with the Committee's day-to-day administrative operating expenses are being approved. These expenses total $320,070 and are derived by subtracting the expenses for legal and economists' fees totalling $68,759 from $388,829, the total expenses recommended by the Committee for the 1984–85 marketing year.

Assessment income for the 1984–85 marketing year is expected to total $342,600. This is obtained by applying the recommended assessment rate of 0.6 cent per pound to 57.1 million pounds, the quantity of assessable hops expected during the 1984–85 marketing year. In addition, interest on invested funds is expected to earn approximately $6,000. This results in estimated total income of $348,600, or $28,530 more than the reduced expenses of $320,070.

Section 991.56(b) requires any funds in excess of a marketing year's expenses to be placed in an operating reserve not to exceed approximately one year's operational expenses or such lower limits as the Committee, with the approval of the Secretary, may establish. Funds in the operating reserve can be used by the Committee only to pay expenses which are authorized by the Secretary pursuant to § 991.55.

The Committee has approximately $100,004 in its operating reserve. All of the excess funds expected to be generated during the 1984–85 marketing year will have to be placed in the Committee's operating reserve and only used to pay expenses authorized pursuant to § 991.55.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The order requires that the rate of assessment for a particular marketing year shall apply to all assessable hops handled from the beginning of such year. The 1984–85 marketing year began August 1, 1984. To enable the Committee to meet its marketing year obligations, approval of the expenses and assessment rate is necessary without delay. It is necessary to effectuate the declared policy of the act to make these provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

**List of Subjects in 7 CFR Part 991**

Marketing agreements and orders, Hops.

**PART 991—[AMENDED]**

The following section prescribes annual expenses and assessments and will not be published in the Code of Federal Regulations.

Therefore, § 991.318 is removed and § 991.319 is added as follows:

**§ 991.319 Expenses and assessment rate.**

Expenses of $320,070 by the Hop Administrative Committee are authorized, and an assessment rate payable by each handler in accordance with § 991.56 is fixed at 0.6 cent per pound of salable hops for the marketing year ending July 31, 1985. Pursuant to § 991.56(b), at the end of a marketing year, funds in excess of the year's expenses shall be placed in an operating reserve not to exceed approximately one marketing year's operational expenses or such lower limits as the Committee, with the approval of the Secretary, may establish. Funds in such reserve shall be available for use by the Committee for expenses authorized pursuant to § 991.55.

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

Dated: November 28, 1984.

**Thomas R. Clark,**

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 84-31547 Filed 11-30-84; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 110

### Export and Import of Nuclear Equipment and Material

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to the export and import of nuclear equipment and material. The amended regulations expand the authority to export nonsensitive nuclear equipment and minor quantities of nuclear material without applying for and obtaining a specific NRC license authorizing the action. These amendments are intended to reduce the total number of required licensing actions without affecting the Commission's existing rigorous controls over the export of proliferation-sensitive nuclear commodities.

**EFFECTIVE DATE:** January 2, 1985.

**FOR FURTHER INFORMATION CONTACT:** Marvin R. Peterson, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-4599 or Joanna M. Becker, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-7630.

**SUPPLEMENTARY INFORMATION:** On March 1, 1984, the Nuclear Regulatory Commission (NRC) published a proposed amendment in the **Federal Register** to 10 CFR Part 110, its regulation governing the export and import of nuclear equipment and material (49 FR 7572). These proposed amendments contained provisions that would expand the authority to export nonsensitive nuclear equipment and minor quantities of nuclear material under a general license.

These amendments would reduce the number of actions that would require an exporter to apply for and obtain a specific NRC license that would authorize the export of certain types of nuclear equipment and certain quantities of nuclear material, thereby reducing the regulatory burden on the public and the administrative burden on the NRC staff. The proposed amendments also contained several miscellaneous changes to simplify and clarify the provisions of 10 CFR Part 110.

The final rule which follows, with only minor exceptions, adopts the admendments as proposed. The amendments can be divided into four broad categories: (1) New or revised general licenses; (2) elimination of unnecessary paperwork and other regulatory burdens on licensees; (3) simplification and clarification of certain sections of Part 110; and (4) corrections and other nonsubstantive technical amendments.

The new and revised general licenses incorporate for the first time in NRC's regulations the U.S. Government policy of facilitating nuclear cooperation with countries sharing U.S. nonproliferation goals. The Departments of Commerce and Energy have adopted similar general licensing provisions for nuclear-related commodities and technology under their respective export licensing and approval authorities. Under this concept, the general licenses are divided into essentially two categories. Those in the first category permit exports to all countries except certain embargoed countries: Cuba, Kampuchea, North Korea, and Vietnam. The Commission and the Executive Branch have reviewed these general licenses and concluded that the material involved is insignificant from the standpoint of possible proliferation concerns, regardless of the country of destination. The general licenses in the second category apply to a narrower category of countries, i.e., those states, except for Libya, Iraq, Syria, and Iran, which are adherents to the Nuclear Nonproliferation Treaty (NPT), plus France, Spain, and the Peoples Republic of China. While additional commodities could be exported under the general licenses in this category, they are only moderately more significant from a proliferation standpoint than those in the first category. As a further caution, a general license may not be used if the exporter knows, or has reason to believe, that the material will be used in any activities related to isotope separation, chemical reprocessing, heavy water production or the fabrication of nuclear fuel containing plutonium. The new component general license is further limited to only those countries which, in addition to sharing good nonproliferation credentials, have provided the U.S. with generic assurances that they meet the criteria set out in section 109 of the Atomic Energy Act. For easy reference, a detailed comparison of the new or revised general licenses with the former general licenses is included at the end of this statement of considerations.

The Commission believes that this new approach to general licenses can benefit U.S. nonproliferation objectives by demonstrating to countries abroad the advantages of supporting effective nonproliferation policies. It also conforms to section 2 of the Nuclear Non-Proliferation Act of 1978 (NNPA) with respect to confirming the reliability of the United States as a supplier of nuclear equipment and material to those countries which adhere to effective nonproliferation policies. At the same time, the Commission remains concerned about the further spread of sensitive nuclear activities (i.e., isotope separation, chemical reprocessing, heavy water production and plutonium fuel fabrication) beyond those advanced nations that are already engaging in those activities. The Commission intends to monitor developments in these areas closely and, should additional countries make any significant moves that are inconsistent with U.S. law and policy, such as the design or acquisition of sensitive nuclear facilities or the commencement of research and development programs to acquire such facilities, the Commission will promptly initiate steps, after consulting with the Executive Branch, to revoke the eligibility of these countries for favorable general license treatment.

The new or revised general licenses are as follows:

1. Paragraph 110.21(a)(1): New general license for the export of low-enriched uranium in contaminated items or substances.

2. Paragraph 110.21(b)(1): New general license for the export of up to 0.001 effective kilogram per shipment of any special nuclear material.

3. Paragraph 110.21(b)(2): New general license for the export of replacements for damaged or defective fuel elements.

4. Paragraph 110.22(a)(2): Revision to the general license for export of thorium to conform with revisions in the international export control (COCOM) embargo list.

5. Section 110.23: Revisions to general licenses to export byproduct material to provide for expanded authority to export tritium and other byproduct material with an atomic number greater than 83 (e.g., californium-252, neptunium-237 and berkelium-249).

6. Paragraph 110.23(b): Revision to the general license to export americium-241 to restrict generally-licensed exports to certain destinations (i.e., the general license is limited to americium-241

incorporated in petroleum exploration equipment).

7. Section 110.24: Increase in the amount of deuterium authorized for export under a general license.

8. Section 110.25: Revision to the general license to export nuclear grade graphite to cover exports of fabricated nonnuclear-related commercial products (e.g., electrodes, golf clubs, fishing rods, etc.).

9. Paragraph 110.22(b): Increase from 1 to 10 kilograms of source material authorized for export under general license. This revision conforms with revisions of the COCOM embargo list and is consistent with the export control guidelines in IAEA INFCIRC/254, "Guidelines for Nuclear Transfers" (Supplier Guidelines).

10. Section 110.26: New general license for the export of nuclear reactor components to light water- or heavy water-moderated research or power reactors in designated countries which have acceptable nonproliferation credentials and which have also provided the U.S. with generic assurances that they meet the Section 109 criteria of the Atomic Energy Act. Except for France, NPT adherence or acceptance of full-scope IAEA safeguards is a necessary condition for placing a country on the authorized list. Persons making exports under this new general license are also required to submit an annual report of all components shipped during the previous calendar year.

11. Section 110.27: New general license for the import of special nuclear material, except for spent fuel in quantities exceeding 100 kilograms.

In addition to the new and revised general licenses, the following amendments have been made to Part 110:

1. Sections 110.1 and 110.3 through 110.5 are revised and simplified.

2. In § 110.2, editorial changes are made and definitions added for "NPT" and "IAEA." The "Nuclear grade graphite" definition is also revised to conform with international export control guidelines and the definition of a "person" is revised to clarify that, with respect to imports, the Department of Energy is not considered a person.

3. Section 110.6 is revised to (1) cover produced SNM and (2) eliminate the requirement for approvals in cases where the retransfer has been approved in the context of a previously issued NRC export license.

4. Former §§ 110.11 and 110.12 are deleted because they are replaced or encompassed by the proposed new general licenses in § 110.27 and § 110.21(b)(1), respectively. Former § 110.13 is redesignated § 110.11.

5. Paragraph 110.30(d), concerning consolidated license applications, has been revised to eliminate the two year time period limitation and the restriction to "reasonably similar circumstances." These provisions, which stem from subsection 126a.(2) of the Atomic Energy Act, apply only to single Commission findings involving multiple export license applications.

6. Section 110.30 is revised and expanded in scope to encompass the provisions of existing §§ 110.30, 110.35, and 110.36 [except that the requirement in former § 110.36(b) is deleted as unnecessary].

7. Section 110.31 is revised to incorporate, in simplified form, the provisions of former §§ 110.31 through 110.34.

8. Former § 110.35(b) is deleted as unnecessary.

9. Sections 110.40 and 110.41 are revised for clarification and to expand the categories of cases not requiring Executive Branch review.

10. In § 110.42, editorial changes are made and certain provisions from former § 110.44 are added so that § 110.42 contains a comprehensive listing of all the applicable export licensing criteria for NRC-licensed equipment and material. The changes also specify that health and safety findings (pertaining to health and safety in the U.S.) are required only for issuance of licenses to export production and utilization facilities.

11. In § 110.43, the provision for "countrywide" physical security findings has been expanded to cover exports of all categories of nuclear material.

12. In § 110.44, editorial changes are made to accommodate the transfer of certain provisions to § 110.42. Changes are also made to reflect the fact that byproduct material export license applications, for which the Commission cannot make the requisite statutory findings after receipt of favorable Executive Branch judgments, will not be referred to the President for action since applicable statutes do not contemplate referral. These applications will be denied by the Commission.

13. Section 110.45 is revised to specify that its provisions do not apply to byproduct material exports.

14. In § 110.50, paragraph (b)(3) is deleted as unnecessary.

15. Section 110.51 is revised to specify that license amendments are not required for certain changes in intermediate consignees.

16. In § 110.70, the categories of license applications noticed in the **Federal Register** are revised to eliminate noticing requirements for imports and for low-enriched uranium export license applications and applications for export of less than five effective kilograms of plutonium, high-enriched uranium or uranium-233.

17. Editorial changes are made in §§ 110.83 and 110.84.

18. Section 110.89 is revised to clarify certain filing and service requirements.

19. Paragraphs (b) and (c) of § 110.91 are deleted since their provisions for public dissemination of Commission staff and Executive Branch views are adequately covered in § 110.72. The Commission intends to adhere to its practice of making unclassified staff and Executive Branch views promptly available to the public.

20. Paragraph 110.103(a) is revised to eliminate the requirement for binding hearing documents on the left side.

21. The contents of former Appendix A are incorporated into new §§ 110.8 and 110.9.

22. A new Appendix A is added which lists gas centrifuge enrichment plant components which are under NRC's export licensing authority. This appendix was published in the **Federal Register** originally as part of an interpretative rule on January 24, 1984 (49 FR 2881).

23. Appendix C is redesignated Appendix B and footnote c to the appendix is revised to conform to IAEA INFCIRC/225-Rev. 1.

**Analysis of Public Comment**

The public comment period on the proposed rule expired April 17, 1984. The NRC received comments from six sources including individuals, businesses, and the Executive Branch. The following discussion summarizes the comments received and describes the actions taken in response to these suggestions.

*Nuclear Control Institute.* The Nuclear Control Institute (NCI) comments, in general, objected to any amendments which would relax the Commission's existing export licensing regulations. The Commission shares NCI's concern regarding the continued necessity of strong export licensing regulations which are rigorously implemented and enforced. The Commission has exercised proper caution in this regard by assuring that the amendments, insofar as they alter current requirements, involve only nonsensitive matters which do not affect existing rigorous controls over proliferation-sensitive nuclear commodities.

NCI also suggested that the Commission delay action which affects

component exports until completion of action on several pending legislative proposals directed at nuclear component exports. Although these proposals failed to pass during the 98th Congress, the Commission recognizes that eventual passage of some of the bills if resubmitted would require changes in Part 110. The Commission will take action to amend Part 110 promptly upon the passage of any legislation requiring amendments to the regulations. However, in view of the delay in final consideration of the contemplated legislative changes, the Commission believes that the pending Part 110 amendments should be implemented as planned. This is particularly so since only one portion of the amendments would be affected by the legislation as originally proposed.

NCI also had several comments directed at specific proposed amendments to which the Commission responds as follows:

1. Section 110.6: NCI objects to the proposed amendment to § 110.6 which would clarify that retransfers of material and equipment approved in the context of an export license do not require separate Department of Energy (DOE) approval as a "subsequent arrangement" under the requirements of the Nuclear Non-Proliferation Act of 1978 (NNPA).

The Commission does not agree that this amendment would conflict with the requirements for separate DOE review under section 131 of the Atomic Energy Act. The amendment simply clarifies what has, in fact, been Commission and Executive Branch practice since enactment of the NNPA in 1978. Separate reviews are required only when the ultimate end use is not known at the time of the original export license application. A typical case involves the export of low-enriched uranium fuel for fabrication in one country and then reexport to a second country for installation in a power reactor. In these cases, the Commission views the application as an export to the second country with an intermediate consignee in the first country. The Executive Branch and the Commission have agreed that it is unnecessary to require a separate (and duplicate) DOE review of the reexport to the ultimate consignee in the second country. The Commission notes that such retransfer approvals do not extend to retransfers for such sensitive end uses as reprocessing. These types of retransfers will continue to be subject to separate DOE review as a "subsequent arrangement" under section 131 of the Atomic Energy Act.

2. Section 110.7: NCI objects to the Commission's practice (since 1978) of conforming its export licensing jurisdiction with the international export control "Trigger List" and suggests the Commission's jurisdiction should be expanded to cover additional proliferation-sensitive items.

The Commission agrees with NCI that there are many commodities outside NCR's jurisdiction which may be significant from a nuclear proliferation standpoint. Nevertheless, the Commission does not believe there is any need to change the scope of NRC's export licensing jurisdiction because section 309(c) of the NNPA provides for adequate nonproliferation export controls over nuclear commodities licensed by the Department of Commerce. The Commission staff has worked closely with the Executive Branch in establishing the Commerce Department's export control "Nuclear Referral List" and consults with the Executive Branch on frequent occasions with regard to individual export license applications for items on this list. It is also relevant to note that the great majority of items licensed by the Commerce Department are so-called "dual-use" items, such as high speed computers, which have predominantly nonnulcear end uses. The Commission believes that, as a general matter, it is good administrative practice to limit the Commission's export licensing authority exclusively to nuclear items, where NRC's expertise is greatest, and to rely on the Commerce Department to consult with the Commission on those Commerce-licensed dual-use exports with potential proliferation significance.

3. Paragraph 110.21(b)(2): NCI objects to the scope of the Commission's proposed new general license for the export of replacement fuel elements. To reduce the risk of misreporting as a means of accumulating low-burn-up spent fuel containing weapons-grade plutonium, NCI recommends that the general license be valid only until fuel elements are used in a reactor or for a period of one year after the initial export authorization.

The Commission does not agree with NCI's contention that the proposed general license would pose a realistic proliferation threat. Licensing experience since 1975 indicates that its provisions would need to be used only on rare occasions and where expeditious export is critical. In addition, there are only a limited number of exporters of enriched uranium fuel and significant exports of this material would also probably be subject to DOE enrichment contracts. These factors significantly minimize the risk of proliferation concerns with respect to the proposed general license. Accordingly, the Commission does not believe it necessary to make any change to the proposed general license.

4. Section 110.26: NCI recommends that the proposed component general license be revised to require notifications to the Commission of shipments under the license within 60 days of each export rather than a single annual report. NCI believes that this more rigorous reporting requirement would reduce the risk of the piecemeal accumulation of sensitive component exports.

While the suggested change would moderately increase the Commission's ability to monitor shipments, the significant increase in administrative reporting requirements on licensees that this change would entail (i.e., several hundred individually reportable shipments can be expected to be made under the general license at various times throughout a typical year) would far outweigh the modest decrease in proliferation concern, particularly since the general license would not apply to countries with significant potential proliferation concerns. In view of the limited number of countries involved and the lengthy period of time which would be required to construct an unauthorized reactor via the diversion route, the Commission concludes that an annual reporting requirement would be sufficient. However, the Commission will, as NCI proposed, review annually the proliferation implications of the components exported under the general license, and place the annual reports in the Public Document Room.

NCI also questioned the inclusion of Taiwan and South Korea on the list of countries which would be eligible to receive U.S. components under the proposed component general license.

In view of Taiwan's and South Korea's status as parties to the Nuclear Nonproliferation Treaty (NPT) and their nonproliferation credentials, the Commission has decided not to revise the list of countries as proposed. The Commission shares, however, NCI's general concern that exports under the proposed general license warrant careful monitoring. Accordingly, the Executive Branch has been notified formally by the Commission that NRC intends to monitor closely the activities of countries on the eligible lists and will not hesitate to take steps, after consulting with the Executive Branch, to revise a country's status if changed circumstances warrant.

5. Paragraph 110.30(d): NCI objects to the proposal to relax the existing limitations on consolidated license applications.

The Commission has decided not to accept the comment and change the amendment as requested. In view of the extremely wide range in proliferation significance of the various commodities licensed by NRC, it is not possible to devise any practical general guidelines for the scope and duration of individual export licenses. Conversely, a detailed set of export licensing guidelines for each commodity (and form of commodity) would be excessively complicated for incorporation into Part 110. Accordingly, the Commission will continue to exercise its careful case-by-case judgment regarding the appropriateness of any requested consolidated license application. For example, exports of high-enriched uranium will continue to be licensed individually. On the other hand, because of the limited proliferation concerns involved, unnecessary burdens would be imposed on exporters and the NRC staff if separate export licenses for each shipment of low-enriched uranium (LEU) fuel to power reactors in countries with good nonproliferation credentials are required. Furthermore, even for these countries, all long-term licenses are reviewed on an ongoing basis by the Commission. Should a material change in circumstances arise in the importing country, the Commission has sufficient authority to take appropriate action, including suspension or revocation of active export licenses.

6. Paragraph 110.35(b): NCI objects to the proposed deletion of the requirement for license applicants to amend their applications whenever substantive changes occur before the license is issued.

The Commission continues to believe that this provision should be deleted. If there should be a significant change in the export request, such as a change in the type of quantity of material or its destination, an applicant would be required, in its own self-interest, to notify the Commission. Otherwise the license as eventually issued by the Commission would not reflect the change in facts and could not be used.

7. Sections 110.40 and 110.41: NCI objects to the proposed revised guidelines for referring export license applications to the Commission and the Executive Branch for review.

The Commission does not agree that these proposed internal procedures for processing the less significant export license applications are inappropriate. The lack of Commissioner or Executive Branch review of certain categories of exports does not lessen in any way the substantive review of each application by the NRC staff with respect to compliance with statutory requirements. In addition, if there are significant changes in circumstances involving particular exports or recipient countries, the NRC staff will continue its practice of referring these cases to the Executive Branch and/or the Commissioners. Such referrals are contemplated by §§ 110.41(a)(8) and 110.40(b)(7).

8. Paragraph 110.41(d)(8): NCI objects to the proposed deletion of the dollar limit ($10,000) cutoff for those cases requiring Executive Branch review.

The Commission believes that a more meaningful basis for judging the proliferation significance of a particular export is the country of destination. This consideration led to the proposal to amend § 110.41 to delete the dollar cutoff criterion and replace it with a requirement that *all* export license applications for countries with questionable nonproliferation credentials be referred to the Executive Branch. Accordingly, the Commission has not retained the dollar limit.

9. Sections 110.44, 110.45(c): NCI objects to the proposed editorial amendment to § 110.45(c) which would *require* the Commission to issue an export license if "applicable statutory provisions are met." NCI prefers leaving license issuance optional and also revising the related provision in § 110.44 to conform with § 110.45(c).

The Commission does not agree with this position since, if all applicable statutory provisions have been determined by the Commission to be met, there is clearly no basis for the Commission to withhold issuance of the requested export license. Further, Section 126 b. of the Atomic Energy Act of 1954, as amended, *requires* the Commission to issue an export license when all applicable statutory requirements have been met.

10. Section 110.70: NCI objects to the proposal to eliminate **Federal Register** noticing requirements for low-enriched uranium fuel export license applications.

While the Commission agrees with NCI that public participation in the Commission's export license reviews should be permitted, it does not believe that this necessitates that all low enriched fuel export license applications be noticed in the **Federal Register.** Copies of all applications will continue to be placed in the Commission's Public Document Room. In addition, the great majority of persons interested in the Commission's export license proceedings are on a mailing list which provides a monthly list of all new NRC export license applications received. (Others desiring this listing can be added to the mailing list by contacting NRC's Office of International Programs). The list of applications received will normally be received in time for recipients to submit comments to the Commission on the pending applications prior to license issuance. The Commission believes that these latter means are more effective than **Federal Register** noticing in making interested parties aware of pending NRC export license applications. As an extra precaution, however, the Commission will continue to notice in the **Federal Register** receipt of license applications with potential proliferation significance, such as all proposed exports of significant quantities of high-enriched uranium.

*Mr. E. Nemethy.* Mr. Nemethy had 4 comments, none of which, in the Commission's view, warranted any revisions to the amendments as proposed. Mr. Nemethy's comments, and the Commission's responses to them, are as follows:

1. Paragraph 110.41(a)(7) requires Executive Branch review for export license applications to embargoed countries (i.e., those listed in § 110.28). Mr. Nemethy asked how it is possible to consider approving exports to "embargoed" countries.

The Commission would not normally consider licensing exports to countries listed in § 110.28 in view of the U.S. Government's general embargo on U.S. trade with those countries. However, although there have been no export licenses to an embargoed country issued to date, the Commission recognizes that it may be appropriate to consider exceptions to the general embargo in certain situations, such as the export of medical radioisotopes for humanitarian purposes.

2. Mr. Nemethy asked why the USSR isn't included on the lists of embargoed or restricted destinations. If the USSR is permitted to receive imports under the proposed general licenses, what would prevent it from reexporting the material to an embargoed destination?

With regard to Mr. Nemethy's first point, the Executive Branch and the Commission do not believe that the USSR poses any foreign policy concern or any proliferation risk with respect to any of the non-sensitive commodities under NRC's existing or proposed general licenses. With regard to Mr. Nemethy's second point, if the USSR should begin to retransfer NRC general-licensed commodities to embargoed countries in violation of Part 110, the Commission would clearly have grounds to consider placing the USSR on the restricted or embargoed country lists.

3. Mr. Nemethy asked what would prevent the USSR, or any other country, from retransferring any NRC-licensed

export to a third country without obtaining DOE approval as required by § 110.6.

The Commission acknowledges that foreign countries could subvert U.S. export controls by diverting NRC-licensed exports from their original intended end use. There are actions that the U.S. Government can take, and has taken, however, to counter these concerns. For exports of proliferation significance, such as exports of reactors and significant quantities of special nuclear material, exports must be made under formal agreements for cooperation which contain explicit requirements for obtaining the prior consent of the U.S. Government before retransfers of U.S.-origin material can take place. As a result, any unauthorized retransfer would be a violation of the terms of the agreement and grounds for taking appropriate diplomatic action including cessation of further nuclear cooperation. For less significant commodities, the primary means for controlling reexports is through the export licensee. The Commission has the authority to impose appropriate sanctions on such licensees in cases of violations of any export license terms. In addition, the Commission could refuse to issue any new licenses for export to countries which permit the unauthorized retransfer of NRC-licensed commodities to third countries. To date, the Commission is not aware of any examples of the unauthorized retransfer by any country of any NRC-licensed commodity.

4. Mr. Nemethy asked, with reference to the proposed general license in § 110.21, what would prevent an exporter from exporting material for use in the specified proscribed sensitive activities and then later denying that he had any advance knowledge of the activities.

The Commission recognizes that in certain instances it may be difficult to establish that a violation is willful. This is particularly the case with respect to the proposed end use restrictions in § 110.21. Because of this situation, the Commission has limited severely the quantities and forms of materials that may be exported under a general license so that, even in the case of a deliberate violation, the proliferation risk would be minimal.

*The Atomic Industrial Forum (AIF).* AIF was generally in favor of the proposed amendments. It commented that reactor pressure tubes should be eligible for export under the proposed general license in § 110.26.

The Commission agrees with AIF's comment that reactor pressure tubes are eligible for export under the proposed general license in § 110.26 and the final rule has been correspondingly modified. The Commission also notes AIF's suggestion that NRC replace DOE as the agency responsible for obtaining official assurance letters from foreign governments with respect to proposed nuclear exports. The Commission plans to consult further with the Executive Branch on this matter.

*The Department of Energy (DOE).* DOE raised questions concerning the proposed general license for the export of Neptunium-237.

After consultation with DOE and the other Executive Branch agencies, it was concluded that it would be appropriate to adopt a limited Neptunium-237 general license which will permit the export of up to 1 gram per shipment and 10 grams per year to any one country. The previously proposal general license would have permitted the export of up to 1 kilogram of Neptunium-237 per year to any one country.

*The Petroleum Equipment Suppliers Association (PESA).* PESA claimed that the proposed general license for the export of Americium-241 could place undesirable constraints on the development of oil and gas resources around the world and recommended that the general license be modified.

The Commission has consulted with the Executive Branch on this matter and agreement has been reached to modify the proposed general license to permit exports of Americium-241 when contained in petroleum exploration equipment in quantities of up to 20 curies per device and 200 curies per year to countries listed in § 110.28. This modification will permit the unrestricted export of Americium-241 for the oil and gas exploration purposes cited by PESA.

*3M Company.* 3M objected to the revised general license in § 110.23(a)(4) because it would revoke the provisions of the former general license in § 110.24(c)(4) which permitted the essentially unrestricted export of polonium-210 in static eliminators.

The restriction on static eliminator exports was unintentional. The Commission has consulted with the Executive Branch and agreement has been reached to reinstate the former general license which will permit the continued export under general license of polonium-210 when contained in static eliminators. In addition, the Executive Branch has requested additional time to review the proposed general license for the export of polonium-210 when *not* incorporated in static eliminators. Accordingly, that proposed general license will not be adopted at this time.

*Miscellaneous.* The proposed language covering end use restrictions on general licenses in §§ 110.21(b) and 110.22(b) has been moved to § 110.20(d) so that the restrictions now apply to all exports under general license. The proposed general license for the export of nuclear grade graphite has been modified to make it simpler and clearer. The list of restricted destinations in § 110.29 has been updated. Finally, the definition of a "person" in § 110.2 has been revised to specify that, with respect to imports, DOE is not defined as a person.

**Note.**—DOE has separate statutory authority to import nuclear equipment and material. As a result of this latter change, the proposed DOE contractor import exemption in § 110.11 is no longer necessary and it has been deleted. The Commission has concluded that the amendments are not inimical to the common defense and security, do not constitute an unreasonable risk to the public health and safety, and will not result in any activity which adversely affects the environment. Furthermore, the amendments are consistent with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978, and do not conflict with the safeguards criteria of the International Atomic Energy Agency.

The amendments are not inconsistent with the obligations of the United States under any treaty or international arrangement, including the Treaty on the Non-Proliferation of Nuclear Weapons.

COMPARISON OF FORMER REGULATIONS WITH NEW CHANGES

| New | Former |
|---|---|
| **I. General License Revisions** | |
| A. Special nuclear material: | |
| 1. Low-enriched uranium as residual contamination (§ 110.21(a)(1)). | None. |
| 2. One effective gram or less of SNM to countries not listed in § 110.28 or § 110.29 § (110.21(b)(1)). | None. |
| 3. Replacement fuel elements to countries not listed in § 110.28 or § 110.29 (§ 110.21(b)(2)). | None. |
| B. Source material: | |
| 1. Thorium in alloys in concentrations of 5% or less to countries not listed in § 110.28 (§ 110.22(a)(2)). | Thorium in aircraft parts only (§ 110.23(b)(2)). |
| 2. Source material in individual shipments of 10 kilograms or less to countries not listed in § 110.28 or § 110.29 (§ 110.22(b)). | Individual shipments of 1 kilogram or less (§ 110.23(a)(1)). |
| C. Byproduct material: | |
| 1. Byproduct material with an atomic number greater than 83, except polonium-210, americium-241 and neptunium-237 (§ 110.23(a)(1)). | Americium-241 only (§ 110.24(d)). |

COMPARISON OF FORMER REGULATIONS WITH NEW CHANGES—Continued

| New | Former |
|---|---|
| 2. Tritium in light sources up to 10,000 curies per shipment (§ 110.23(a)(2)). | 100 curies per shipment limitation (except in aircraft safety devices) § 110.24 (b) and (c)). |
| 3. Tritium in any dispersed form in shipments of 100 curies or less (§ 110.23(a)(3)). | Same, but limited to certain dispersed forms only (§ 110.24(c)). |
| 4. Neptunium-237 in shipments of 1 gram or less. (§ 110.23(a)(5)). | None. |
| 5. Tritium in any form in shipments of 100 curies or less to countries not listed in § 110.28 or § 110.29 (§ 110.23(b)). | None. |
| D. Deuterium: | |
| 1. Deuterium in shipments of 1 kilogram or less (§ 110.24(a)). | 90 grams of heavy water (18 grams of deuterium) or less per shipment (§ 110.25). |
| 2. Deuterium in shipments of 10 kilograms or less to countries not listed in § 110.28 or § 110.29 (§ 110.24(b)). | None. |
| E. Nuclear grade graphite in shipments of up to 100 kilograms or in fabricated non-nuclear related commercial products (§ 110.25). | Shipments of up to 100 kilograms only (§ 110.26). |
| F. Nuclear reactor components to certain countries (§ 110.26). | None. |
| G. Imports (§ 110.27) | Formerly authorized under exemption except no authority for SNM imports (§ 110.11). |

II. Significant Other Changes to Part 110

(Other than general license)

| | |
|---|---|
| A. Section 110.6 | Elimination of requirements for prior approval of retransfers when such retransfers have been approved in the context of issuing the original export license. |
| B. Section 110.30(d) | Elimination of provision limiting consolidated license applications to two year duration. |
| C. Section 110.41 | Expansion of authority for NRC to process minor applications without referral to the Executive Branch (i.e., emphasis would be placed on reviewing exports for sensitive end uses or initial exports to new facilities). |
| D. Section 110.42 | Clarification that health and safety findings are not required with respect to the impact abroad of reactor exports. |
| E. Section 110.50 | Elimination of requirement to return expired licenses to NRC. |
| F. Section 110.51 | Elimination of requirement to obtain license amendments for: (1) Changes in value (but not quantity) of nuclear equipment; (2) changes in addresses of consignees; and (3) addition of new intermediate consignees for component licensees. |
| G. Section 110.70 | Elimination of requirement to notice receipt in the FEDERAL REGISTER of applications for imports and for export of LEU and less than 5 kgs. of HEU, U-233 or plutonium. |

### Environmental Impact: Categorical Exclusion

The NRC has determined that these amendments are a categorical exclusion under 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for these amendments.

### Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval number 3150–0027.

### Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. This analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 1717 H Street NW, Washington, DC. Single copies of the analysis may be obtained from Marvin R. Peterson, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–4599.

### Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities, except to reduce the regulatory burden on licensees by reducing significantly the number of specific license applications required. It is estimated that, among the approximately 125 exporters/importers affected, the number of specific license applications per year will be reduced from about 450 to 200. Assuming an average of one hour to prepare an application, this will reduce the cost to the public from about $27,000 to $12,000 per year.

### List of Subjects in 10 CFR Part 110

Administrative practice and procedures, Classified information, Export, Import, Incorporation by reference, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Scientific equipment.

Under the authority of the Atomic Energy Act of 1954, as amended, and 5 U.S.C. 552 and 553, the following amendments to 10 CFR Part 110 are published as a document subject to codification.

## PART 110—EXPORT AND IMPORT OF NUCLEAR FACILITIES AND MATERIAL

1. The authority citation for Part 110 is revised to read as follows:

**Authority:** Sec. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Sec. 110.1(b)(2) also issued under Pub. L. 96–533, 94 Stat. 3138 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c. and 57d., 88 Stat. 473, 475 (42 U.S.C. 2074, 2077). Sec. 110.21 also issued under sec. 54c., 88 Stat. 473 (42 U.S.C. 2074). Sec. 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Sec. 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sec. 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Secs. 110.80–110.113 also issued under 5 U.S.C. 552, 554. Secs. 110.130–110.135 also issued under 5 U.S.C. 553.

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 110.20–110.29, 110.50, and 110.120–110.129 also issued under secs. 161b. and i., 68 Stat. 948, 949, as amended (42 U.S.C. 2201 (b) and (i); and § 110.53 also issued under sec. 161o., 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. The table of contents of Subparts A through E of Part 110 is revised to read as follows:

**Subpart A—General Provisions**

Sec.
110.1 Purpose and scope.
110.2 Definitions.
110.3 Interpretations.
110.4 Inquiries.
110.5 License requirements.
110.6 Retransfers.
110.7 Information collection requirements: OMB approval.
110.8 List of nuclear equipment and material under NRC export licensing authority.
110.9 List of nuclear equipment and material under NRC import licensing authority.

**Subpart B—Exemptions**

110.10 General.
110.11 Export of IAEA safeguard samples.

**Subpart C—General Licenses**

110.20 General.
110.21 Export of special nuclear material.
110.22 Export of source material.
110.23 Export of byproduct material.
110.24 Export of deuterium.
110.25 Export of nuclear grade graphite.
110.26 Export of nuclear reactor components.
110.27 Imports.
110.28 Embargoed destinations.
110.29 Restricted destinations.

**Subpart D—Applications for Specific Licenses**

Sec.
110.30 Filing license applications.
110.31 Information required in license applications.

**Subpart E—Review of License Applications**

110.40 Commission review.
110.41 Executive Branch review.
110.42 Export licensing criteria.
110.43 Physical security standards.
110.44 Issuance or denial of licenses.
110.45 Conduct resulting in termination of nuclear exports.

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**Subpart A—General Provisions**

3. Section 110.1 is revised to read as follows:

**§ 110.1 Purpose and scope.**

(a) The regulations in this part prescribe licensing, enforcement, and rulemaking procedures and criteria, under the Atomic Energy Act, for the export for nuclear equipment and material, as set out in § 110.8, and the import of nuclear equipment and material, as set out in § 110.9.

(b) The regulations in this part apply to all persons in the United States except: (1) The Departments of Defense and Energy for activities authorized by sections 54, 65, 82, and 91 of the Atomic Energy Act, except when the Department of Energy seeks an export license under section 111 of the Atomic Energy Act; (2) persons who export uranium depleted in the isotope 235 and incorporated in defense articles or commodities solely to take advantage of high density or pyrophoric characteristics, as authorized by section 110 of the International Security and Development Cooperation Act of 1980,[1] and (3) persons who import deuterium, nuclear grade graphite or nuclear equipment other than production or utilization facilities.

4. Section 110.2 is amended by: (1) Removing the paragraph designations of the definitions; (2) removing the definitions of "Agreement State," "Depleted uranium," "Energy Reorganization Act"; "Government agency," "Nuclear equipment," and "Nuclear material;" (3) revising the definitions of "Classified information," "General license," "Nuclear grade graphite and "Person;" and (4) adding, in appropriate alphabetical order, definitions for "IAEA" and "NPT." The added and revised definitions read as follows:

[1] These exports are subject to the controls of the State Department and the Commerce Department under the general authority of the Arms Export Control Act and the Export Administration Act. The Commerce Department also has export licensing authority over additional nuclear-related commodities, such as advanced computers, bulk zirconium and beryllium.

**§ 110.2 Definitions.**

* * * * *

"Classified information" means National Security Information classified under Executive Order 12356.

* * * * *

"General license" means an export or import license effective without the filing of a specific application with the Commission or the issuance of licensing documents to a particular person.

* * * * *

"IAEA" means the International Atomic Energy Agency.

* * * * *

"NPT" means the Treaty on the Non-Proliferation of Nuclear Weapons (TIAS 6839).

* * * * *

"Nuclear grade graphite" means graphite with a boron equivalent content of less than 5 parts per million and density greater than 1.5 grams per cubic centimeter.

* * * * *

"Person" means any individual, corporation, partnership, firm, association, trust, estate, institution, group, Government agency other than the Commission or, with respect to imports, the Department of Energy; and State or political entity within a State; any foreign government or political entity of such government; and any authorized representative of the foregoing.

* * * * *

5. Section 110.4 is revised to read as follows:

**§ 110.4 Inquiries.**

Inquiries concerning this part should be addressed to the Office of the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (telephone (301) 492–4599 or 492–7984).

6. Section 110.5 is revised to read as follows:

**§ 110.5 License requirements.**

Except as provided under Subpart B, no person may export any nuclear equipment or material listed in § 110.8, or import any nuclear equipment or material listed in § 110.9, unless authorized by a general or specific license issued under this part.

7. Section 110.6 is revised to read as follows:

**§ 110.6 Retransfers.**

(a) Retransfer of any nuclear equipment or material listed in § 110.8, including special nuclear material produced through the use of U.S.-origin source material or special nuclear material, requires authorization by the Department of Energy, unless the export to the new destination is authorized under a specific or general license or an exemption from licensing requirements. Under certain agreements for cooperation, Department of Energy authorization is also required for the retransfer of special nuclear material produced through the use of non-U.S.-supplied nuclear material in U.S.-supplied utilization facilities.

(b) Requests for authority to retransfer are processed by the Department of Energy, Office of International Nuclear and Non-Proliferation Policy, Washington, D.C. 20585.

8. Section 110.8 is redesignated as § 110.7 and revised to read as follows:

**§ 110.7 Information collection requirements: OMB approval.**

The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et. seq.). OMB has approved the information collection requirements in §§ 110.26, 110.30, 110.31, 110.50 and 110.53 under control number 3150–0036, and has approved the use of Form NRC–7, as referenced in § 110.30, under control number 3150–0027. No other information collection requirements are contained in Part 110.

9. A new § 110.8 is added to read as follows:

**§ 110.8 List of Nuclear equipment and material under NRC export licensing authority.**

(a) Nuclear reactors and parts and components for nuclear reactors as follows:

(1) Reactor pressure vessels, i.e., metal vessels, as complete units or major shop-fabricated parts, specially designed or prepared to contain the core of a nuclear reactor and capable of withstanding the operating pressure of the primary coolant.

(2) On-line (e.g., CANDU) reactor fuel charging and discharging machines, i.e., manipulative equipment specially designed for inserting or removing fuel in an operating nuclear reactor.

(3) Reactor control rods, i.e., rods specially designed or prepared for the control of the reaction rate in a nuclear reactor.

(4) Reactor primary coolant pumps, i.e., pumps specially designed or prepared for circulating the primary coolant in a nuclear reactor.

(5) Reactor pressure tubes, i.e., tubes specially designed or prepared to contain fuel elements and the primary coolant in a nuclear reactor at an operating pressure in excess of 50 atmospheres.

(6) Zirconium tubes, i.e., zirconium metal and alloys in the form of tubes or assemblies of tubes specially designed or prepared for use in a nuclear reactor.

(7) Reactor internals, e.g., core support structures, control and rod guide tubes, thermal shields, baffles, core grid plates and diffuser plates specially designed or prepared for use in a nuclear reactor.

(8) Reactor control rod drive mechanisms, including detection and measuring equipment to determine flux levels.

(9) Any other components specially designed or prepared for use in a nuclear reactor or in any of the components described in this paragraph.

(b) Plants for the separation of the isotopes of source material, special nuclear material or lithium, and components for those plants as follows:[2]

(1) Uranium hexafluoride ($UF_6$) corrosion resistant valves.

(2) Units capable of separating isotopes of source material, special nuclear material or lithium, such as: (i) Gas centrifuges, (ii) jet nozzle separation units, (iii) vortex separation units, and (iv) laser isotope separation units.

(3) Uranium hexafluoride ($UF_6$) corrosion resistant axial or centrifugal compressors and specially designed or prepared seals for those compressors.

(4) Gaseous diffusion barriers specially designed or prepared for use in separating isotopes of source material, special nuclear material or lithium.

(5) Gaseous diffuser housings specially designed or prepared for use in plants for separating isotopes of source material, special nuclear material or lithium.

(6) Heat exchangers specially designed or prepared for use in gaseous diffusion plants.

(7) Any other components specially designed or prepared for use in an isotope separation plant or in any of the components described in this paragraph.

(c) Plants for the reprocessing of irradiated nuclear reactor fuel elements and components for those plants as follows:

(1) Fuel element chopping machines, i.e., remotely operated equipment specially designed or prepared to cut, chop or shear irradiated nuclear reactor fuel assemblies, bundles, or rods.

(2) Criticality safe tanks, i.e., small diameter, annular or slab tanks specially designed or prepared for the dissolution of irradiated nuclear reactor fuel.

(3) Countercurrent solvent extractors specially designed or prepared for use in a reprocessing plant.

(4) Process control instrumentation specially designed or prepared for monitoring or controlling the processing of material in a reprocessing plant.

(5) Any other components specially designed or prepared for use in a reprocessing plant or in any of the components described in this paragraph.

(d) Plants for the fabrication of nuclear reactor fuel elements and specially designed or prepared parts and components for those plants.

(e) Plants for the production of heavy water, deuterium and deuterium compounds, and specially designed or prepared parts and components for those plants.

(f) Special nuclear material.

(g) Source material.

(h) Byproduct material.

(i) Deuterium.

(j) Nuclear grade graphite.

10. A new § 110.9 is added to read as follows:

**§ 110.9 List of nuclear equipment and material under NRC import licensing authority.**

(a) Production and utilization facilities.

(b) Special nuclear material.

(c) Source material.

(d) Byproduct material.

11. Subpart B is revised to read as follows:

## Subpart B—Exemptions

**§ 110.10 General.**

(a) In response to a request or on its own initiative, the Commission may grant an exemption from the regulations in this part, if it determines that the exemption—

(1) Is authorized by law;

(2) Is not inimical to the common defense and security; and

(3) Does not constitute an unreasonable risk to the public health and safety.

(b) An exemption from statutory licensing requirements, as authorized by sections 57d, 62, and 81 of the Atomic Energy Act, will be granted only after coordination with the Executive Branch and after completion of rulemaking proceedings under Subpart L.

(c) The granting of an exemption does not relieve any person from complying with the regulations of other Government agencies applicable to exports or imports under their authority.

**§110.11 Export of IAEA safeguards samples.**

A person is exempt from the requirements for a license to export special nuclear material set forth in sections 53 and 54d. of the Atomic Energy Act and from the regulations in this part to the extent that the person exports special nuclear material in IAEA safeguards samples, if the samples are exported in accordance with § 75.42(e)(1) of this chapter, or a comparable Department of Energy order, and are in quantities not exceeding a combined total of 100 grams of contained plutonium, U-233 and U-235 per facility per year. This exemption does not relieve any person from complying with Parts 71 or 73 of this chapter or any Commission order pursuant to section 201(a) of the Energy Reorganization Act of 1974 (42 U.S.C. 5841(a)).

12. Subpart C is revised to read as follows:

## Subpart C—General Licenses

**§ 110.20 General.**

(a) In response to a petition or on its own initiative, the Commission may issue a general license for export or import if it determines that any exports or imports made under the general license will not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety and otherwise meet applicable statutory requirements.

(b) All general licenses will be coordinated with the Executive Branch and will be subject to rulemaking proceedings under Subpart L.

(c) A general license does not relieve a person from complying with the regulations of other Government agencies applicable to exports or imports under their authority.

(d) A general license for export may not be used if the exporter knows, or has reason to believe, that the material will be used in any activity related to isotope separation, chemical reprocessing, heavy water production or the fabrication of nuclear fuel containing plutonium, unless these activities are generically authorized under an appropriate agreement for cooperation.

(e) As specified in §§ 110.21 through 110.26, only certain countries are eligible to receive imports of material or equipment under NRC general license. The Commission will closely monitor these countries and may at any time remove a country from its general

[2] See Appendix A for a detailed listing of the components of a gas centrifuge enrichment plant which have been interpreted to be covered by the general entries in this paragraph.

license eligibility in response to significant adverse developments in the country involved. A key factor in this regard is the nonproliferation credentials of the importing country.

**§ 110.21 Export of special nuclear material.**

(a) A general license is issued to any person to export the following to any country not listed in § 110.28:

(1) Low-enriched uranium as residual contamination (17.5 parts per million or less) in any item or substance.

(2) Plutonium containing 80 percent or more by weight of plutonium-238 in cardiac pacemakers.

(3) Special nuclear material in sensing components in instruments, if no more than 3 grams of enriched uranium or 0.1 gram of plutonium or U-233 are contained in each sensing component.

(b) A general license is issued to any person to export the following to any country not listed in § 110.28 or § 110.29:

(1) Special nuclear material in individual shipments of 0.001 effective kilograms or less (e.g., 1.0 gram of plutonium, U-233 or U-235, or 10 kilograms of 1 percent enriched uranium). No person may export more than 0.1 effective kilogram per year to any one country.

(2) Special nuclear material in fuel elements as replacements for damaged or defective unirradiated fuel elements previously exported under a specific license, subject to the same terms as the original export license and the condition that the replaced fuel elements must be returned to the United States within a reasonable time period.

**§ 110.22 Export of source material.**

(a) A general license is issued to any person to export the following to any country not listed in § 110.28:

(1) Uranium or thorium in any substance in concentrations of less than 0.05 percent by weight.

(2) Thorium in incandescent gas mantles or in alloys in concentrations of 5 percent or less.

(b) A general license is issued to any person to export uranium or thorium in individual shipments of 10 kilograms or less to any country not listed in § 110.28 or § 110.29. No person may export more than 1,000 kilograms per year to any one country.

(c) A general license is issued to any person to export uranium or thorium in individual shipments of 1 kilogram or less to any country listed in § 110.29. No person may export more than 100 kilograms per year to any one country.

**§ 110.23 Export of byproduct material.**

(a) A general license is issued to any person to export the following to any country not listed in § 110.28:

(1) All byproduct material, except tritium, polonium-210, neptunium-237, and americium-241.

(2) Tritium in luminescent light sources in individual shipments of 10,000 curies or less.

(3) Tritium in any dispersed form (i.e., not in bulk gaseous form) in individual shipments of 100 curies or less. A person may not export more than 1,000 curies per year to any one country.

(4) Polonium-210 in individual shipments of 100 curies or less when contained in static eliminators.

(5) Neptunium-237 in individual shipments of 1 gram or less. No person may export more than 10 grams per year to any one country.

(b) A general license is issued to any person to export americium-241 to any country not listed in § 110.28, except that exports of americium-241 exceeding one curie per shipment or 100 curies per year to countries listed in § 110.29—

(1) Must be contained in petroleum exploration equipment in quantities not exceeding 20 curies per device; and

(2) May not exceed 200 curies per year to any one country.

(c) A general license is issued to export tritium in bulk, undispersed form in individual shipments of 100 curies or less to any country not listed in § 110.28 or § 110.29. No person may export more than 10,000 curies per year to any one country.

**§ 110.24 Export of deuterium.**

(a) A general license is issued to any person to export deuterium in individual shipments of 10 kilograms or less (50 kilograms of heavy water) to any country not listed in § 110.28 or § 110.29. No person may export more than 200 kilograms (1000 kilograms of heavy water) per year to any one country.

(b) A general license is issued to any person to export deuterium in individual shipments of 1 kilogram or less (5 kilograms of heavy water) to any country listed in § 110.29. No person may export more than 5 kilograms (25 kilograms of heavy water) per year to any one country.

**§ 110.25 Export of nuclear grade graphite.**

(a) A general license is issued to any person to export bulk nonfabricated nuclear grade graphite in individual shipments of 100 kilograms or less to any country not listed in § 110.28. No person may export more than 2,000 kilograms per year to any one country.

(b) A general license is issued to any person to export nuclear grade graphite in fabricated nonnuclear-related commercial products to any country not listed in § 110.28, except that graphite electrodes weighing more than 1 kilogram per electrode may not be exported to any country listed in § 110.29. Fabricated products are those in final manufactured form except for detailed maching and other final steps necessary for the intended end use of the product.

**§ 110.26 Export of nuclear reactor components.**

(a) A general license is issued to any person to export any nuclear reactor component, listed in § 110.8 (a)(5) through (a)(9), for use in any light or heavy water-moderated power or research reactor in any of the following countries:

| | |
|---|---|
| Canada | Philippines |
| EURATOM [3] | Spain |
| Indonesia | Sweden |
| Japan | Switzerland |
| South Korea | Taiwan |

[3] Belgium, Denmark, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, the United Kingdom and West Germany.

(b) This general license does not authorize the export of essentially complete reactors through piecemeal exports of facility components. When individual exports of components would amount in the aggregate to export of an essentially complete nuclear reactor, a facility export license is required.

(c) Persons making exports under the general license established by paragraph (a) of this section shall submit by February 1 of each year one copy of a report of all components shipped during the previous calendar year. This report must include:

(1) A description of the components keyed to the categories listed in § 110.8(a).

(2) Approximate shipment dates.

(3) A list of recipient countries and endusers keyed to the items shipped.

**§ 110.27 Imports.**

A general license is issued to any person to import byproduct, source or special nuclear material, other than 100 kilograms or more of irradiated fuel, if the consignee is authorized to possess the material under: (a) A contract with the Department of Energy or (b) an exemption from licensing requirements issued by the Commission or a general or specific license issued by the Commission or a State with which the Commission has entered into an agreement under section 274b. of the Atomic Energy Act. Importers of special

nuclear material under this general license shall provide advance notification of imports to the Commission as specified in § 73.27 of this chapter.

**§ 110.28 Embargoed destinations.**

Cuba, Kampuchea, North Korea, Vietnam.

**§ 110.29 Restricted destinations.**

| | |
|---|---|
| Afghanistan | Libya |
| Albania | Malawi |
| Algeria | Mauritania |
| Andorra | Mozambique |
| Angola | Niger |
| Argentina | Oman |
| Bahrain | Pakistan |
| Belize | Qatar |
| Bhutan | Saudi Arabia |
| Brazil | Seychelles |
| Burma | South Africa |
| Chile | St. Kitts |
| Comoros | St. Vincent and the Grenadines |
| Djibouti | Syria |
| Equatorial Guinea | Tanzania |
| Guyana | United Arab Emirates |
| India | Vanuatu |
| Iran | Yemen Arab Republic |
| Iraq | Zambia |
| Israel | Zimbabwe |
| Kiribati | |
| Kuwait | |

13. Subpart D is revised to read as follows:

## Subpart D—Applications for Specific Licenses

**§ 110.30 Filing license applications.**

(a) A person shall file a license application with the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or deliver the application in person to the Commission's offices at 1717 H Street, NW., Washington, DC.

(b) An export license application should be filed on Form NRC 7 unless it is for a license to export a production or utilization facility. An import license application and a production or utilization facility export license application should be filed by letter. Upon request, applications may be filed by telegram.

(c) Each person shall provide in the license application, as appropriate, the information specified in § 110.31. The Commission may also require the submission of additional information if necessary to complete its review.

(d) A consolidated license application may be filed covering multiple shipments.

(e) Information in a previous license application may be incorporated by reference.

(f) An applicant shall withdraw an application whenever it is no longer needed. The Commission's official files retain all documents related to a withdrawn application.

**§ 110.31 Information required in license applications.**

(a) Name and address of applicant.

(b) Name and address of supplier of equipment or material.

(c) Country of origin of equipment or material, if known.

(d) Names and addresses of all intermediate and ultimate consignees, other than intermediate consignees performing shipping services only.

(e) Dates of proposed first and last shipments.

(f) Description of the equipment or material including, as appropriate, the following:

(1) Maximum quantity of material in grams or kilograms (curies for byproduct material) and its chemical and physical form.

(2) For enriched uranium, the maximum weight percentage of enrichment and maximum weight of contained U-235.

(3) For nuclear equipment, total dollar value.

(4) For nuclear reactors, the name of the facility and its design power level.

(5) Description of end use by all consignees in sufficient detail to permit accurate evaluation of the justification for the proposed export or import, including the need for shipment by the dates specified.

14. Section 110.40 is amended by revising paragraph (b) to read as follows:

**§ 110.40. Commission review.**

* * * * *

(b) The Commissioners shall review a license application for export of the following:

(1) A production or utilization facility.

(2) More than one effective kilogram of high-enriched uranium, plutonium or U-233.

(3) 1,000 kilograms or more of heavy water or nuclear grade graphite.

(4) An export involving assistance to end uses related to isotope separation, chemical reprocessing, heavy water production, advanced reactors or the fabrication of nuclear fuel containing plutonium, except for categories of exports approved in advance by the Commission as constituting permitted incidental assistance.

(5) The initial export to a country since March 10, 1978 of source or special nuclear material for nuclear end use.

(6) An export involving over: (i) 10 grams of plutonium, U-233 or high-enriched uranium; (ii) 1 effective kilogram of low-enriched uranium; (iii) 250 kilograms of source material, heavy water or nuclear grade graphite; or (iv) 1,000 curies of tritium, to any country listed in § 110.28 or § 110.29.

(7) Any export subject to special limitations as determined by the staff or a majority of the Commissioners.

* * * * *

15. Section 110.41 is amended by removing paragraph (d) and revising paragraph (a) to read as follows:

**§ 110.41 Executive Branch review.**

(a) A license application for export of the following will be promptly forwarded to the Executive Branch for review:

(1) A production or utilization facility.

(2) More than one effective kilogram of high-enriched uranium or 10 grams of plutonium or U-233.

(3) Deuterium, nuclear grade graphite, or over 100 curies of tritium.

(4) Source or special nuclear material to be exported under the US–IAEA Agreement for Cooperation.

(5) An export involving assistance to end uses related to isotope separation, chemical reprocessing, heavy water production, advanced reactors or the fabrication of nuclear fuel containing plutonium, except for categories of exports approved in advance by the Executive Branch as constituting permitted incidental assistance.

(6) The initial export of nuclear material or equipment to a foreign reactor.

(7) An export to any country listed in § 110.28 or § 110.29.

(8) An export subject to special limitations as determined by the Commission or the Executive Branch.

* * * * *

16. Section 110.42 is revised to read as follows:

**§ 110.42 Export licensing criteria.**

(a) The review of license applications for the export for peaceful nuclear uses of production or utilization facilities,[4]

[4] Exports of complete nuclear reactors, complete reactor pressure vessels, primary coolant pumps, control rods and reactor fuel charging and discharging machines are subject to the comprehensive export criteria in § 110.42(a). A complete nuclear reactor includes those parts and components, as specified in § 110.8(a), which are within or attached directly to the reactor vessel, which control the level of power in the reactor core, or which normally contain or come in direct contract with or control the primary coolant of the reactor. Nuclear reactor parts and components (other than complete pressure vessels, primary coolant pumps, control rods or fuel charging and discharging machines) when exported separately are subject to the export criteria in § 110.42(b).

special nuclear material and source material is governed by the following criteria:

(1) IAEA safeguards as required by Article III (2) of the NPT will be applied with respect to any such facilities or material proposed to be exported, to any such material or facilities previously exported and subject to the applicable agreement for cooperation, and to any special nuclear material used in or produced through the use thereof.

(2) No such material or facilities proposed to be exported or previously exported and subject to the applicable agreement for cooperation, and no special nuclear material produced through the use of such material or facilities, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

(3) Adequate physical security measures will be maintained with respect to such material or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof. Physical security measures will be deemed adequate if such measures provide a level of protection equivalent to that set forth in § 110.43.

(4) No such material or facilities proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other country or group of countries unless the prior approval of the United States is obtained for such retransfer.

(5) No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor will be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration.

(6) With respect to exports of such material or facilities to nonnuclear weapon states, IAEA safeguards will be maintained with respect to all peaceful activities in, under the jurisdiction of, or carried out under the control of such state at the time of export. This criterion will not be applied if the Commission has been notified by the President in writing that failure to approve an export because this criterion has not been met would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security, in which case the provisions of Section 128 of the Atomic Energy Act regarding Congressional review will apply.

(7) The proposed export of a facility or of more than 0.003 effective kilograms of special nuclear material, other than plutonium containing 80 percent or more by weight of plutonium-238, would be under the terms of an agreement for cooperation.

(8) The proposed export is not inimical to the common defense and security and, in the case of facility exports, does not constitute an unreasonable risk to the public health and safety in the United States.

(b) The review of license applications for the export of nuclear equipment, other than a production or utilization facility, and for deuterium and nuclear grade graphite, is governed by the following criteria:

(1) IAEA safeguards as required by Article III (2) of the NPT will be applied with respect to such equipment or material.

(2) No such equipment or material will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

(3) No such equipment or material will be retransferred to the jurisdiction of any other country or group of countries without the prior consent of the United States.

(4) The proposed export is not inimical to the common defense and security.

(c) The review of license applications for the export of byproduct material and for source material for nonnuclear end uses is governed by the criterion that the proposed export is not inimical to the common defense and security.

17. Section 110.43 is revised to read as follows:

**§ 110.43 Physical security standards.**

(a) Commission determinations on the adequacy of physical security programs in recipient countries for Category I quantities of nuclear material (see Appendix B) are based upon the following:

(1) Review of the physical security program established by the recipient country and of the implementation of the national requirements, as considered through country visits and other information exchanges, to ensure that the physical security measures provide, as a minimum, protection comparable to that set forth in International Atomic Energy publication INFCIRC/225/Rev. 1, entitled "The Physical Protection of Nuclear Material" (INFCIRC/225), which is incorporated by reference in this part. This incorporation by reference was approved by the Director of the Federal Register on May 3, 1978. Notice of any changes to the publication will be published in the Federal Register. Copies of INFCIRC/225 may be obtained from the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and are available for inspection in the Commission Public Document Room. A copy is on file in the library of the Office of the Federal Register.

(2) Written assurances from the recipient country or group of countries that physical security measures providing, as a minimum, protection comparable to that set forth in INFCIRC/225 will be maintained.

(b) Commission determinations on the adequacy of physical security programs in recipient countries for Category II and III quantities of material (see Appendix B) are based on available relevent information and written assurances from the recipient country or group of countries that physical security measures providing, as a minimum, protection comparable to that set forth in INFCIRC/225 will be maintained.

(c) Commission determinations on the adequacy of physical security programs in recipient countries for exported facilities are made in accordance with the categories of material (see Appendix B) in use or in storage at the exported facilities and are based on available relevant information and written assurances from the recipient country or group of countries that physical security measures providing, as a minimum, protection comparable to that set forth in INFCIRC/225 will be maintained.

(d) Commission determinations may be based on a country-wide finding rather than on case-by-case analysis. The Commission will reexamine a determination whenever there are changed circumstances within a country that might reduce the effectiveness of its physical security program.

18. Section 110.44 is revised to read as follows:

**§ 110.44 Issuance or denial of licenses.**

(a) The Commission will issue an export license if it has been notified by the State Department that it is the judgment of the Executive Branch that the proposed export will not be inimical to the common defense and security; and——

(1) Finds, based upon a reasonable judgment of the assurances provided and other information available to the Federal government, that the applicable criteria in § 110.42, or their equivalent, are met. (If an Executive Order provides an exemption pursuant to section 126a of the Atomic Energy Act, proposed exports to EURATOM countries are not

required to meet the critieria in § 110.42(a) (4) and (5)); or

(2) Finds that there are no material changed circumstances associated with an export license application (except for byproduct material applications) from those existing at the time of issuance of a prior license to export to the same country, if the prior license was issued under the provisions of paragraph (a)(1) of this section.

(b) The Commission will issue an import license if it finds that the proposed import would not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety and that any applicable requirements of Subpart A of Part 51 of this chapter have been satisfied.

(c) If, after receiving the Executive Branch judgment that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license on a timely basis because it is unable to make the statutory determinations required under the Atomic Energy Act, the Commission will publicly issue a decision to that effect, and will submit the license application to the President. The Commission's decision will include an explanation of the basis for the decision and any dissenting or separate views. The provisions in this paragraph do not apply to byproduct material export license applications.

(d) The Commission will deny: (1) Any export license application for which the Executive Branch judgment does not recommend approval; (2) any byproduct material export license application for which the Commission is unable to make the finding in paragraph (a)(1) of this section; or (3) any import license application for which the Commission is unable to make the finding in paragraph (b) of this section. The applicant will be notified in writing of the reason for denial.

19. Section 110.45 is amended by revising the introductory text of paragraphs (a) and (b) and revising paragraph (c) to read as follows:

**§ 110.45 Conduct resulting in termination of nuclear exports.**

(a) Except as provided in paragrah (c) of this section, no license will be issued to export nuclear equipment or material, other than byproduct material, to any nonnuclear weapon state that is found by the President to have, after March 10, 1978:

* * * * *

(b) Except as provided in paragraph (c) of this section, no license will be issued to export nuclear equipment or material, other than byproduct material, to any country or group of countries that is found by the President to have, after March 10, 1978:

* * * * *

(c) Under section 129 of the Atomic Energy Act, the President may waive the requirement for the termination of exports to a country described in paragraph (a) or (b) of this section after determining in writing that the cessation of exports would seriously prejudice the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. If the President makes this determination, the Commission will issue licenses to export to that country, if other applicable statutory provisions are met.

20. Section 110.50 is amended by revising paragraph (b) to read as follows:

**§ 110.50 Terms.**

* * * * *

(b) Specific licenses.

(1) Each specific license will have an expiration date.

(2) A licensee may export or import only for the purpose stated in the license application.

(3) Unless a license specifically authorizes the export of foreign-origin nuclear material or equipment, a licensee shall notify in writing the Assistant Director for Export/Import and International Safeguards at least 40 days prior to export of Australian-origin nuclear material or equipment. A license may not ship this material or equipment until authorized by the Assistant Director for Export/Import and International Safeguards. The Assistant Director will not authorize shipment until after obtaining the consent of the Australian Government.

(4) A licensee authorized to export or import special nuclear material is responsible for compliance with the physical protection requirements of Part 73 of this chapter, unless a domestic licensee of the Commission has assumed that responsibility and the Commission has been so notified.

(5) A license may be transferred, disposed of or assigned to another person only with the approval of the Commission by license amendment.

21. Section 110.51 is revised to read as follows:

**§ 110.51 Amendment and renewal of licenses.**

(a) A licensee may submit an application to renew a license or to amend a license.

(b) If an application to renew a license is submitted 30 days or more before the license expires, the license remains valid until the Commission acts on the renewal application. An expired license is not renewable.

(c) An amendment is not required for—

(1) Changes in value (but not amount or quantity);

(2) Changes in the mailing addresses within the same countries of intermediate or ultimate consignees; or

(3) The addition of intermediate consignees in any of the importing countries specified in the license (for a nuclear equipment license only).

(d) In acting upon license renewal and amendment applications, the Commission will use, as appropriate, the same procedures and criteria it uses for original license applications.

22. Section 110.53 is amended by revising paragraph (b) to read as follows:

**§ 110.53 United States address, records, and inspection.**

* * * * *

(b) Each licensee shall maintain a record of each export or import for 5 years (2 years for byproduct material).

* * * * *

23. Section 110.70 is amended by revising paragraph (b) to read as follows:

**§110.70 Public notice of receipt of an application.**

* * * * *

(b) The Commission will also publish in the **Federal Register** a notice of receipt of an application for a license to export the following:

(1) A production or utilization facility.

(2) Five effective kilograms or more of plutonium, high-enriched uranium or uranium-233.

(3) 10,000 kilograms or more of heavy water or nuclear grade graphite.

* * * * *

24. Section 110.82 is amended by revising the introductory text of paragraph (b) and paragraph (b)(3) to read as follows:

**§ 110.82 Hearing request or intervention petition.**

* * * * *

(b) Hearing requests and intervention petitions must—

* * * * *

(3) Explain why a hearing or an intervention would be in the public interest and how a hearing or intervention would assist the

Commission in making the determinations required by § 110.44.

* * * * *

25. Section 110.83 is amended by revising paragraph (a) to read as follows:

**§ 110.83 Answers and replies.**

(a) Unless otherwise specified by the Commission, an answer to a hearing request or intervention petition may be filed within 30 days after the request or petition has been served.

* * * * *

26. Section 110.84 is amended by revising paragraph (d) to read as follows:

**§ 110.84 Commission action on a hearing request or intervention petition.**

* * * * *

(d) Before granting or denying a hearing request or intervention petition, the Commission will review the Executive Branch's views on the license application and may request further information from the petitioner, requester, the Commission staff, the Executive Branch or others.

* * * * *

27. Section 110.89 is amended by revising paragraphs (a), (b), and (d)(1); and the introductory text of paragraph (d) is set out for the convenience of the user to read as follows:

**§ 110.89 Filing and service.**

(a) Hearing requests, intervention petitions, answers, replies and accompanying documents must be filed with the Commission by delivery or by mail or telegram to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Chief, Docketing and Service Branch. Filing by mail or telegram is complete upon deposit in the mail or with a telegraph company.

(b) All filing and Commission notices and orders must be served upon the applicant; the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Executive Secretary, Department of State, Washington, DC 20520; and participants if any. Hearing requests, intervention petitions, and answers and replies must be served by the person filing those pleadings.

* * * * *

(d) Proof of service, stating the name and address of the person served and the manner and date of service, shall be shown, and may be made by—

(1) Written acknowledgment of the person served or an authorized representative; or

* * * * *

28. Section 110.91 is revised to read as follows:

**§ 110.91 Commission consultations.**

The Commission may consult at any time on a license application with the staff, the Executive Branch or other persons.

29. Section 110.103 is amended by revising paragraph (a) to read as follows:

**§ 110.103 Acceptance of hearing documents.**

(a) Each document filed or issued must be clearly legible and bear the docket number, license application number and hearing title.

* * * * *

30. Appendix A is revised to read as follows:

**Appendix A—List of gas centrifuge enrichment plant components under NRC's export licensing authority.**

1. *Assemblies and components especially designed or prepared for use in gas centrifuges.*

Note.—The gas centrifuge normally consists of a thin-walled cylinder(s) of between 75mm (3 ins.) and 400 mm (16 ins.) diameter contained in a vacuum environment and spun at high peripheral speed (of the order of 300 m/per second and more) with the central axis vertical. In order to achieve high speed, the materials of construction for the rotating rotor assembly, and hence its individual components, have to be manufactured to very close tolerances in order to minimize the unbalance. In contrast to other centrifuges, the gas centrifuge for uranium enrichment is characterized by having within the rotor chamber a rotating disc-shaped baffle(s) and a stationary tube arrangement for feeding and extracting $UF_6$ gas and featuring at least 3 separate channels of which 2 are connected to scoops extending from the rotor axis towards the periphery of the rotor chamber. Also contained within the vacuum environment are a number of critical items which do not rotate and which, although they are especially designed, are not difficult to fabricate nor are they fabricated out of unique materials. A centrifuge facility, however, requires a large number of these components so that quantities can provide an important indication of end use.

1.1 *Rotating Components.*

(a) Complete Rotor Assemblies: Thin-walled cylinders, or a number of interconnected thin-walled cylinders, manufactured from one of the high strength-to-density ratio materials described in the Footnote to this Section.

If interconnected, the cylinders are joined together by flexible bellows or rings as described in § 1.1(c). The rotor is fitted with an internal baffle(s) and end caps, as described in § 1.1 (d) and (e), if in final form. However, the complete assembly may be delivered only partly assembled.

(b) Rotor Tubes: Especially designed or prepared thin-walled cylinders with thickness of 12mm (.50 in.) or less, a diameter of between 75mm (3 ins.) and 400mm (16 ins.), and manufactured from one of the high strength-to-density ratio materials described in the Footnote to this Section.

(c) Rings or Bellows: Components especially designed or prepared to give localized support to the rotor tube or to join together a number of rotor tubes. The bellows in a short cylinder of wall thickness 3mm (.125 in.) or less, a diameter of between 75mm (3 ins.) and 400mm (16 ins.), having a convolute, and manufactured from one of the high strength-to-density ratio materials described in the footnote to this section.

(d) Baffles: Disc shaped components of between 75mm (3 ins.) and 400mm (16 ins.) diameter especially designed or prepared to be mounted inside the centrifuge rotor tube, in order to isolate the take-off chamber from the main separation chamber and, in some cases, to assist the $UF_6$ gas circulation within the main separation chamber of the rotor tube, and manufactured from one of the high strength-to-density ratio materials described in the Footnote to this Section.

(e) Top Caps/Bottom Caps: Disc shaped components of between 75mm (3 ins.) and 400mm (16 ins.) diameter especially designed or prepared to fit to the ends of the rotor tube, and so contain the $UF_6$ within the rotor tube, and in some cases to support, retain or contain as an integrated part, an element of the upper bearing (top cap) or to carry the rotating elements of the motor and lower bearing (bottom cap), and manufactured from one of the high strength-to-density ratio materials described in the Footnote to this Section.

**Footnote**

The materials used for centrifuge rotating components are:

(a) Maraging steel capable of an ultimate tensile strength of $2.050 \times 10^9$ N/m² (300,000 lb/in.² ) or more.

(b) Aluminium alloys capable of an ultimate tensile strength of $0.460 \times 10^9$ N/m² (67,000 lb/in.² ) or more.

(c) Filamentary materials suitable for use in composite structures and having a specific modulus of $12.3 \times 10^6$ or greater and a specific ultimate tensile strength of $0.3 \times 10^6$ or greater ("Specific Modulus" is the Young's Modulus in N/m² divided by the density in Kg/m³. "Specific Ultimate Tensile Strength" is the ultimate tensile strength in N/m² divided by the density in Kg/M³ ).

1.2 *Static Components.*

(a) Magnetic Suspension Bearings: Especially designed or prepared bearing assemblies consisting of an annular magnet suspended within a housing containing a damping medium. The housing will be manufactured from a $UF_6$ resistant material (see footnote to section 2). The magnet couples with a pole piece or a second magnet fitted to the top cap described in Section 1.1(e). The magnet may be ring-shaped with a relation between outer and inner diameter smaller or equal to 1.6.1. The magnet may be in a form having an initial permeability of 0.15 Henry/meter (120,000 in CGS units) or more, or an energy product of greater than 80,000 joules/m³ ($10 \times 10^6$ gauss-oersteds.) In

addition to the usual material properties, it is a prerequisite that the deviation of the magnetic axes from the geometrical axes is limited to very small tolerances (lower than 0.1mm) or that homogeneity of the material of the magnet is specially called for.

(b) Bearings/Dampers: Especially designed or prepared bearings comprising a pivot/cup assembly mounted on a damper. The pivot is normally a hardened steel shaft polished into a hemisphere at one end with a means of attachment to the bottom cap described in Section 1.1(e) at the other. The shaft may, however, have a hydrodynamic bearing attached. The cup is pellet-shaped with hemispherical indentation in one surface. These components are often supplied separately to the damper.

(c) Molecular Pumps: Especially designed or prepared cylinders having internally machined or extruded helical grooves and internally machined bores. Typical dimensions are as follows: 7mm (0.3 ins.) to 400mm (16 ins.) internal diameter, 10mm (0.4 ins.) or more wall thickness, 1 to 1 length to diameter ratio. The grooves are typically rectangular in cross-section and 2mm (0.08 in.) or more in depth.

(d) Motor Stators: Especially designed or prepared ring shaped stators for high speed multi-phase AC hysteresis (or reluctance) motors for synchronous operation within a vacuum in the frequency range of 600–2000 Hz and a power range of 50–100 volts amps. The stators consist of multi-phase windings on a laminated low loss iron core comprised of thin layers typically 2.0mm (0.08 in.) thick or less.

2. *Especially designed or prepared auxiliary systems, equipment and components for gas centrifuge enrichment plants.*

Note.—The auxiliary systems, equipment and components for a gas centrifuge enrichment plant are the systems of the plant needed to feed $UF_6$ to the centrifuges to link the individual centrifuges to each other to form cascades (or stages) to allow for progressively higher enrichments and to extract the product and tails of $UF_6$ from the centrifuges, together with the equipment required to drive the centrifuges or to control the plant.

Normally $UF_6$ is evaporated from the solid using heated autoclaves and is distributed in gaseous form to the centrifuges by way of cascade header pipework. The "product" and "tails" of $UF_6$ gaseous streams flowing from the centrifuges are also passed by way of cascade header pipework to cold traps (operating at about −70 °C where they are condensed prior to onward transfer into suitable containers for transportation or storage. Because an enrichment plant consists of many thousands of centrifuges arranged in cascades, there are many kilometers of cascade header pipework incorporating thousands of welds with a substantial amount of repetition of layout. The equipment, component and piping systems are fabricated to very high vacuum and cleanliness standards.

The following items either come into direct contact with $UF_6$ process gas or directly control the centrifuge and the passage of the gas from centrifuge to centrifuge and cascade to cascade.

(a) Feed Systems/Product and Tails Withdrawal Systems:

Especially designed or prepared process systems including:

1. Feed autoclaves (or stations), used for passing $UF_6$ to the centrifuge cascades at up to 100 $Kg/m^2$ (15 $lb/in.^2$)

2. Desublimers (or cold traps) used to remove $UF_6$ from the cascades up to 3 $Kg/m^2$ (0.5 $lb/in^2$) pressure. The desublimers are capable of being chilled to −70 °C and heated to 70 °C.

3. Product and tails stations used for trapping $UF_6$ into containers.

This plant equipment and pipework are wholly made of or lined with $UF_6$ resistant materials (see Footnote to this Section) and are fabricated to very high vacuum and cleanliness standards.

(b) Machine Header Piping Systems:

Especially designed or prepared piping systems and header systems for handling $UF_6$ within the centrifuge cascades.

This piping network is normally of the "triple" header system with each centrifuge connected to each of the headers. There is thus a substantial amount of repetition in its form. It is wholly made of $UF_6$ resistant materials (see Note to this Section) and is fabricated to very high vacuum and cleanliness standards.

(c) $UF_6$ Mass Spectrometers/Ion Sources: Especially designed or prepared magnetic or quadrapole mass spectrometers capable of taking "on-line" sample of feed, product or tails from $UF_6$ gas streams and having all of the following characteristics:

1. Unit resolution for mass greater than 320.

2. Ion sources constructed of or lined with nichrome, monel or nickel-plate.

3. Electron bombardment ionization sources.

4. Having a collector system suitable for isotope analysis.

(d) Frequency Changers: Frequency changers (also known as converters or invertors) especially designed or prepared to supply motor stators as defined under Section 1.2(d), or parts, components and subassemblies of such frequency changers having all of the following characteristics:

1. A multiphase output of 600 Hz to 2000Hz.

2. High stability (with frequency control better than 0.1%).

3. Low harmonic distortion (less than 2%).

4. An efficiency of greater than 80%.

Footnote

Materials resistant to corrosion by $UF_6$ include stainless steel, aluminum, aluminum alloys, nickel or alloys containing 60% or more nickel.

31. Appendix C to Part 110 is redesignated as Appendix B and amended by revising footnote C to read as follows:

**Appendix B—Categorization of nuclear material**

* * * * *

[c] Natural uranium, depleted uranium, thorium and quantities of uranium enriched to less than 10% not falling into Category III should be protected in accordance with prudent management practice.

* * * * *

Dated at Washington, DC this 28th day of November 1984.

For the Nuclear Regulatory Commission.

**Samuel J. Chilk,**

*Secretary of the Commission.*

[FR Doc. 84-31548 Filed 11-30-84; 8:45 am]

BILLING CODE 7590-01-M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 95

**[Docket No. 24319; Amdt. 321]**

## Air Traffic and General Operating Rules; IFR Altitudes; Miscellaneous Amendments

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

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

**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 to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

**List of Subjects in 14 CFR Part 95**

Aircraft, Airspace.

**Adoption of the Amendment**

**PART 95—[AMENDED]**

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t. December 20, 1984.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 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 December 20, 1984.

**Kenneth S. Hunt,**

*Director of Flight Operations.*

BILLING CODE 4910-13-M

# REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

## AMENDMENT 321 EFFECTIVE DATE, DECEMBER 20, 1984

| FROM | TO | MEA |
|---|---|---|

### §95.1001 DIRECT ROUTES-U.S.

#### ATLANTIC ROUTES

**R507 IS ADDED TO READ**

| | | |
|---|---|---|
| UTAHS, PR FIX<br>*24000 - MRA<br>**1200 - MOCA | *CONCH, BI FIX | **24000<br>MAA-45000 |
| *CONCH, BI FIX<br>*24000 - MRA<br>**1200 - MOCA | GRAND TURK, BF VORTAC | **24000<br>MAA-45000 |

**R763**

| | | |
|---|---|---|
| BORINQUEN, PR VORTAC<br>*1200 - MOCA | GRAND TURK, BF VORTAC | *14000<br>MAA-45000 |

### §95.6005 VOR FEDERAL AIRWAY 5

**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| TANDS, TN FIX | BOWLING GREEN, KY VORTAC | 2700 |

### §95.6018 VOR FEDERAL AIRWAY 18

**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| FANEN, MS FIX<br>VIA S ALTER.<br>*2000 - MOCA | MERIDIAN, MS VORTAC<br>VIA S ALTER. | *3000 |

### §95.6020 VOR FEDERAL AIRWAY 20

**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| SPARTANBURG, SC VORTAC | CHECK, NC FIX | 3000 |
| CHECK, NC FIX | MOPED, NC FIX | 3700 |
| MOPED, NC FIX | BARRS, NC FIX | 3000 |

### §95.6066 VOR FEDERAL AIRWAY 66

**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| RALEIGH-DURHAM, NC VORTAC | FRANKLIN, VA VORTAC | 2500 |

### §95.6095 VOR FEDERAL AIRWAY 95

**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| GUNNISON, CO VORTAC | BALOO, CO FIX | |
| | NE BND | 16200 |
| | SW BND | 12000 |
| BALOO, CO FIX | BALIF, CO FIX | |
| | NE BND | 16200 |
| | SW BND | 15000 |
| BALIF, CO FIX | TREES, CO FIX | 16200 |
| TREES, CO FIX | *CHILT, CO FIX | |
| | SW BND | 16000 |
| | NE BND | 13600 |
| *12600 - MCA CHILT FIX, SW BND | | |
| CHILT, CO FIX | MONTH, CO FIX | 11800 |
| MONTH, CO FIX | FOLES, CO FIX | 10200 |

### §95.6096 VOR FEDERAL AIRWAY 96

**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| KOKOMO, IN VORTAC | *FORCE, IN FIX | 2600 |
| *6000 - MCA FORCE FIX, NE BND | | |
| FORCE, IN FIX<br>*2300 - MOCA | FORT WAYNE, IN VORTAC | *6000 |

### §95.6106 VOR FEDERAL AIRWAY 106

**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| COBOL, CT FIX<br>*3000 - MOCA | BARNES, MA VORTAC | *3500 |

### §95.6119 VOR FEDERAL AIRWAY 119

**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| BURGS, WV FIX<br>*3100 - MOCA | OTOWN, PA FIX | *3700 |

### §95.6133 VOR FEDERAL AIRWAY 133

**IS AMENDED BY ADDING**

| | | |
|---|---|---|
| INTERNATIONAL FALLS, MN VORTAC<br>*2800 - MOCA | U.S. CANADIAN BORDER | *6500 |

**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| FORT MILL, SC VORTAC | STANN, NC FIX | 3400 |

### §95.6146 VOR FEDERAL AIRWAY 146

**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| PROVIDENCE, RI VORTAC | MARTHAS VINEYARD, MA VOR | 2000 |

| FROM | TO | MEA |
|---|---|---|

**§95.6157 VOR FEDERAL AIRWAY 157**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| WEBBS, FL FIX<br>*1500 - MOCA | OCALA, FL VORTAC | *2000 |
| TAR RIVER, NC VORTAC | LAWRENCEVILLE, VA VORTAC | 2400 |

**§95.6162 VOR FEDERAL AIRWAY 162**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| LUCKE, VA FIX | CARIS, PA FIX | 5000 |

**§95.6164 VOR FEDERAL AIRWAY 164**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| GANIS, NY FIX | BUFFALO, NY VORTAC | 2500 |

**§95.6198 VOR FEDERAL AIRWAY 198**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| FORT STOCKTON, TX VORTAC<br>*4700 - MOCA | OZMOS, TX FIX | *8000 |

**§95.6214 VOR FEDERAL AIRWAY 214**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| GALLS, PA FIX<br>*3100 - MOCA | OTOWN, PA FIX | *3700 |

**§95.6222 VOR FEDERAL AIRWAY 222**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| FORT STOCKTON, TX VORTAC<br>*4700 - MOCA | OZMOS, TX FIX | *8000 |

**§95.6225 VOR FEDERAL AIRWAY 225**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| HOMEY, FL FIX<br>*1300 - MOCA | DIDDY, FL FIX | *2000 |

**§95.6234 VOR FEDERAL AIRWAY 234**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| BRAKR, OK FIX<br>*4700 - MOCA | LIBERAL, KS VORTAC | *5700 |

**§95.6259 VOR FEDERAL AIRWAY 259**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| FORT MILL, SC VORTAC | MIDET, NC FIX | 3700 |

**§95.6267 VOR FEDERAL AIRWAY 267**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| GREMM, FL FIX<br>*2000 - MRA<br>**1400 - MOCA | *DOUGS, FL FIX | **5000 |

**§95.6408 VOR FEDERAL AIRWAY 408**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| LUCKE, VA FIX | SCOBY, MD FIX | 5000 |

**§95.6454 VOR FEDERAL AIRWAY 454**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| LIBERTY, NC VORTAC<br>*2500 - MOCA | LAWRENCEVILLE, VA VORTAC | *6000 |

**§95.6415 HAWAII VOR FEDERAL AIRWAY 15**
**IS AMENDED TO READ IN PART**

| | | |
|---|---|---|
| *CANON, HI FIX<br>*32000 - MRA<br>**6000 - MRA | **VANDA, HI FIX | |
| | W BND | 32000 |
| | E BND | 6000 |

**§95.7007 JET ROUTE NO. 7**

**IS AMENDED TO READ IN PART**

| | | | |
|---|---|---|---|
| LOS ANGELES, CA VORTAC | FRIANT, CA VORTAC | 18000 | 45000 |
| FRIANT, CA VORTAC | RENO, NV VORTAC | 18000 | 45000 |

[FR Doc. 84-31474 Filed 11-30-84; 8:45 am]
BILLING CODE 4910-13-C

**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Parts 270 and 274**

**[Release No. IC-14234; S7-35-84]**

# Separate Accounts Funding Flexible Premium Variable Life Insurance Contracts

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Temporary adoption of rule, final rule, form amendments, and request for comments.

**SUMMARY:** The Commission is adopting, on a temporary basis, a rule that will provide insurance company separate accounts with exemptions from the Investment Company Act of 1940 to the extent necessary to permit them to offer a new type of insurance product known as flexible premium variable life insurance. Concurrently, the Commission is requesting public comment on that rule. These actions will offer companies the opportunity to sell this product immediately, pending adoption of a permanent rule.

**DATES:** Effective December 3, 1984. Comments must be received on or before January 31, 1985.

**ADDRESSES:** All communications on this matter should be sent, in triplicate, to Shirley E. Hollis, Acting Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Such communications should refer to File No. S7-35-84 and will be available for public inspection at the Commission's Public Reference Room 450 Fifth Street NW., Washington, D.C. 20549.

**FOR FURTHER INFORMATION CONTACT:** Brian M. Kaplowitz, Special Counsel (202) 272-2061, or Robert E. Plaze, Attorney (202) 272-2622, Office of Insurance Products and Legal Compliance, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission ("Commission") today is adopting, on a temporary basis, rule 6e-3(T) [17 CFR 270.6e-3(T)] under the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.] ("Act") relating to flexible premium variable life insurance ("flexible life" or "flexible contracts"). The rule provides extensive exemptive relief from various provisions of the Act and rules thereunder to any separate account [1] established by a life insurance company ("life insurer") and offering flexible life. [2] Rule 6e-3(T) is based in large part upon a suggested rule contained in a rulemaking petition (the "petition") submitted by the American Council of Life Insurance ("Petitioner") and published for comment in Investment Company Act Release No. 13632 ("Release 13632"). [3] The temporary rule is intended to be a companion to rule 6e-2 under the Act [17 CFR Part 270 6e-2], the existing exemptive rule relating to scheduled premium variable life insurance ("scheduled life" or "scheduled contracts") (hereinafter flexible life and scheduled life collectively are referred to as "variable life" or "variable contracts"). Because the scope and nature of the relief provided by the temporay rule differs in certain respects from that in Petitioner's suggested rule, the Commission has decided to request public comment on the revisions before adopting a permanent rule. The Commission is also adopting, on a temporary basis, and at the same time proposing for comment, related technical amendments to rule 6c-3 [17 CFR 270.6c-3] and Form N-6EI-1 under the Act [17 CFR 274.301].

## Background

### *1. The Petition*

On June 29, 1983, as supplemented on September 15, 1983, Petitioner submitted a petition urging the Commission to adopt a comprehensive exemptive rule under the Act for separate accounts proposing to offer flexible life. [4] The petition describes flexible life as a new type of whole life insurance product that will be funded by separate accounts and will provide for flexible payments and death benefits. [5] Petitioner argued that adoption of its suggested rule was the best way to resolve the issues this new product raises under the Act, and asserted that adoption of that rule would be consistent with the statutory standards for exemptive relief prescribed in section 6(c) of the Act [15 U.S.C. 80a-6(c)]. [6]

### *2. Request for Comment on the Suggested Rule*

In Release 13632 the Commission requested public comment on the issues arising under the Act relating to flexible life. The Commission included the petition and suggested rule as part of the release, but it expressly took no position as to the need for or appropriateness of adopting Petitioner's rule.

The Commission received forty comment letters, thirty-seven of which were filed by or on behalf of life insurers, many of whom participated directly in formulating the petition. These commentators urged adoption of the suggested rule with only minor clarifications. The other commentators either supported adoption of the suggested rule generally or raised matters not directly related to the treatment of flexible life under the Act. [7]

### *3. The Commission's Decision to Adopt a Temporary Rule While Seeking Comment Thereon*

After reviewing the petition, the suggested rule, and comments received in response to Release 13632, the Commission has decided to adopt, on a temporary basis, a modified version of Petitioner's suggested rule. In addition, in view of the changes made, the Commission has decided to seek public comment prior to adoption of a final rule. As a result, life insurers will be able to offer flexible life immediately, based on rule 6e-3(T) while comment is sought on it. [8] Following the comment period, a final rule will be adopted.

Since the rule is a companion to rule 6e-2, and the latter rule has provided workable standards, rule 6e-3(T), like Petitioner's suggested rule, follows the same general approach as rule 6e-2. Modifications have been made only where (1) necessary to accommodate the differing characteristics of flexible life or (2) experience has shown that the provisions of rule 6e-2 need to be

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[1] A separate account may be organized under the Act either as a management investment company ("management account") or as a unit investment trust ("trust account").

[2] The relief provided by rule 6e-3(T) is also available to the account's investment adviser, principal underwriter, and depositor.

[3] (Nov. 23, 1983) [48 FR 54043 (Nov. 30, 1983); 29 SEC Docket 365 (Dec. 6, 1983)].

[4] The specific nature of the exemptions requested by Petitioner are discussed more fully in Release 13632 and the petition.

[5] For a more complete description of the features of flexible life, *see* discussion in Section I, *infra* and the petition at 8-23. Page citations to the petition refer to the pagination of the petition as submitted to the Commission and available in the Commission's Public Reference Room in File No. S7-1004.

[6] Section 6(c) gives the Commission authority to exempt any person from any provision of the Act or rule thereunder if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the policy and provisions of the Act.

[7] Among the matters raised was the importance of assuring full and fair disclosure concerning registered insurance products and sales and disclosure practices pertaining to whole life insurance generally.

[8] If the provisions of the final rule differ from those of rule 6e-3(T), the Commission anticipates providing issuers relying on rule 6e-3(T) with a one year transition period to comply with the final rule.

revised or updated.[9] The Commission has not otherwise reconsidered the policy determinations underlying specific provisions of rule 6e–2.

Due to staffing limitations and the Commission's desire to expedite adoption of a final rule of general applicability, the Commission does not encourage life insurers to file individual flexible life exemptive applications during the comment period seeking relief different from, or in addition to, that provided by rule 6e–3(T). The staff will, however, process applications relating to the rule if they involve technical or unforeseen matters.

## Discussion

Rule 6e–3(T) provides exemptions from various provisions of the Act and rules under it where necessary to permit separate accounts to offer flexible life.

### *I. Flexible Life* [10]

A flexible contract will provide an immediate cash benefit many times the amount of the initial purchase payment. So long as the contract is in force, the death benefit payable under the contract will never be less than the current face amount of death benefit under the contract. The amount of the death benefit may vary depending on the investment experience of the separate account used to fund the contract. The contract holder generally will have the right to elect one of two benefit options: a death benefit equal to the face amount of the contract or, if greater, the cash value plus a pure risk amount [11] ("Option I"); or a death benefit equal to a pure risk amount plus cash value ("Option II").[12] Investment experience also may have a bearing on the duration of the death benefit because a flexible contract generally will remain in force only so long as cash surrender value [13]—which will vary based on investment experience—is sufficient to meet the cost of insurance [14] and various other fees and charges deducted periodically.

A flexible contract generally will permit the contractholder to determine both the timing and amount of payments, subject to certain limitations.[15] Contracts may stipulate a target payment schedule intended to provide the level of insurance benefits selected by the contractholder, who will be encouraged, but not required, to make payments pursuant to the schedule. Failure to pay a target payment will not necessarily cause the contract to lapse if, as noted above, there is sufficient cash surrender value available under the contract to pay the fees and charges necessary to keep it in force.

The sales load structures under flexible contracts will vary among companies. Some life insurers may design contracts under which sales load is deducted from payments (a "front-end sales load") while others may deduct sales load other than from payments (a "subsequent sales load"). [16]

A flexible contract will lapse when the "grace period" expires.[17] The grace period generally begins on any day on which cash surrender value is insufficient to meet the various fees and charges due that day. If an additional payment is not received within a specified period after the grace period begins (at least 61 days), the contract will lapse.

Finally, contracts generally will have features found in other insurance contracts, such as those permitting the contractholder to take out a loan using the contract as security and to redeem the contract and receive its cash value less deductions for sales load and other charges. In addition, most, if not all, flexible contracts will be designed to conform to applicable requirements of the Internal Revenue Code, which are contained in section 7702 (formerly section 101(f)).[18]

### *II. Rule 6e–3(T)*

The rule is divided into four paragraphs. Paragraph (a) defines generally the type of separate account that may use the rule, and paragraph (b) provides relief from specific sections of the Act and rules thereunder. Terms used in the rule are defined in paragraph (c), while paragraph (d) sets forth certain computational rules to be used in applying the rule.

Each provision of the rule is described below. Significant similarities and differences between the rule, rule 6e–2[19] and Petitioner's suggested rule [20] are also noted.

A. *Paragraph (a)—The Separate Account.* Paragraph (a) provides that a separate account of a life insurer [21]

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[9] Given that rule 6e–3(T) and rule 6e–2 are intended as companion rules, the Commission intends to propose for comment in the near future a number of conforming changes to rule 6e–2.

[10] The discussion is based on Petitioner's generic description of flexible life (*see* petition at 8–23).

[11] The manner in which the pure risk amount is determined is described *infra* note 14.

[12] The relationship between the pure risk amount and the cash value of any flexible contract is governed by section 7702 of the Internal Revenue Code of 1954, as amended [I.R.C. section 7702 (1984)] ("Code") (*see infra* note 14), which requires that for contracts issued on or after January 1, 1985 the death benefit must be at least 250% of cash value for insured aged 40 and under. This percentage drops in varying increments each year and is 105% for insureds between the ages of 75 and 90. Absent this relationship between cash value and death benefit, the contract will not qualify for the favorable tax treatment afforded life insurance.

[13] Generally speaking, cash value accumulates from that portion of payments made under a life insurance contract not necessary to purchase immediate life insurance coverage. In a traditional level payment whole life insurance product, cash value accumulated in early years of the contract (and interest paid thereon) is used to pay the increasingly large insurance costs in later years. Cash surrender value is equal to the cash value of the policy less any deductions made upon redemption (*see* Section II.C.11., *infra*).

[14] Simply stated, the "cost of insurance" is the charge made periodically by the life insurer for the net amount of death benefit under the contract for which the insurer is "at risk" during that period. The insurer is at risk for that amount of the death benefit equal to the face amount of the contract less its current cash value; this is the "pure risk amount." The amount of the cost of insurance charge is calculated by multiplying the net amount at risk by the "cost of insurance rate," a rate which is based on factors such as the sex, age, and rate class of the insured.

[15] Life insurers may reserve the right to limit the amount and number of payments and may prescribe minimum payments.

[16] The two most likely types of subsequent sales loads are (1) a deferred sales load and (2) a periodic charge directly on the cash value of a contract. A deferred sales load generally is a sales load deducted upon redemption (either partial or full) of a contract. The imposition of the sales load, and the rate at which the sales load is deducted, may be contingent on the number of years the contract has been in effect. A sales load that is a periodic charge against cash value would provide, for example, that each day a percentage deduction from cash value would be made for sales load.

[17] The grace period provisions are required by article IV, section 3(b)(2) and article IX, section 3 of the Variable Life Insurance Model Regulation ("Model Regulations"). The Model Regulation, which has been adopted by many states, was amended by the National Association of Insurance Commissioners in December 1982 specifically to permit flexible life. A copy of the amended provisions as they were proposed, with commentary, is attached to Release 13632.

[18] Section 7702 defined a life insurance contract for purposes of the Code generally as any contract which is a life insurance contract under the applicable state law, but only if the contract meets either of two alternative tests designed to limit investment-motivated payment of large amounts of cash under the contract.

[19] As noted above, the Commission intends to propose certain actions with respect to rule 6e–2 in a future release.

[20] Citations to Petitioner's June 29 submission will refer to the "petition;" citations to the September 15 supplemental submission will refer to the "petition supplement." Paragraphs of Petitioner's suggested rule will be referred to as "items" throughout this release in order to distinguish them from portions of rule 6e–2 and 6e–3(T), which will be referred to as "paragraphs" or "provisions."

[21] Paragraph (a)(1) of the rule provides that the life insurance company which establishes and maintains the separate account will be referred to throughout the rule as the "life insurer." Similarly, various other changes in language used in rule 6e–2 and in Petitioner's suggested rule have been made throughout rule 6e–3(T) in order to improve its readability. These changes are discussed in this release only where they are substantive.

which meets six conditions will be exempt from the registration provisions of the Act. However, such a separate account will be subject to all other provisions of the Act as if it were registered, except as specifically provided in paragraph (b) of the rule. The conditions, which are similar to those contained in rule 6e–2(a), are designed to ensure the segregated nature of the separate account and also to limit the availability of the rule to separate accounts offering flexible contracts as defined in paragraph (c)(1) of the rule (*see* discussion in Section II.C.1., *infra*).[22] The principal differences from rule 6e–2(a) are that: (1) Paragraph (a)(1) now includes a reference to the definition of "separate account" in section 2(a)(37) of the Act [15 U.S.C. 80a–2(a)(37)];[23] (2) the prohibition in rule 6e–2(a)(3) on holding funds in the separate account corresponding to dividend accumulations has been deleted;[24] and (3) paragraph (a)(2) permits the assets of the separate account to be derived from the sale of flexible contracts and scheduled premium variable life insurance contracts.[25] Regarding the latter matter, to the extent a separate account offers scheduled contracts it will, of course, continue to be governed by rule 6e–2 rather than rule 6e–3(T).

B. *Paragraph (b)—The Exemptive Provisions.* Paragraph (b) provides that if the separate account meets the requirements of paragraph (a), then it shall be exempt from certain enumerated provisions of the Act with respect to flexible contracts funded by the account. This provision, like rule 6e–2(b), sets forth fifteen exemptions, many of which are substantively similar or identical to the exemptions provided by rule 6e–2(b) or requested by Petitioner in the suggested rule. The discussion below describes these exemptions and focuses particularly on the relief which differs from or is in addition to that provided by rule 6e–2(b) or the suggested rule.[26]

1. Paragraph (b)(1)—Sales Load Definition

Like rule 6e–2(b)(1) for scheduled life separate accounts, this paragraph exempts flexible life separate accounts from section 2(a)(35) [15 U.S.C. 80a–2(a)(35)], which defines the term "sales load." The purpose of this exemption is to make the special definition of sales load contained in paragraph (c)(4) of the rule (*see* discussion in Section II.C.4., *infra*) applicable to the sales load provisions of the Act as they relate to flexible life separate accounts. Relief also is provided from various other sections of the Act and rules thereunder necessary to permit a subsequent sales load.[27] This relief is necessary because the Act and rule 6e–2, which were drafted when sales loads were uniformly front-end, only contemplates sales loads being deducted in this manner.

2. Paragraphs (b)(2) and (b)(3)—Registration

Paragraph (b)(2) exempts a flexible life separate account from the prohibitions of section 7 [15 U.S.C. 80a–7] regarding transactions by unregistered investment companies and paragraph (b)(3) provides relief from the requirements of section 8 [15 U.S.C. 80a–8], provided that the account files a notification of claim of exemption under rule 6e–3(T) on Form N–6EI–I [28] and a registration statement on a form designated by the Commission, generally within ninety days thereafter. Both provisions are substantively identical to rule 6e–2 (b)(2) and (b)(3), respectively. Until a registration form specifically designed for variable life separate accounts is adopted, a flexible life separate account organized as a management account should file on Form N–1 [17 CFR 274.11], and a flexible life separate account organized as a trust account should file on Forms N–8B–2 [17 CFR 274.12] and S–6 [17 CFR 239.16]. In each case the first page of such form should make special notation that the filing is made pursuant to rule 6e–3(T).

3. Paragraph (b)(4)—Eligibility Restrictions

Like rule 6e–2(b)(4), this provision provides a partial exemption from the restrictions of section 9(a) [15 U.S.C. 80a–9(a)] on certain persons serving in various positions with an investment company so that the restrictions are not applicable to personnel of the life insurer who do not participate directly in the administration or management of the separate account or in the sale of flexible contracts.

4. Paragraph (b)(5)—Investment Policies

This provision provides flexible life separate accounts with the same relief from section 13(a) [15 U.S.C. 80a–13(a)] provided by rule 6e–2(b)(5) to permit the life insurer in limited instances to disapprove changes in investment policies initiated by contractholders.

5. Paragraph (b)(6)—Initial Capital Requirements

This provision exempts a flexible life separate account from the minimum capital requirements of section 14(a) [15 U.S.C. 80a–14(a)] on the same terms as are provided in rule 6e–2(b)(6).

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[22] Paragraph (a)(2) of the rule provides that flexible premium variable life insurance contracts will be referred to throughout the rule as "flexible contracts." The Commission believes it is appropriate in the rule to refer to flexible life as *contracts*, rather than *policies* as suggested by Petitioner, because these instruments are investment contracts for purposes of the federal securities laws, notwithstanding that in insurance terminology they are "insurance policies."

[23] Section 2(a)(37) of the Act defines a separate account essentially as an account maintained by an insurance company under which income and losses are credited to and charged against the account's contracts without regard to the income or losses of the insurance company. The reference to section 2(a)(37) in paragraph (a)(1) has made it unnecessary to include in the rule a provision similar to rule 6e–2(a)(4).

[24] Rule 6e–2(a)(3) prohibits a scheduled life separate account from being used for dividend accumulations, and this restriction is explained in the petition at note 24 as an industry suggestion to help assure that a scheduled contract would function as little as possible as an investment vehicle. In light of the arguments set forth in the petition at 33–34, the Commission believes it is appropriate not to include such a prohibition in this rule.

[25] Paragraph (a)(2) of the rule provides that scheduled premium variable life insurance contracts will be referred to throughout the rule as "scheduled contracts."

[26] Because rule 6e–3(T) provides a comprehensive and interrelated set of exemptions from the Act, a separate account relying on the rule should comply with each exemptive provision to the extent that the provision or the underlying section of the Act applies thereto.

[27] The relief provided by paragraph (b)(1) would permit a flexible life separate account to deduct a subsequent sales load in any of the three manners Petitioner envisions (*see* petition at 57). First, relief is provided from sections 2(a)(32) [15 U.S.C. 80a–2(a)(32)], 22(c) [15 U.S.C. 80a–22(c)], 26(a)(2)(C) [15 U.S.C. 80a–26(a)(2)(C)], 27(c)(1) [15 U.S.C. 80a–27(c)(1)], and 27(d) [15 U.S.C. 80a–27(d)] and rule 22c–1 [17 CFR 270.22c–1] to permit a deferred sales load (*see* description *supra* note 16). Second, additional relief is provided from section 12(b) [15 U.S.C. 80a–12(b)] and rule 12b–1 thereunder [17 CFR 270.12b–1] to permit a sales load to be deducted periodically from cash value (*see* description *supra* note 16). Third, this paragraph would permit any combination of a front-end, deferred, and periodic sales load. In all cases, as in rule 6e–2, the definition of sales load set forth in paragraph (c)(4) would be controlling, and the amount of sales load actually deducted would have to comply with the limitations set forth in paragraph (b)(13) and, if applicable, paragraph (d) of the rule (*see* discussion in Sections II.B.12. and II.D., *infra*).

The suggested rule contains no relief from section 12(b) and rule 12b–1 for subsequent sales loads based on Petitioner's "belief that these provisions are inapplicable to a charge (in whatever form) to recover sales and distribution expense * * *" that complies with section 27 (petition at note 34). While agreeing with the practical result of Petitioner's position, the Commission believes relief is nevertheless necessary, and it has been included in the rule.

[28] As noted above, the Commission is adopting, on a temporary basis, amendments to Form N–6EI–1 in order to make it available to separate accounts relying on rule 6e–3(T) as well as those relying on rule 6e–2.

6. Paragraph (b)(7)—Selection of Investment Adviser

A limited exemption from section 15(a) [15 U.S.C. 80a–15(a)] is provided by paragraph (b)(7)(i) to permit the initial selection of the account's investment adviser to be made without prior contractholder approval. Paragraph (b)(7)(ii) provides an exemption from sections 15 (a), (b), and (c) to permit state insurance authorities in certain cases to disapprove the advisory contract and the life insurer to disapprove changes in the account's principal underwriter or investment adviser. These provisions are substantially identical to the corresponding provisions of rule 6e–2.

7. Paragraph (b)(8)—Selection of Board of Directors

This provision, like rule 6e–2(b)(8), provides a limited exemption from the requirements of section 16(a) [15 U.S.C. 80a–16(a)] to permit persons to serve as directors of the separate account without prior contractholder approval.

8. Paragraph (b)(9)—Custodianship Assets

This paragraph provides an exemption from section 17(f) [15 U.S.C. 80a–17(f)] generally to allow the securities and similar investments of a management account to be maintained in the custody of the life insurer or of an affiliated life insurer, provided certain conditions designed to ensure safekeeping of such assets are satisfied. The relief is substantially identical to rule 6e–2(b)(9), with two minor modifications.[29] Petitioner's suggested rule includes similar relief, but also provides relief from section 17(f) if the management account complies with rule 17f–2 [17 CFR 270.17f–2.][30] The need for such an alternative test is unclear, however, because rule 6e–2(b)(9) provides relief comparable to, and in some cases exceeding, that provided by rule 17f–2. Accordingly, this suggestion has not been incorporated into the rule, although comment is requested as to whether such an alternative test is necessary.

9. Paragraph (b)(10)—Voting Rights

This provision, which is substantively identical to rule 6e–2(b)(10), provides an exemption from the voting rights requirements of section 18(i) [15 U.S.C. 80a–18(i)] if, *inter alia*, flexible life contractholders receive one vote for each $100 of cash value. The Commission has determined not to incorporate Petitioner's suggestion to add the words "registered management" to describe the type of investment company which is the subject of the contractholder voting requirements discussed in this part of the rule. Such an addition could lead to confusion about the scope of the relief provided in cases where, for example, a flexible life separate account organized as a management company elects, in reliance on the rule, not to register under the Act.

10. Paragraph (b)(11)—Dividends

As in the case of rule 6e–2(b)(11), this provision exempts from section 19 [15 U.S.C. 80a–19] any dividend paid on a participating flexible contract on the ground that such "dividends" are not dividends in the sense used in the Act.

11. Paragraph (b)(12)—Pricing and Processing

This paragraph provides relief from sections 22(d) [15 U.S.C. 80a–22(d)], 22(e) [15 U.S.C. 80a–22(e)], and 27(c)(1) and rule 22c–1 in connection with certain pricing and processing provisions. The pricing relief provided by paragraph (b)(12)(i) is similar to rule 6e–2(b)(12)(i), although the language has been updated to reflect an amendment to rule 22c–1 effected after the adoption of rule 6e–2.[31] Paragraph (b)(12)(i)(B)(*1*) incorporates Petitioners's suggestion that the rule provide pricing relief specifically to permit deductions from cash value for items such as the cost of insurance and administrative fees and charges to be made at such times as specified in the contract,[32] and paragraph (b)(12)(i)(B)(*2*) requires the death benefit to be determined only on days when it could be affected by the investment experience of the separate account.[33] In addition, this paragraph permits a subsequent sales load to be deducted from cash value at specified times.

One significant difference in terminology between rule 6e–2 and rule 6e–3(T) that first appears in this provision is the use of the terms "cash value" and "cash surrender value." Rule 6e–2 uses these terms interchangeable [34] because it was drafted for contracts in which these amounts would be equal. In the case of a flexible contract subject to a deferred sales load, however, the contract's cash value and its cash surrender value may not be equal since the latter may reflect a deduction for the deferred sales load. Accordingly, definitions of these terms have been included in paragraph (c)(10) and (c)(11) of the rule.

Petitioner urges that the pricing provisions should only require that a contract's cash value and death benefit be "determinable" on valuation days, rather than "determined" as required by rule 6e–2(b)(12)(i), apparently because some contracts may provide that daily investment experience may not affect the death benefit and charges may be deducted from cash value other than on a daily basis (*see* petition at 73–74). Since these situations already are specifically excepted from the general pricing requirements by paragraphs (b)(12)(i)(B) (*1*) and (*2*), Petitioner's suggestion has not been incorporated into the rule.

12. Paragraph (b)(13)—Sales Load and Other Deductions

This provision provides exemptions from section 27 and related provisions in connection with the deduction of sales load and certain fees and charges from the assets of a flexible life separate

[29] The first modification is to paragraph (b)(9)(iv) of the rule. It has been revised to permit securities to be deposited in any manner permitted by any rule under section 17(f), and the language therein referring to a national securities exchange or association has been deleted in light of the enactment of section 17A of the Securities Exchange Act of 1934 [15 U.S.C. 78q–1] as part of the Securities Exchange Act Amendments of 1975 [Pub. L. No. 94–29, 89 Stat. 97]. The effect of this modification is to permit a separate account, in accordance with rule 17f–4 [17 CFR 270.17f–4], to deposit its securities in a clearing agency registered with the Commission under section 17A of the 1934 Act or the book-entry system as provided by the book-entry regulations of federal agencies.

Second, paragraphs (b)(9)(iii) and (b)(9)(vi) have been modified to clarify that the life insurer may retain an independent public accountant on behalf of the account.

[30] Rule 17f–2, a rule not specifically drafted for insurance company separate accounts, specifies certain conditions under which a management investment company may maintain its securities and similar investments in its own custody.

[31] Former rule 22c–1(b) required that an investment company price its shares not less frequently than once daily at the close of trading on the New York Stock Exchange. This rule was amended in 1979 [Investment Company Act Rel. No. 10827 (Aug. 13, 1979) [44 FR 486549 (Aug. 20, 1979); 18 SEC Docket 120 (Aug. 28, 1979)]] to require pricing on any day there is a sufficient degree of trading in the portfolio securities of the investment company that the current net asset value of the investment company's redeemable securities might be materially affected and to permit a company's board of directors to designate a time during the day at which pricing would occur.

[32] The relief provided by paragraph(b)(12)(i)(B)(*1*) provides explicit relief for practices already permitted for scheduled life separate accounts by rule 6e–2(b)(12)(ii).

[33] For example, investment experience (either positive or negative) would not affect the death benefit under an Option I contract (*see* description in Section I, *supra*) until the cash value plus pure risk amount exceeded the current face amount of death benefit under the contract.

[34] *Compare* rule 6e–2(b)(10)(i)(A) and rule 6e–2(b)(12)(i).

account. Like rule 6e–2(b)(13), this provision is divided into nine sections, discussed below.

a. Paragraph (b)(13)(i)—Sales Load Limitation. Paragraph (b)(13)(i) provides exemptions comparable to those provided by rule 6e–2(b)(13)(i) and incorporates part of Petitioner's suggested rule. The nature of the relief provided by this provision is most easily understood by first examining the nature and scope of the exemptions provided to scheduled contracts in rule 6e–2 and the reasons underlying that relief.

Rule 6e–2(b)(13)(i) provides separate accounts offering scheduled contracts with an exemption from the requirement of section 27 that sales load deducted under any periodic payment plan certificate not exceed 9% of payments "to be made thereon." Since scheduled contracts provide coverage for an indeterminate period—*i.e.*, for the whole of life—it was necessary to specify an artificial time period, which in the case of rule 6e–2 is the lesser of 20 years or the anticipated life expectancy of the insured.[35] In adopting this time period, the Commission believed it to be a reasonable estimate of the period during which payments would be made. Petitioner argues that flexible contracts similarly are of indeterminate length and that the same relief should be granted.[36] This time period appears equally reasonable in the case of flexible contracts and has been incorporated into the rule.

Petitioner asserts, however, that flexible life requires additional relief because the sales load provisions of rule 6e–2 contemplate payments which are scheduled and in a fixed amount. It is for this purpose that Petitioner has developed the concept of a "guideline annual premium" which, as discussed in Section II.C.8., *infra*, is defined generally as the level annual payment necessary to provide the future benefits under the contract through maturity, based on certain assumptions. The guideline annual premium, in effect, corresponds to scheduled payments under rule 6e–2, and the sum of 20 years' guidelines, like the sum of twenty years' scheduled payments under rule 6e–2, provides the base against which to measure compliance with the 9% limitation. Petitioner urges the Commission to incorporate this approach into a flexible life rule because it "has substantive and procedural virtues superior to those of other possible methods of specifying premium payments" (petition at 48).[37]

The Commission believes that, on balance and in the absence of a readily apparent alternative, the guideline annual premium approach for measuring compliance with the sales load requirements can be adopted in the case of flexible life without frustrating the intent of the relevant statutory provisions. Moreover, although it is somewhat troublesome to permit the amount of sales load to be based on other than actual payments, particularly with a product like flexibile life which may permit significant variations in actual payments, the use of artificial tests in connection with both scheduled life [38] and variable annuity contracts [39] has proven to be a practical way to accommodate insurance products under the Act. Separate issues are presented regarding the appropriateness of the various assumptions to be used in defining the amount of the guideline annual premium, and they are discussed in Section II.C.8., *infra* in connection with the definition of this term set forth in paragraph (c)(8) of the rule.

Thus, paragraph (b)(13)(i)(A) of the rule provides relief from the sales load limitations of sections 27(a)(1) [15 U.S.C. 80a–27(a)(1)], 27(h)(1) [15 U.S.C. 80a–27(h)(1)], and 27(h)(4) [15 U.S.C. 80a–27(h)(4)], provided that sales load does not exceed 9% of the sum of the guideline annual premiums that would be paid during the relevant contract periods.[40] Like rule 6e–2(b)(13)(i), the relevant contract periods are equal to the lesser of 20 years or the anticipated life expectancy of the insured named in the contract. The 1980 Commissioners Standard Ordinary Mortality Table ("1980 CSO Table") is prescribed for determining anticipated life expectancy, rather than the 1958 Commissioners Standard Ordinary Mortality Table ("1958 CSO Table") as specified in rule 6e–2(b)(13)(i), and the reason for this change is explained in Section II.C.8., *infra*.[41]

Where payments in excess of the guideline amount are made during any contract period, Petitioner proposes that sales load be permitted to be deducted from the excess amount. This additional sales load would be limited to the lesser of 9% of the guideline single premium—*i.e.*, the amount necessary to pay up the contract until maturity [42]—or 9% of the payments in excess of the guideline annual premium. The Commission has decided not to adopt this suggestion because it would permit a contractholder, who takes advantage of the contract's flexibility and concentrates his payments during the early contract years, to be charged more than a 9% sales load on payments equal to the sum of 20 guideline annual premiums. Similarly, two otherwise comparable contractholders could, depending on the timing and amount of their payments, pay different amounts of sales load even though the total amount of their payments was equal.[43]

Under this paragraph, a life insurer has wide latitude to design a schedule of sales load deductions so long as the total amount deducted does not exceed 9% of the guideline annual premiums which would be paid during 20 years or the insured's life expectancy, if less,

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[35] While section 27 limits sales load to 9% of payments made, it permits proportionately more sales load to be deducted in the early years of a periodic payment plan certificate. For example, it permits up to 50% of the first year's payment to be deducted as sales load, so long as the issuer can demonstrate prospectively that the total sales load deducted over the life of the certificate will not exceed 9% of total payments made. Since variable contracts are of indeterminate length, an artificial test (such as the 20 year or life expectancy test) is necessary to permit the life insurer to demonstrate compliance with the 9% limitation on a prospective basis.

[36] *See* petition at 44.

[37] Petitioner argues, among other things, that such an approach would provide life insurers with some certainty as to a compliance with the Act and would assist them in structuring commission payments to life insurance agents. Absent use of the guideline annual premium approach, Petitioner suggests that life insurers might be forced to limit sales loads to 9% of payments as they are actually paid, which would create problems for the life insurer given the heavily front-end loaded nature of traditional insurance agent commission schedules (*see* petition at 45–51).

[38] *See* rule 6e–2(b)(13)(i).

[39] *See* rule 27a–1 [17 CFR 270.27a–1].

[40] The term "contract period" is defined in paragraph (c)(5) of the rule generally as the period from a contract issue or anniversary date to the earlier of the next following anniversary date or the contract's termination date. *See* discussion in Section II.C.5., *infra*.

[41] A mortality table is an actuarial device which estimates life expectancy. The 1958 CSO Table, developed jointly by the Society of Actuaries and the National Association of Insurance Commissioners ("NAIC"), prescribes the minimum basis upon which certain insurance-related calculations must be made. The NAIC recently promulgated a mortality table embodying contemporary mortality assumptions—the 1980 CSO Table—which generally will be mandatory for all life insurance contracts by 1989.

[42] The term "guideline single premium" is defined in paragraph (c)(9) of the rule and is discussed in Section II.C.9., *infra*.

[43] For example, assume a flexible contract that contains an excess front-end sales load which declines to 0% before the 10th contract year and that contractholder X pays exactly the guideline annual premium (*e.g.*, $1,000) each year for 20 years. X could pay sales load of up to 9% of his total premium payments (9% of $20,000 = $1,800). Contractholder Y has an identical contract, but makes annual premium payments equal to twice the guideline annual premium in each of the first 10 contract years. Under Petitioner's suggested rule, Y could pay sales load of up to 9% of 20 guideline annual premiums ($1,800), plus up to 9% of the excess of his payments over the guideline amount for each of the first 10 years (9% of $10,000 = $900), *i.e.*, Y could pay sales load equal to 13.5% of his premium payments ($2,700), which is 150% of what X could be charged for the same amount of payments.

subject, of course, to the other relevant limitations in the Act and this rule.[44] In addition, subject to the "stair step" provisions which are discussed immediately below, a life insurer would be permitted to deduct a sales load from any payments made in excess of 20 guideline annual premiums, or, if less, the number of guideline annual premiums corresponding to the insured's life expectancy.[45] Finally, paragraph (b)(13)(i)(B) has been included as an alternate sales load test to clarify that a life insurer who deducts sales load from actual payments in a manner permitted by section 27(a)(1) can also rely on the rule.

b. Paragraph (b)(13)(ii)—"Stair Step" Relief. This provision provides exemptions similar to those in rule 6e–2(b)(13)(ii) from the requirements of sections 27(a)(13) [15 U.S.C. 80a–27(a)(3)] and 27(h)(3) [15 U.S.C. 80a–27(h)(3)] that the amount of any sales load deducted from any payment not exceed the proportionate amount deducted from any prior payment—commonly known as "stair step" requirements.[46] Paragraph (d)(1)(ii) provides comparable relief from the stair step requirements relating to other than front-end sales loads (*see* discussion in Section II.D.1., *infra*).

c. Paragraph (b)(13)(iii)—Deduction of Fees and Charges and Custodianship of Assets. This provision provides relief from sections 27(c)(2), 26(a)(1), and 26(a)(2) to permit certain fees and charges to be deducted from account assets and to permit various custodianship activities regarding those assets. The relief is modeled upon comparable relief afforded variable annuity separate accounts by rules 26a–1 and 26a–2 [17 CFR 270.26a–1 and 270.26a–2] and relief proposed to be codified in rule 26a–3,[47] but differs from rule 6e–2(b)(13)(iii) to the extent that conditional, rather than blanket, relief is provided.

Although the exemptions provided by this provision generally are routine, the treatment of any charges for mortality, expense, and guaranteed death benefit risks ("risk charges") in paragraph (b)(13)(iii)(F) differs from the approach of rule 6e–2. Despite the potential that the proceeds from risk charges may be used to finance distribution, the scheduled life rule imposes no conditions in this regard, primarily because at the time the rule was adopted state insurance regulations effectively limited these charges to no more than .50%.[48] Recent action at the state level, however, has effectively rescinded this limitation.[49] In light of this action, and the concerns noted above, the Commission has determined to incorporate into the rule conditions comparable to those required of variable annuity separate accounts that deduct risk charges.

This provision also requires that the amount of the risk charge be disclosed in the prospectus and be at least one half of the maximum charge permitted under the contract. This requirement is identical to that contained in rule 6e–2(c)(1)(iii) and, in that context was intended to assure that the life insurer would not initially set an unrealistically low risk charge in order to induce persons to purchase a scheduled contract, and later raise the charge to the contract maximum. Petitioner would delete this requirement, although the explanation given does not address the concern noted above (*see* petition at 35). The Commission has determined not to make this change absent evidence that this concern is no longer valid or is not relevant to flexible, as opposed to scheduled, contracts. Comment on this issue is requested.

d. Paragraph (b)(13)(iv)—Redeemability and Contract Lapses. This provision provides relief from sections 27(c)(1) and 27(d) to the extent that the insurance nature of flexible contracts prevents them from being redeemable for a pro rata share of the separate account's assets within the meaning of these provisions.[50] The specific relief provided differs from the corresponding provisions of rule 6e–2(b) in two ways.

First, paragraph (b)(13)(iv)(B) provides that the life insurer may include a provision in the contract requiring that, if on a contract processing day [51] there is insufficient cash surrender value to pay the charges necessary to keep the contract in force until the next such day, that amount shall be applied to purchase a non-forfeiture option [52] specified by the life insurer. This provision differs from rule 6e–2(b)(13)(iv), which permits the contractholder to elect to receive either the contract's cash surrender value or any of several non-forfeiture options. In suggesting this approach, Petitioner argues that this different treatment for flexible contracts is appropriate because a lapse typically will occur only when cash surrender value is minimal and, under these circumstances, it is fair to permit the life insurer to recover some of its expenses in providing the grace period. The Commission agrees, but it has included a proviso in the rule that this approach may be used only where contract processing days occur not less frequently than monthly because it believes Petitioner's assumption of minimal cash surrender value is reasonable only if processing days occur at least that often.[53]

In addition, paragraph (b)(13)(iv)(B)(*2*) requires that before the life insurer may apply a contract's cash value to a non-forfeiture option in the manner described above, any excess paid for sales loading (calculated pursuant to paragraph (b)(13)(v)(A) and discussed in Section II.B.12.e.i., *infra*) shall be applied to keep the contract in force.[54]

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[44] *See e.g.*, Section 27(a)(2) of the Act [15 U.S.C. 80a–27(a)(2)], and paragraphs (b)(13)(ii) and (b)(13)(v) of this rule, discussed *infra*.

[45] For example, assume a contractholder with a life expectancy of at least 20 years purchases a flexible contract with a guideline annual premium of $1,000. The life insurer is permitted to deduct $1,800 in sales load (9% of $20,000) from the contractholder's first $20,000 in payments, regardless of the timing of those payments. If, and only if, the contractholder subsequently makes payments in addition to the $20,000, the life insurer can deduct a sales load from such additional payments, subject to the "stair step" provisions.

[46] Because the Commission had decided not to adopt the petition's approach to payments in excess of the guideline, the petition's "ratio" approach to this stair step provision is unnecessary and has not been included as part of this paragraph.

Similar to rule 6e–2(b)(13)(ii), the paragraph provides an exception to the "stair-step" requirements for increases caused by the grading of cash surrender values into reserves. The administrative history of the provision in rule 6e–2 does not provide specific guidance regarding the types of situations contemplated by this exception. Comment is requested on the types of situations in the context of flexible life in which it is anticipated that this exception would be operative.

[47] Rule 26a–3 was proposed for comment in Investment Company Act Rel. No. 14190 (Oct. 11, 1984).

[48] *See* Article VI, Section 7(5) of the former Variable Life Insurance Model Regulation.

[49] *See* Commentary on the Model Regulation at 108, *reprinted in* Appendix A of the petition.

[50] In addition, this section provides relief from sections 2(a)(32), 22(c) and Rule 22c–1.

[51] The term "contract processing day" is defined in paragraph (c)(13) generally as any day on which fees and charges under the contract are deducted from the separate account. *See* discussion in Section II.C.13., *infra*.

[52] Generally speaking, an non-forfeiture option is a contract feature required under state law which provides for the application of any cash value remaining upon lapse to purchase a paid-up life insurance policy.

[53] Thus, while the life insurer has discretion to designate how often contract processing days will occur under its contracts, this provision requires that if they occur less frequently than monthly, the contractholder (in the circumstances described in the text above) must be given the right to choose a cash refund or a non-forfeiture option.

[54] The Commission has determined not to incorporate two of Petitioner's suggestions into this paragraph. First, Petitioner would permit the life insurer upon a contract lapse to keep any excess sales loading, primarily because of "the absence of nonforfeiture options with cash value" (petition at

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If the contractholder subsequently makes a payment, paragraph (b)(13)(iv)(B)(*2*) permits the life insurer to recapture the excess sales loading previously applied to keep the contract in force.

Second, paragraph (b)(13)(iv)(C) specifies that, subject to other provisions of the rule, sales load may be deducted upon a redemption.[55]

e. Paragraph (b)(13)(v)—Surrender and Refund of Excess Sales Load Right and Conversion Right. This paragraph, like rule 6e–2 (b)(13)(v), provides exemption from the requirement of section 27(d) that the holder of a periodic payment plan certificate must have the right to surrender the certificate within the first 18 months after issuance and receive the value of his account plus any amount paid for sales loading which exceeds 15% of gross payments made. Relief is provided so long as the flexible contractholder is given a surrender and refund right and a conversion right, as discussed separately below.

i. Surrender and Refund Right. Paragraph (b)(13)(v)(A) provides that the contractholder must be given the right to surrender the contract within the first 24 months and receive its cash surrender value plus a refund of any "excess" paid for sales loading. This provision defines the "excess" amount of sales loading refundable as that amount of sales load which exceeds the sum of (1) the lesser of 30% of the guideline annual premium or 30% of actual payments made during the first contract period [56] plus (2) the lesser of 10% of the guideline annual premium or 10% of actual payments made during the second contract period plus (3) 9% of payments made during either the first or the second contract period in excess of the guideline annual premium in each period.

Petitioner's formula in the suggested rule for determining excess sales load subject to the refund right would permit the life insurer to retain sales load at higher rates where the contractholder chooses to pay less than the guideline annual premium during the first two contract year.[57] Petitioner asserts that this relief is necessary to protect life insurers since they will bear expenses in early contract years irrespective of the amount of payments made. While this concern appears valid, the Commission is reluctant to reduce the amount of refund to be received by contractholders. Moreover, a more direct way to address Petitioner's concern is to permit the life insurer to fix the timing and minimum amount of payments during the first two contract years. This approach has been incorporated into the definition of a flexible contract (*see* discussion in Section II.C.1., *infra*).

ii. Conversion Right. In addition to the surrender and refund right discussed above, paragraph (b)(13)(v)(B) of the rule provides that the contractholder must be given the right to convert the flexible contract during the first 24 months into a different type of life insurance policy. While the corresponding provision of rule 6e–2 specifies that conversion must be to a whole life policy, this provision of Rule 6e–3(T) permits the life insurer to specify conversion into any policy other than a variable contract. As noted by Petitioner, the purposes underlying the conversion right are satisfied so long as the contractholder has the right to convert to any type of fixed-benefit life insurance policy (*see* petition at 56).[58]

As further suggested by Petitioner, the new policy must provide for either the same death benefit or the same amount at risk to the life insurer as the flexible contract at the time of conversion and must provide for premiums based on the same issue age and risk classification of the insured as the flexible contract, subject to an equitable adjustment. The suggested rule would permit the life insurer to select whether the new policy would provide the same death benefit or amount at risk. The Commission believes, however, that the insured should have the option of making this determination, and this requirement has been included in paragraph (b)(13)(v)(B)(*1*).

f. Paragraph (b)(13)(vi)—Reserve Requirements. This provision provides exemption from the reserve requirements of rule 27d–1 [17 CFR 270.27d–1] imposed on the principal underwriter and depositor of periodic payment plan certificates subject to sections 27(d) or section 27(f) on terms identical to those of rule 6e–2(b)(13)(vi) and the suggested rule.

g. Paragraph (b)(13)(vii)—Notification of Surrender and Refund Right and Conversion Right. This provision implements the notification requirements of section 27(e) [15 U.S.C. 80a–27(e)] and rule 27e–1 thereunder [17 CFR 270.27e–1] by prescribing the form, manner of delivery, and timing of the notice of the surrender and refund right specified in paragraph (b)(13)(v)(A). It preserves the basic requirements of rule 6e–2(b)(13)(vii), with certain modifications discussed below.

The first modification is that this provision has been expanded to permit the notice requirement to be satisfied by providing the contractholder with a written document containing information comparable to that required by Form N–27I–1 [17 CFR 274.301]. This approach, which is based on a suggest by Petitioner, will permit life insurers to design the form of the notice they must provide.

A second modification to this provision relates to the timing of the required notice regarding the surrender and refund right. Petitioner points out that the requirement of rule 6e–2(b)(13)(vii)(B) that the notice be provided if the contractholder fails to make a scheduled payment is not meaningful in the case of a flexible contract. Alternatively, Petitioner suggests that the notice should be given generally within 30 days after the first and second contract anniversaries and that the surrender and refund right should not expire until not less than 15 days after the last notice is mailed (*see* petition at 69). While the nature of flexible contracts clearly warrants an alternative notice requirement, notice would appear most appropriately given at times during the surrender and refund period when a contract is likely to terminate. Accordingly, paragraph (b)(13)(vii)(B) requires that the notice be sent whenever the amounts available on

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56). To the extent this may be true, the Commission nevertheless believes it would be inequitable to permit the life insurer to keep any excess loading which it otherwise would have been obligated to refund had the contractholder surrendered (rather than lapsed). Although this suggestion has not been incorporated into the rule, paragraph (b)(13)(iv)(B)(*2*), as noted above, does permit the life insurer to apply any excess loading to keep the contract in force. If the application of any excess load is insufficient to keep the contract in force, the life insurer may then apply the excess load, together with any remaining cash surrender value, to the purchase of a specified non-forfeiture option.

Second, Petitioner's suggestion to insert the word "additional" to describe the type of "interest" charge that may not be included in any option that may be imposed automatically under a contract has not been incorporated because the basis for this suggestion is unclear and is not discussed in the petition.

[55] For purposes of clarity and consistency with the terminology of the Act, the term "redemption" has been substituted in various parts of the rule for the phrase "complete or partial surrender or withdrawal," as used in the suggested rule, and similar phrases used in rule 6e–2.

[56] The term contract period is defined in paragraph (c)(5) of the rule generally as the period from a contract issue or anniversary date to the earlier of the next following anniversary date or the contract's termination date. *See* discussion in Section II.C.5., *infra*.

[57] In the first contract year, the suggested rule defines excess sales loading as the amount in excess of the lesser of 30% of the guideline annual premium or 50% of actual payment, and in the second year these amounts are 10% and 17%, respectively.

[58] Of course, the conversion right would not be available to a contractholder while the grace period is in effect since in that circumstance paragraph (b)(13)(iv) is controlling.

any contract processing day to pay the charges authorized by the contract are insufficient to keep the contract in force until the next contract processing day.[59] Since Article IX, section 3 of the Model Regulation (*see supra* note 16) requires a report to be sent in similar circumstances, paragraph (b)(13)(vii)(B) indicates that the required notice and report may be sent together.

A third modification is that the rule permits notice to be provided through personal delivery by sales representatives, as an alternative to delivery of the notice by first class mail. Petitioner suggested this modification to conform the rule with common industry practice.

h. Paragraph (b)(13)(viii)—"Free Look" Period. In addition to the surrender and refund right and the conversion right discussed above, rule 6e–2(b)(13)(viii) requires that the contractholder be provided a 45 day "free look" period during which he may elect to return his scheduled contract and receive a refund of the present value of his gross payments, and a similar withdrawal right is set forth in paragraph (b)(13)(viii). As suggested by Petitioner, this provision permits the life insurer to design the form of the notice, provided it contains information comparable to that required by Form N–27I–2 [17 CFR 274.303].

This provision permits the life insurer to impose the investment risk during the free look period on the contractholder. The corresponding provision of rule 6e–2, on the other hand, imposes that risk on the life insurer, apparently because state law at the time rule 6e–2 was adopted mandated this result. Petitioner points out that this result is no longer required under state law,[60] and argues that it is inequitable to impose the investment risk during the free look period on the life insurer, especially given the possibility under flexible life of large voluntary initial payments which, if made, could impose substantial risk on the life insurer (*see* petition at 70). In view of the fact that the corresponding free look period of section 27 imposes all investment risk on the purchaser, Petitioner's suggestion has been incorporated into the rule.[61]

Finally, the Commission has determined not to revise the length of the withdrawal period as required by Petitioner. Rule 6e–2(b)(13)(viii)(A) permits the contractholder to elect withdrawal anytime up to the latest of (i) 45 days from the date of the application for insurance, (ii) 10 days from receipt of the contract by the insured, or (iii) 10 days from the mailing of the notice of right to withdraw. Petitioner's proposed rule would delete the first alternative solely on the ground that at the time rule 6e–2 was being developed, the Model Regulation had a similar requirement which has since been deleted (*see* petition at 71). However, the 45 day provision in rule 6e–2 already represents a shortening of the 60 day withdrawal period provided by section 27(f), and the Commission is reluctant to shorten this period further. Moreover, the fact that the flexible contractholder will bear the investment risk during the free look period further lessens any need to shorten the withdrawal period.

i. Paragraph (b)(13)(ix)—When Contract Submitted. Similar to Rule 6e–2(b)(13)(ix), this paragraph deems the postmark date on the envelope returning the contract to be the date the contract is submitted for surrender, conversion, or withdrawal.

13. Paragraph (b)(14)—Selection of Independent Public Accountant

Similar to the relief provided by paragraphs (b)(7) (selection of investment adviser) and (b)(8) (selection of board of directors) of the rule, this paragraph provides a limited exemption from section 32(a) [15 U.S.C. 80a–32(a)] to permit the initial selection of the account's independent public accountant to be made without prior contractholder approval. The relief is identical to that contained in rule 6e–2(b)(14) and the suggested rule.

14. Paragraph (b)(15)—Trust Accounts

This provision provides certain exemptions specifically tailored for any separate account organized as a unit investment trust ("trust account"). The relief is similar to that contained in rule 6e–2(b)(15), except that relief also is provided to permit (1) trust accounts to be used to fund either scheduled life or flexible life and (2) underlying funds to offer their shares to both variable life separate accounts and variable annuity separate accounts. While this latter practice, commonly referred to as "mixed funding," is precluded by the literal language of rule 6e–2(b)(15), the Commission has granted exemptions on several occasions permitting this practice.[62] The conditions under which this relief has been granted have been included in the rule, with limited exceptions.[63]

C. *Paragraph (c)—The Definitions.* Paragraph (c) of the rule, like the corresponding paragraph of rule 6e–2, defines various terms used in the rule.

1. Paragraph (c)(1)—Definition of Flexible Premium Variable Life Insurance

This provision defines a flexible contract for purposes of the rule as a contract of life insurance, subject to regulation under the insurance laws of every jurisdiction in which it is offered, which contains certain features discussed below. Like rule 6e–2(c)(1), this provision defines the type of contract for which the rule's exemptions are designed. Although comparable to the definition in rule 6e–2, the definition of flexible life has been modified to reflect the differing character of the product. The specific language of the definition is based in large part on the suggested rule, with certain modifications discussed below.

Paragraph (c)(1) states that a flexible contract shall provide for payments which are not fixed by the life insurer as to both timing and amount. Limited exceptions from these requirements are provided to permit the

[59] Of course, a notice would not be required to be sent on each day during a grace period, rather only at the beginning of each grace period.

[60] *See* Model Regulation, Article IV, section 3(a)(5).

[61] Although the language of the suggested rule requires the life insurer to refund any contract fees and charges deducted from premium payments, it would not require the life insurer to refund any fees or charges deducted from cash value. The Commission believes such a result is inconsistent with the intent of section 27, and it has added a new provision to Petitioner's suggested language, paragraph (b)(13)(viii)(A)(*3*), to preclude this possibility.

[62] *See, e.g.*, Investment Company Act Rel. No. 13580 (Oct. 18, 1983); Investment Company Act Rel. No. 13464 (Aug. 26, 1983). Since the prohibition in rule 6e–2(b)(15) against mixed funding was based in part on concerns that conflicts could arise between the interests of variable life and variable annuity contract-holders, recipients of exemptive orders have represented, among other things, that the life insurer would monitor for the existence of any material irreconcilable conflicts and, if one arose, would notify the separate account and take appropriate action, at its own cost, to remedy such conflict.

[63] The Commission is not codifying three conditions contained in individual applications and requests comment on whether these omission are appropriate. First, the requirement that state insurance authorities be notified of mixed funding has not been included because the Commission is not aware of any problems under state law that have arisen in connection with mixed funding. Second, the rule does not require the life insurer to obtain an opinion of counsel to the effect that mixed funding will not have any adverse federal tax consequences because several life insurers recently have advised the staff that provisions of the Tax Reform Act of 1984 [P.L. 98–369] have effectively eliminated the need for such an opinion by clarifying the consequences of mixed funding. Finally, the rule does not explicitly require prospectus disclosure regarding certain risks of mixed funding because the Commission does not believe it would be appropriate to specify disclosure requirements in this type of rule, although such disclosure may nevertheless be appropriate.

life insurer to fix the timing and minimum amount of payments for the first two contract periods (*see* discussion in Section II. C.5., *supra*) and to prescribe a reasonable minimum amount for any additional payment.

While Petitioner expects that generally *both* the amount and timing of payments will be flexible and determined by the contractholder (*see* petition at 16), the definition does permit the life insurer to fix the timing or the amount of payments, but not both. Life insurers should be aware, however, that the definition is not intended to include a contract which provides only a limited range of flexibility with respect to either timing or amount of payments, while the other element is set by the life insurer, or a contract which provides a very limited range of flexibility with respect to both timing and amount of payments. Such contracts are effectively scheduled contracts and may not rely on this rule or use the guideline annual premium approach for determining permissible sales load.

Paragraph (c)(1)(ii) states that a flexible contract shall provide a death benefit the amount or duration of which may vary to reflect the separate account's investment experience.[64]

Paragraph (c)(1)(iii) states that the cash value of a flexible contract must vary to reflect the investment experience of the separate account. This requirement is also contained in rule 6e-2(c)(1)(i).[65]

The rule does not include a proviso to paragraph (c)(1), as suggested by Petitioner, stating that a flexible contract shall not include that portion of a contract treated under state law as providing any annuity benefits other than as a settlement option. The petition fails to explain the purpose or need for such a provision. Comment is requested on the need for such a provision.

2. Paragraph (c)(2)—Definition of Incidental Insurance Benefits

This provision defines the term "incidental insurance benefits" in generally the same way this term is defined in rule 6e-2(c)(2), except that, consistent with the general design of flexible life, the requirement that the duration of the benefits may not vary with investment experience has been deleted.

Petitioner would define incidental insurance benefits as insurance benefits "lacking discrete cash values that vary" in accordance with investment experience (petition at 75). This approach, according to Petitioner, would permit incidental benefits the duration and amount of which may change with investment experience. Although it is, as noted above, consistent with the design of flexible life to permit the duration of incidental benefits to vary with investment experience, the petition does not explain why this design also necessitates that the amount of the benefits so vary nor does the petition define the concept of "discrete" cash values. Moreover, if the amount of an incidental benefit changes with investment experience, it is questionable whether such a benefit should be treated as "fixed" for purposes of the rule as suggested by Petitioner (*see* petition at 75). In light of these concerns, the Commission has not incorporated Petitioner's suggestion into the rule, although comment is requested on the matters raised above.

3. Paragraph (c)(3)—Definition of Guaranteed Death Benefit

The term "guaranteed death benefit" is defined generally as any amount guaranteed by the life insurer to be paid upon death without regard to the investment experience of the separate account. Although, as noted above in connection with the definition of a flexible contract (*see supra* note 65), a flexible contract is not required to include a guaranteed death benefit, this provision recognizes that life insurers nevertheless may elect to include this feature in their contracts. This definition corresponds to the definition of "minimum death benefit" in rule 6e-2(c)(3), and except for several non-substantive changes, it is identical to the definition suggested by Petitioner.

4. Paragraph (c)(4)—Definition of Sales Load

Similar to rule 6e-2(c)(4), this provision defines "sales load" for purposes of the rule as the difference between payments made and the sum of certain enumberated deductions deemed not to be sales load. Given the scheduled nature of payments under scheduled life, rule 6e-2(c)(4) measures sales load at the time payments are made. Because sales and other expenses under flexible contracts may not necessarily be deducted from payments, this provision measures sales load during a contract period, as defined in paragraph (c)(5) (*see* discussion in Section II.C.5., *infra*).

For the most part, the deductions are similar to those permitted by rule 6e-2(c)(4). This provision, however, differs from rule 6e-2(c)(4), and the suggested rule, in several respects. First, paragraph (c)(4)(i) refers to increases in cash value for that contract period that are "attributable to payments made" in order to exclude from sales load any increase in cash value attributable to a dividend accumulation.[66] Second, paragraph (c)(4)(ii) specifies the 1980 CSO Table for purposes of the cost of insurance deduction. Petitioner urges that the rule, like rule 6e-2, specify the 1958 CSO Table. The reason for this change is discussed in Section II.C.8., *infra*. Third, paragraph (c)(4)(vii) permits deduction of an additional charge in the nature of an interest charge when payments which may be required by the life insurer during the first two contract periods are made more frequently than annually but limits this charge to payments made to fulfill any minimum payment that may be required.[67] The suggested rule would incorporate the standard of rule 6e-2(c)(4)(viii), which permits deduction of an additional interest or service charge or administrative fee assessed when payments are made more frequently than annually. Although the interest portion of this type of deduction appears appropriate in the context of a scheduled contract, which is priced on the assumption of annual payments, it appears less relevant, and perhaps inappropriate, when the contract does not require scheduled payments. Accordingly, a deduction is permitted only when the life insurer, pursuant to paragraph (c)(1)(i), requires minimum payments during the first two contract periods.[68]

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[64] In the case of a flexible contract with an Option I death benefit, for example, the amount of the death benefit will vary based on investment experience only in the circumstances described *supra* note 33. Similarly, a flexible contract could guarantee that so long as the prescribed payments are paid, the contract will provide for a minimum death benefit. In such a case, while the amount of any death benefit in excess of the guaranteed death benefit would vary based on investment experience, the duration of that death benefit would vary only based on the incidence of the prescribed payments.

[65] As suggested by Petitioner (*see* petition at 34-35), the definition of a flexible contract does not require the contract to provide a guaranteed minimum death benefit of a stated amount as does rule 6e-2(c)(1)(ii).

[66] *See* discussion in Section II.A., *supra*.

[67] Thus, if a contract required a $1000 payment in the second year, and a contractholder made a $400 payment on January 1 (the normal due date) and a $750 payment on June 1, an interest charge would be placed on $600 ($1000−$400=$600). Because this charge is designed to compensate the life insurer for the time value of the money it anticipated collecting on the normal due date (January 1), no charge should be assessed against the first $400 payment, but only against $600 of the second payment which is the amount the life insurer anticipated receiving 5 months earlier.

[68] The deduction for an additional service charge or administrative fee in the case of frequent payments has not been included in this part of the definition because a deduction for these items would be allowed by paragraph (c)(4)(iv).

Finally, two changes suggested by Petitioner have not been incorporated into this definition. The first change concerns the rate of return assumed in calculating the deduction for dividends paid under a participating flexible contract. The suggested rule replaces the "gross annual investment return" standard of rule 6e–2(c)(4)(ix) with a "net investment earnings rate", thereby apparently permitting a greater dividend deduction (and correspondingly a higher sales load) than rule 6e–2.[69] This basis for this particular change is not discussed in the petition and appears unwarranted. Second, Petitioner's "catch-all" deduction for unforeseen fees and charges set forth in item (c)(4)(xii) of the suggested rule has not been incorporated into the rule. The Petitioner did not present adequate justification for this deduction and the Commission can see no need for it at this time.

5. Paragraph (c)(5)—Definition of Contract Period

As noted above, the rule makes frequent use of the term "contract period," which is defined by this provision generally as the period from a contract issue or anniversary date to the earlier of the next following anniversary date or the last day of the grace period. The language suggested by Petitioner has been modified slightly so as to clearly encompass the first year a contract is in effect.

6. Paragraph (c)(6)—Definition of Variable Death Benefit

This provision defines the term "variable death benefit" generally as the death benefit payable under a flexible contract which varies to reflect the investment experience of the separate account and which would be payable in the absence of any guaranteed death benefit. This term is used in paragraphs (c)(2) and (c)(4)(iii) of the rule and the definition is substantively identical to rule 6e–2(c)(6) and item (c)(6) of the suggested rule.

7. Paragraph (c)(7)—Definition of Payment

Like rule 6e–2(c)(7), paragraph (c)(7) defines "payment" in two ways depending on where it is used in the rule. Generally, "payment" means gross premiums paid. For purposes of calculating sales load and any refund, "payment" means gross premiums less certain charges for substandard risks, incidental insurance, or more frequent than annual payments. This bifurcated approach is intended to assure that the sales load and refund provisions will apply only to the amount of sales load charged for the variable benefits. Excluded for all purposes from the definition is that portion of the payment deducted by the insurer to recapture excess sales loading applied by the life insurer to maintain contract benefits pursuant to paragraph (b)(13)(iv)(B)(*2*).[70]

The rule does not incorporate Petitioner's suggestion that the three charges noted above be excluded from the definition of payment only if they are deducted from payments as they are made. Petitioner argues that this approach is necessary because where such charges are deducted from cash value, it would be impossible to attribute them to particular payments. Attribution is not necessary in this case, or generally for any purpose under the rule, however, because the rule uses the guideline annual premium, rather than payments made, as the concept against which to measure compliance. Moreover, Petitioner's suggestion would in effect permit different amounts of sales load to be deducted from identical flexible contracts based solely on the timing of the deduction of these three charges.[71]

8. Paragraph (c)(8)—Definition of Guideline Annual Premium

As noted above (*see* Section II.B.12.a., *supra*), the design of a flexible contract makes it necessary to create a concept corresponding to scheduled payments under rule 6e–2. This construct is the "guideline annual premium," which this paragraph defines generally as the level annual payment necessary to provide the future benefits under the contract through its maturity. Because it is a future-oriented concept, the guideline annual premium necessarily must include certain assumptions as to the timing and amount of payments. In the Commission's view, the assumptions used should be designed, to the maximum extent possible, to produce a guideline annual premium that could reasonably be expected to be paid by a purchaser of a flexible contract.

In defining the guideline annual premium, paragraph (c)(8)(i)(A) provides that payments are assumed to be fixed by the life insurer both as to timing and amount.[72] The timing of each payment is, of course, assumed to be annual, while the amount of each payment includes four additional assumptions specified by paragraph (c)(8)(i)(B). They are: (1) Payments are based on the 1980 CSO Table; (2) net investment earnings are earned at the greater of 5% or the rate specified in the contract at issuance; (3) sales load is deducted at the rate specified in the contract; and (4) various fees and charges under the contract are deducted at rates specified in the contract.[73]

The definition is similar to that suggested by Petitioner, except it uses different assumptions for the CSO Table used [74] and net investment earnings.[75] The practical effect of not using Petitioner's assumptions is that the rule permits a smaller guideline annual premium than would be permitted by the suggested rule. The Commission believes this is appropriate because Petitioner's assumptions result in a guideline annual premium that exceeds the amount that could reasonably be expected to be paid by a purchaser of a flexible contract, as discussed below.

Petitioner's definition of the guideline annual premium is "derived from" section 101(f) (now section 7702) of the Code (petition at 45) which, as relevant here, prescribes the *maximum* amount which may be paid under a flexible contract and still allow it to be taxed as "life insurance." [76] Since the Code prescribes a *maximum* amount, it seems unlikely at best that a contractholder could reasonably be expected to make payments in excess of the Code limitation, even assuming that the life insurer would permit such payments, because to do so would put the tax status of the contract in jeopardy. Yet Petitioner's formulation of the guideline annual premium in fact produces a

[69] The assumed gross annual investment return used in calculating this deduction has been increased from 4% to %5 to reflect a more reasonable expectation of return. *See* discussion in Section II.C.8., *infra*.

[70] This treatment is necessary to ensure that the recaptured sales load will not be treated as "new" sales load. The circumstances under which sales load may be recaptured are described in Section II.B.12.d., *supra*.

[71] In addition, since the Commission, as noted above (*see* Section II.C.4, *supra*), has not incorporated Petitioner's "catch-all" deduction into the rule, the suggested rules's reference to that charge has not been included in this provision.

[72] The amount of each payment is equal to the payment that would be required under a comparable scheduled contract.

[73] A life insurer offering a scheduled contract would make assumptions concerning these four items in formulating the amount of each scheduled payment under the contract.

[74] The suggested rule assumes payments are based on the 1958 CSO Table.

[75] The suggested rule assumes net investment earnings at 4%.

[76] *See supra* note 18. When it originally incorporated the guideline annual premium concept into the Code, Congress explained that its purpose was to prevent flexible contracts that were "overly investment oriented." *S. Comm. on Finance Report on the Tax Equity and Fiscal Responsibility Act of 1982*, S. Rep. No. 494, 97th Cong., 2d Sess. 352–53 (1982) (Vol. 1).

guideline annual premium that is greater than the amount permitted to be paid by the Code. This is because Petitioner's guideline annual premium, although identical in all other respects to the corresponding Code concept, uses different assumptions for the CSO Table [77] and net investment earnings [78] that produce a larger guideline annual premium. The practical effect of these differences is that the suggested rule permits compliance with the sales load limitation to be measured against a guideline annual premium that would not, and in fact under the Code could not, reasonably be expected to be paid by a flexible contractholder. Formulating the guideline annual premium in this manner, in the Commission's view, would be inconsistent with the protection of investors and the policy and provisions of the Act.

On the other hand, merely to conform the assumptions used in the rule to those in the Code similarly would not produce a guideline annual premium approaching reasonable expectations. As noted above, the Code prescribes the *maximum* amount which a contractholder may pay. If the definition of guideline annual premium in the rule incorporated the same assumptions as are used in the Code, it would produce a guideline annual premium that would be based on the questionable assumption that an insurer could reasonably anticipate the contractholder paying the maximum amount permitted by the Code. While the Commission has accepted the Code-derived guideline annual premium concept as an appropriate tool for measuring permissible sales load, the differing purposes and objectives of the Code and the Act preclude using the same assumptions in actually calculating the guideline annual premium.

The Commission believes that, on balance, use of the 1980 CSO Table and the 5% net investment rate assumptions produces a reasonable guideline annual premium against which to measure sales load compliance. Notwithstanding Petitioner's assertion that the 1958 CSO Table "remains the standard mortality table in use in the insurance industry today" (petition at 37), the 1980 CSO Table is the standard which most closely reflects the actual mortality experience upon which flexible life will be priced. In fact, a number of life insurers already are using this table and, as Petitioner points out, it will become mandatory in 1989 (*see* petition at 38). Regarding the net investment rate assumption, any particular rate of return necessarily must be somewhat arbitrary. The 5% rate, however, is within the range of assumed rates specified in the Code and is itself a conservative estimate of long-term investment performance.[79] In the Commission's view, these factors support use of the 1980 CSO Table and the 5% net investment rate assumptions to limit the guideline annual premium to an amount that can reasonably be expected to be paid by purchasers of flexible life.

As discussed above, the 1980 CSO Table has been specified in four places in the rule.[80] The Commission believes this treatment is appropriate in light of its primary decision to use the 1980 CSO Table in the definition of guideline annual premium. It must be emphasized, however, that in specifying the 1980 CSO Table in the rule, the Commission is not attempting to require life insurers to use that table for insurance-related purposes such as calculating the cost of insurance or valuing reserves. Rather, in the four places where the 1980 CSO Table is specified, it is for the sole purpose of providing an assumption for purposes of calculating sales load under the rule.

In addition to the matters discussed above, several other changes have been made to Petitioner's suggested definition of guideline annual premium. First, the terminology used to describe the maturity date for purposes of the guideline annual premium and the guideline single premium (*see* Section II.C.9., *infra*) has been standardized through a common cross-reference to the description in paragraph (c)(8)(ii)(B). Second, the initial sentence of paragraph (c)(8)(ii) has been revised to provide that the provisions of that part of the rule are designed to clarify the "future benefits under the contract" referred to in the introductory language of paragraph (c)(8)(i).[81]

9. Paragraph (c)(9)—Definition of Guideline Single Premium

The term "guideline single premium" is designed as the single amount payable which would provide the future benefits under the contract until maturity. Otherwise, this amount is computed on the same basis as the guideline annual premium.

10. Paragraph (c)(10)—Definition of Cash Value

"Cash Value" is defined generally as the amount available in cash upon a voluntary termination of a contract, without regard to termination charges or deduction for any policy loans. The language used is substantively identical to the corresponding item in the suggested rule.

11. Paragraph (c)(11)—Definition of Cash Surrender Value

"Cash surrender value" is defined essentially as the cash value of a contract less any sales load or other charges that may be deducted upon redemption. It is a companion provision to the definition of cash value (*see* Section II.C.10., *supra*). The definition is substantively identical to the corresponding item of the suggested rule.

12. Paragraph (c)(12)—Definition of Net Investment Earnings

The term "net investment earnings" is used in paragraphs (c)(4)(i) and (c)(8)(i)(B) of the rule and is defined as investment earnings in the separate account after deduction of any asset charges. It is similar to the corresponding item of the suggested rule, with certain modifications. First, the phrase "interest rate guarantees" has been deleted from the list of examples of asset charges to compute net investment earnings because this concept is not explained in the petition

[77] The suggested rule specifies the 1958 CSO Table irrespective of whether that table or the 1980 CSO Table is actually used in the contract design whereas section 7702 requires use of the same table that is guaranteed under the contract.

[78] The suggested rule assumes net investment earnings at the annual effective rate of 4% whereas section 7702 assumes: (1) The greater of 4% or the minimum rate or rates guaranteed upon issuance of the contract for purposes of the Code concept corresponding to the guideline annual premium, and (2) the greater of 6% or the minimum rate of issuance for purposes of the Code concept which corresponds to the guideline single premium used in this rule (*see* discussion in section II.C.9., *infra*).

[79] For example, the rate of return for an unmanaged portfolio of common stocks averaged 12.2% for the 32 20-year periods commencing December 31, 1925 through December 31, 1956. L. Fisher & J. Lorrie, *A Half Century of Returns on Stocks and Bonds* 24–25 (1977). A 5% return was exceeded in all but two of these 32 periods.

[80] See paragraphs (b)(13)(i), (c)(4)(ii), (c)(8)(i)(B) and (d)(1)(i).

[81] In addition, the references to permissible charges in paragraph (c)(8)(i)(B) does not include item (c)(4)(xii) of the suggested rule which, as discussed above (*see* Section II.C.4., *supra*), has not been incorporated into the rule. In addition, this paragraph includes a deduction for item (c)(4)(viii) (a charge where payments are made more frequently than annually, *see* Section II.C.4., *supra*) of the suggested rule only during the first two years of the contract because this is the only period during which such a charge may be made (*see* Section II.C.1., *supra*). A deduction for item (x) has not been included in the rule because it is unclear why the definition of sales load under a participating flexible contract should include a deduction for amounts that in fact will be credited to the contract. Comment on the latter matter is requested.

and its relevance to flexible life is not readily apparent. Second, the last clause of the definition has been clarified to specifically exclude deductions for sales load in the form of asset charges. Finally, this paragraph specifically excludes for purposes of the definition of sales load in paragraph (c)(4) any asset charge deducted pursuant to paragraphs (c)(4)(ii)–(viii) in order to prevent double-counting of any such charges.

13. Paragraph (c)(13)—Definition of Contract Processing Day

The term "contract processing day" is used several times in paragraph (b)(13) and this provision defines it as any day on which charges under the contract are deducted from the separate account.[82]

D. *Paragraph (d)—The Computational Rules.* Paragraph (d) sets forth several computational rules to be used in applying rule 6e-3(T). These computational rules have no counterpart in rule 6e-2, and are based largely on the suggested rule, with certain modifications discussed below.

1. Paragraph (d)(1)—Subsequent Sales Loads

As discussed above (*See* Section II.B.12.a., *Supra*), the rule provides generally that sales load imposed on a flexible contract may not exceed 9% of the sum of twenty guideline annual premiums. This provision permits sales load to be deducted other than from payments, *i.e.*, as a subsequent sale load.[83] This paragraph essentially provides that the 9% limit on sales load shall be deemed satisfied with respect to any subsequent sales load if the amount of sales load deducted (together with any front-end load that may have been deducted previously) is not more than the amount that could have been deducted as a front-end sales load.[84]

Paragraph (d)(1)(ii) provides relief from the "stair step" requirements of section 27 for subsequent sales loads and corresponds to the relief provided by paragraph (b)(13)(ii) for front-end sales loads (*see* discussion in Section II.B.12.b., *supra*). It provides that the amount of any subsequent sales load deducted shall not exceed the proportionate amount of sales load previously deducted pursuant to the same method.[85]

Petitioner suggests an "economic value approach" in determining whether a subsequent sales load satisfies the rule's sales load requirements. Under this approach, any subsequent sales load would be permitted so long as the contractholder would be in the same financial condition as would have resulted from a completely front-end sales loaded contract (*see* petition at 60). Petitioner acknowledges that this approach would not preclude the possibility that sales load would exceed 9% of twenty guideline payments because the life insurer would be entitled, in effect, to receive the benefit of positive investment experience (*see* petition at 58).

Petitioner's "economic value approach", however, is inconsistent with the conditions under which both variable annuity and scheduled life issuers have been permitted to impose a subsequent sales load. Consistent with section 27 of the Act, permissible sales load in all such cases has been limited to 9% of payments, and the Commission codified this condition for variable annuity separate accounts imposing a deferred sales load in rule 6c–8(b)(1) under the Act [17 CFR 270.6c–8(b)(1)]. Moreover, while a deferred load could be considered a deterrent to redemption that is inconsistent with the intent of section 22(e) of the Act, relief to deduct a deferred load has been deemed appropriate in part because deferring the sales load benefits investors by permitting them to receive any positive investment experience on the portion of the sales load which is deferred. Under Petitioner's approach, however, the life insurer, rather than the contractholder, would be the primary beneficiary of any such positive investment experience.[86] Because the petition offers no persuasive arguments to support reversal of the Commission's long-standing position, and does not justify why issuers of flexible contracts should be treated differently from other issuers, this change has not been incorporated into the rule.[87]

2. Paragraph (d)(2)—Sales Load on Changes on Contract Benefits

This paragraph prescribes the computational rules to be used in determining whether the sales load on an increase in or an addition of insurance benefits requested by a contractholder after issuance of the contract complies with the requirements of the rule. Paragraph (d)(2)(i) permits sales load in such a case provided that during each contract period it does not exceed the sales load that would be permissible under the "base test contract" and the "incremental test contract," and that the total sales load does not exceed the sum of the corresponding loads under these test.[88]

Generally speaking, paragraph (d)(2)(iii)(B) defines the base test contract as the actual contract before the increase or charge occurred, while paragraph (d)(2)(iii)(C) defines the incremental test contract as the actual contract after the increase or charge. Included in the definition of the latter test is a requirement that the amount of sales load deducted shall not exceed 50% of the amount otherwise permitted by the rule and an exemption from the surrender, conversion, and withdrawal provisions set forth in paragraphs (b)(13)(v)(A), (b)(13)(v)(B), and (b)(13)(viii). On the other hand, if the increase or change is subject to those provisions, the proviso to paragraph (d)(2)(iii)(C) permits 100% of the sales load otherwise permitted by the rule to be deducted.[89]

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[82] Petitioner also requests that the Commission include in the rule a provision which would define the term "insurance company," as otherwise defined by section 2(a)(17) of the Act [15 U.S.C. 80a-2(a)(17)], to include life insurers whose primary business is the writing of flexible or scheduled life. Because this request raises issues applicable to insurers offering any type of variable insurance product, the Commission does not believe it is appropriate to address this matter in a flexible life rule.

[83] As discussed *supra* at note 16, the petition identifies three types of subsequent sales load that are expected to be imposed on flexible contracts: (1) A deferred sales load upon full or partial redemption; (2) a periodic deduction directly from a contract's cash value; or (3) a combination of (1) and (2) (*see* petition at 57).

[84] Paragraph (d)91)(i) is the operative provision. It contains two assumptions which have the effect of permitting the amount of a subsequent load to be calculated on the assumption that a payment in the amount of a guideline annual premium or a guideline single premium had been made during each contract period even if one had not been made.

[85] For example, if a contract were subject to both a daily charge for sales load and a deferred sales load, the amount of any daily charge could not exceed the proportionate amount of any prior daily charge and the amount of any deferred sales load could not exceed the proportionate amount of any prior deferred sales load. On the other hand, the amount of any deferred sales load could exceed any daily charge, and vice versa.

[86] While permitting the life insurer to be the primary beneficiary of positive investment experience, Petitioner's approach would not require the life insurer to assume the risk of negative investment experience.

[87] Since the rule does not incorporate Petitioner's "economic value approach," any life insurer deducting sales load periodically from cash value must monitor the aggregate amount of sales load deducted in order to ensure it does not exceed the 9% limitation on sales load.

[88] Paragraph (d)(2)(ii) prescribes certain assumptions regarding payments and redemptions to be used in applying paragraph (d)(2)(i). As suggested by Petitioner, the two tests "together test representative payment patterns and otherwise police abuses contrary to the purpose and policies of the 1940 Act" (petition supplement at 15).

[89] The reference to paragraph (d)(1)(ii) in the first sentence of paragraph (d)(2)(i) has the effect of permitting the "stair step" requirement of the rule and Act (*see* discussion in Section II.D.1., *supra*) to be applied independently to any subsequent sales load imposed in connection with an addition of an

Continued

Finally, paragraph (d)(2)(iii)(D) specifically precludes reliance on this provision in connection with any automatic changes in insurance benefits, regardless of whether the contractholder has the opportunity to disapprove such changes, and any exchange of one type of flexible contract for another, such as a change from an Option I to an Option II contract.

Petitioner's suggested rule differs from these requirements in three respects. First, the suggested rule incorporates Petitioner's "economic value approach" (*see* discussion in Section II.D.1., *supra*) in the item corresponding to paragraph (d)(2)(i)(A) of the rule. In light of the Commission's decision not to incorporate that approach elsewhere in the rule, it has not been incorporated here.

Second, Petitioner's definition of the incremental test contract would permit life insurers to deduct a full sales load on any increase or change under a contract while at the same time dispensing with any surrender, conversion, or free look right. Petitioner's arguments in favor of this treatment do not, in the Commission's view, support the requested relief. The petition states that these rights are not necessary in the case of an increase or change because these actions involve an adjustment to an existing contract with which the contractowner "is presumably experienced and satisfied" (petition supplement at 19). On the other hand, this same familiarity with the contract apparently does not affect the need for a full sales load because, according to Petitioner, the sales effort "usually will involve additional sales effort * * * [which] will approach, and in some cases be equivalent to, the sales effort required for a new sale * * * " (petition supplement at 6–7). The Commission believes that if a full sales load is to be imposed on an increase or change, the surrender, conversion, and free look rights ought to be provided to the contractholder, but that the need for these protections diminishes to the extent that less than a full sales load may be deducted. On balance, the Commission believes the approach of paragraph (d)(2)(iii) discussed above is a reasonable compromise in this regard.

One of Petitioner's arguments in support of a full sales load on an increase or change is of particular concern to the Commission. Petitioner implies that if the rule permits less than a full sales load, the commissions paid to sales personnel will be correspondingly decreased and thus sales personnel will have an incentive to approach contractholders "and suggest the purchase of a second policy where an increase or addition would be suitable, thereby earning the higher commission" (petition supplement at 7). While the Commission recognizes that sales practices and commission schedules for flexible life are not the immediate subject of this rule, in its view the practice described above would be inconsistent with the standards of conduct expected of persons selling insurance or any other products subject to the federal securities laws.

Finally, Petitioner would permit sales load to be imposed on two types of increases or changes specifically excluded by paragraph (d)(2)(iii)(D) of the rule. Regarding sales load on automatic changes not specifically declined by the contractholder, a grant of additional relief does not seem appropriate because it appears that any sales effort in connection with such an adjustment would be minimal. Regarding sales load on changes from a contract with an Option I death benefit to one with an Option II death benefit (*see* Section I, *supra*), the basis for Petitioner's proposed method of making the change, which appears highly disadvantageous to the contractholder, is not explained or justified and thus has not been incorporated into the rule.

**List of Subjects in 17 CFR Parts 270 and 274**

Investment companies, Reporting and recordkeeping requirements, Securities.

**Text of Rule 6e–3(T) and Amendments to Rule 6c–3 and Form N–6EI–1**

**PART 270—[AMENDED]**

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

1. By adding new § 270.6e–3(T) to read as follows:

**§ 270.6e–3(T) Temporary exemptions for flexible premium variable life insurance separate accounts.**

(a) A separate account, and its investment adviser, principal underwriter and depositor, shall, except as provided in paragraph (b) of this Rule, comply with all provisions of the Investment Company Act of 1940 [15 U.S.C. 80a–1 et seq.] and the rules under it that apply to a registered investment company issuing periodic payment plan certificates if:

(1) It is a separate account within the meaning of section 2(a)(37) of the Act [15 U.S.C. 80a–2(a)(37)] and is established and maintained by a life insurance company pursuant to the insurance laws or code of (i) any state or territory of the United States or the District of Columbia, or (ii) Canada or any province thereof, if it complies with Rule 7d–1 [17 CFR 270.7d–1] under the Act (the "life insurer");

(2) The assets of the separate account are derived solely from (i) the sale of flexible premium variable life insurance contracts ("flexible contracts") as defined in paragraph (c)(1) of this Rule, (ii) the sale of scheduled premium variable life insurance contracts ("scheduled contracts") as defined in paragraph (c)(1) of Rule 6e–2 [17 CFR 270.6e–2] under the Act, (iii) funds corresponding to dividend accumulations with respect to such contracts, and (iv) advances made by the life insurer in connection with the operation of such separate account;

(3) The separate account is not used for variable annuity contracts or other contract liabilities not involving life contingencies;

(4) The separate account is legally segregated, and that part of its assets with a value approximately equal to the reserves and other contract liabilities for such separate account are not chargeable with liabilities arising from any other business of the life insurer;

(5) The value of the assets of the separate account, each time adjustments in the reserves are made, is at least equal to the reserves and other contract liabilities of the separate account, and at all other times approximately equals or exceeds the reserves and liabilities; and

(6) The investment adviser of the separate account is registered under the Investment Advisers Act of 1940 [15 U.S.C. 80b–1 et seq.].

(b) A separate account that meets the requirements of paragraph (a) of this Rule, and its investment adviser, principal underwriter and depositor shall be exempt with respect to flexible contracts funded by the separate account from the following provisions of the Act:

(1) Section 2(a)(35) [15 U.S.C. 80a–2(a)(35)], *Provided, however,* That the term "sales load," as used in the Act and rules under it, shall have the meaning set forth in paragraph (c)(4) of this Rule. *And provided further,* That in connection with any sales load deducted pursuant to paragraph (d)(2) of this Rule, the separate account and other persons shall be exempt from Sections 2(a)(32) [15 U.S.C. 80a–2(a)(32)], 12(b) [15 U.S.C. 80a–12(b)], 22(c) [15

insurance benefit requested by a contractholder. Thus, the proportionate amount of sales load deducted upon an addition may not exceed the proportionate amount deducted in connection with a prior addition.

U.S.C. 80a–22(c)], 26(a) [15 U.S.C 80a–26(a)], 27(c)(1) [15 U.S.C. 80a–27(c)(1)], and 27(d) [15 U.S.C. 80a–27(d)] and Rules 12b–1 [17 CFR 270.12b–1] and 22c–1 [17 CFR 270.22c–1].

(2) Section 7 [15 U.S.C. 80a–7].

(3) Section 8 [15 U.S.C. 80a–8], to the extent that:

(i) For purposes of paragraph (a) of Section 8, the separate account shall file with the Commission a notification on Form N–6EI–1 [17 CFR 274.301] which identifies the separate account; and

(ii) For purposes of paragraph (b) of Section 8, the separate account shall file with the Commission the form designated by the Commission within ninety days after filing the notification on Form N–6E–1, *Provided, however,* That if the fiscal year of the separate account ends within this ninety day period, the form may be filed within ninety days after the end of such fiscal year.

(4) Section 9 [15 U.S.C. 80a–9], to the extent that:

(i) The eligibility restrictions of Section 9(a) shall not apply to persons who are officers, directors or employees of the life insurer or its affiliates and who do not participate directly in the management or administration of the separate account or in the sale of flexible contracts; and

(ii) A life insurer shall be ineligible under paragraph (3) of Section 9(a) to serve as investment adviser, depositor of or principal underwriter for the separate account only if an affiliated person of such life insurer, ineligible by reason of paragraph (1) or (2) of Section 9(a), participates directly in the management or administration of the separate account or in the sale of flexible contracts.

(5) Section 13(a) [15 U.S.C. 80a–13(a)], to the extent that:

(i) An insurance regulatory authority may require pursuant to insurance law or regulation that the separate account make (or refrain from making) certain investments which would result in changes in the sub-classification or investment policies of the separate account;

(ii) Changes in the investment policy of the separate account initiated by its contractholders or board of directors may be disapproved by the life insurer, if the disapproval is reasonable and is based on a good faith determination by the life insurer that:

(A) The change would violate state law; or

(B) The change would not be consistent with the investment objectives of the separate account or would result in the purchase of securities for the separate account which vary from the general quality and nature of investments and investment techniques used by other separate accounts of the life insurer or of an affiliated life insurance company with similar investment objectives;

(iii) Any action described in paragraph (b)(5) (i) or (ii) of this Rule and the reasons therefor shall be disclosed in the proxy statement for the next meeting of contractholders.

(6) Section 14(a) [15 U.S.C. 80a–14(a)], *Provided,* That until the separate account has total assets of at least $100,000, the life insurer shall have (i) a combined capital and surplus, if a stock company, or (ii) an unassigned surplus, if a mutual company, of not less than $1,000,000 as set forth in the balance sheet of such life insurer contained in the registration statement for flexible contracts filed under the Securities Act of 1933 [15 U.S.C. 77a et seq.] (the "1933 Act").

(7)(i) Section 15(a) [15 U.S.C. 80a–15(a)], to the extent it requires that the initial written contract with the investment adviser shall have been approved by the vote of a majority of the outstanding voting securities of the registered investment company, *Provided,* That:

(A) The investment adviser is selected and a written contract is entered into before the effective date of the 1933 Act registration statement for flexible contracts, and that the terms of the contract are fully disclosed in the registration statement, and

(B) A written contract is submitted to a vote of contractholders at their first meeting and within one year after the effective date of the 1933 Act registration statement, unless the Commission upon written request and for good cause shown extends the time for the holding of such meeting;

(ii) Sections 15 (a), (b) and (c), to the extent that:

(A) An insurance regulatory authority may disapprove pursuant to insurance law or regulation any contract between the separate account and an investment adviser or principal underwriter;

(B) Changes in the principal underwriter for the separate account initiated by contractholders or the board of directors of the separate account may be disapproved by the life insurer, *Provided,* That such disapproval is reasonable;

(C) Changes in the investment adviser of the separate account initiated by contractholders or the board of directors of the separate account may be disapproved by the life insurer, *Provided,* That such disapproval is reasonable and is based on a good faith determination by the life insurer that:

(*1*) The proposed investment advisory fee will exceed the maximum rate specified in any flexible contract that may be charged against the assets of the separate account for such services; or

(*2*) The proposed investment adviser may be expected to employ investment techniques which vary from the general techniques used by the current investment adviser to the separate account, or advise the purchase or sale of securities which would not be consistent with the investment objectives of the separate account, or which would vary from the quality and nature of investments made by other separate accounts with similar investment objectives of the life insurer or an affiliated life insurance company;

(D) Any action described in paragraph (b)(7)(ii) (A), (B) or (C) of this Rule and the reasons for it shall be disclosed in the proxy statement for the next meeting of contractholders.

(8) Section 16(a) [15 U.S.C. 80a–16(a)], to the extent that:

(i) Directors of the separate account serving before the first meeting of the account's contractholders are exempt from the requirement of Section 16(a) that they be elected by the holders of outstanding voting securities of the account at an annual or special meeting called for that purpose, *Provided,* That:

(A) Such persons were appointed directors of the account by the life insurer before the effective date of the 1933 Act registration statement for flexible contracts and are identified in the registration statement (or are replacements appointed by the life insurer for any such persons who have become unable to serve as directors), and

(B) An election of directors for the account is held at the first meeting of contractholders and within one year after the effective date of the 1933 Act registration statement for flexible contracts, unless the time for holding the meeting is extended by the Commission upon written request and for good cause shown;

(ii) A member of the board of directors of the separate account may be disapproved or removed by an insurance regulatory authority if the person is not eligible to be a director of the separate account under the law of the life insurer's domicile.

(9) Section 17(f) [15 U.S.C. 80a–17(f)], to the extent that the securities and similar investments of a separate account organized as a management investment company may be maintained in the custody of the life insurer or of an affiliated life insurance company, *Provided,* That:

(i) The securities and similar investments allocated to the separate account are clearly identified as owned by the account, and the securities and similar investments are kept in the vault of an insurance company which meets the qualifications in paragraph (b)(9)(ii) of this Rule, and whose safekeeping function is supervised by the insurance regulatory authorities of the jurisdiction in which the securities and similar investments will be held;

(ii) The insurance company maintaining such investments must file with an insurance regulatory authority of a state or territory of the United States or the District of Columbia an annual statement of its financial condition in the form prescribed by the National Association of Insurance Commissioners, must be subject to supervision and inspection by such authority and must be examined periodically as to its financial condition and other affairs by such authority, must hold the securities and similar investments of the separate account in its vault, which vault must be equivalent to that of a bank which is a member of the Federal Reserve System, and must have a combined capital and surplus, if a stock company, or an unassigned surplus, if a mutual company, of not less than $1,000,000 as set forth in its most recent annual statement filed with such authority;

(iii) Access to such securities and similar investments shall be limited to employees of the Commission, representatives of insurance regulatory authorities, independent public accountants retained by the separate account (or on its behalf by the life insurer), accountants for the life insurer, and to no more than 20 persons authorized by a resolution of the board of directors of the separate account, which persons shall be directors of the separate account, officers and responsible employees of the life insurer or officers and responsible employees of the affiliated life insurance company in whose vault the investments are kept (if applicable), and access to such securities and similar investments shall be had only by two or more such persons jointly, at least one of whom shall be a director of the separate account or officer of the life insurer;

(iv) The requirement in paragraph (b)(9)(i) of this Rule that the securities and similar investments of the separate account be maintained in the vault of a qualified insurance company shall not apply to securities deposited with insurance regulatory authorities or deposited in accordance with any rule under Section 17(f), or to securities on loan which are collateralized to the extent of their full market value, or to securities hypothecated, pledged, or placed in escrow for the account of such separate account in connection with a loan or other transaction authorized by specific resolution of the board of directors of the separate account, or to securities in transit in connection with the sale, exchange, redemption, maturity or conversion, the exercise of warrants or rights, assents to changes in terms of the securities, or to other transactions necessary or appropriate in the ordinary course of business relating to the management of securities;

(v) Each person when depositing such securities or similar investments in or withdrawing them from the depository or when ordering their withdrawal and delivery from the custody of the life insurer or affiliated life insurance company, shall sign a notation showing (A) the date and time of the deposit, withdrawal or order, (B) the title and amount of the securities or other investments deposited, withdrawn or ordered to be withdrawn, and an identification thereof by certificate numbers or otherwise, (C) the manner of acquisition of the securities or similar investments deposited or the purpose for which they have been withdrawn, or ordered to be withdrawn, and (D) if withdrawn and delivered to another person, the name of such person. The notation shall be sent promptly to an officer or director of the separate account or the life insurer designated by the board of directors of the separate account who is not himself permitted to have access to the securities or investments under paragraph (b)(9)(iii) of this Rule. The notation shall be on serially numbered forms and shall be kept for at least one year;

(vi) The securities and similar investments shall be verified by complete examination by an independent public accountant retained by the separate account (or on its behalf by the life insurer) at least three times each fiscal year, at least two of which shall be chosen by the accountant without prior notice to the separate account. A certificate of the accountant stating that he has made an examination of such securities and investments and describing the nature and extent of the examination shall be sent to the Commission by the accountant promptly after each examination;

(vii) Securities and similar investments of a separate account maintained with a bank or other company whose functions and physical facilities are supervised by federal or state authorities under any arrangement whereby the directors, officers, employees or agents of the separate account or the life insurer are authorized or permitted to withdraw such investments upon their mere receipt are deemed to be in the custody of the life insurer and shall be exempt from the requirements of section 17(f) so long as the arrangement complies with all provisions of this paragraph (b)(9), except that such securities will be maintained in the vault of a bank or other company rather than the vault of an insurance company.

(10) Section 18(i) [15 U.S.C. 80a–18(i)], to the extent that:

(i) For the purposes of any section of the Act which provides for the vote of securityholders on matters relating to the investment company:

(A) Flexible contractholders shall have one vote for each $100 of cash value funded by the separate account, with fractional votes allocated for amounts less than $100;

(B) The life insurer shall have one vote for each $100 of assets of the separate account not otherwise attributable to contractholders under paragraph (b)(10)(i)(A) of this Rule, with fractional votes allocated for amounts less than $100, *Provided,* That after the commencement of sales of flexible contracts, the life insurer shall cast its votes for an against each matter which may be voted upon by contractholders in the same proportion as the votes cast by contractholders; and

(C) The number of votes to be allocated shall be determined as of a record date not more than 90 days before any meeting at which such vote is held, *Provided,* That if a quorum is not present at the meeting, the meeting may be adjourned for up to 60 days without fixing a new record date;

(ii) The requirement of this section that every share of stock issued by a registered management investment company (except a common-law trust of the character described in section 16(c) [15 U.S.C. 80a–16(c)]) shall be a voting stock and have equal voting rights with every other outstanding voting stock shall not be deemed to be violated by actions specifically permitted by any provisions of this Rule.

(11) Section 19 [15 U.S.C. 80a–19], to the extent that the provisions of this section shall not apply to any dividend or similar distribution paid or payable under provisions of participating flexible contracts.

(12) Sections 22(d) [15 U.S.C. 80a–22(d)], 22(e) [15 U.S.C. 80a–22(e)], and 27(c)(1) and Rule 22c–1, to the extent:

(i) That the death benefit and cash value of each flexible contract shall be determined:

(A) No less frequently than once daily on each day (other than a day on which no payment or request for redemption is received by the separate account) in which there is a sufficient degree of trading in the portfolio securities of the separate account that the cash value of the contracts might be materially affected; and

(B) At such specific time during the day as determined by a majority of the board of directors of the separate account no less frequently than annually; *Except*, That:

(*1*) To the extent that the calculation of the cash value reflects deductions for the cost of insurance and other insurance benefits or administrative expenses and fees or sales load, such deductions need only be made at such times as specified in the contract or as necessary for compliance with insurance laws and regulations; and

(*2*) Unless required by insurance laws and regulations, the death benefit need not be calculated on any day that the investment experience of the separate account would not affect the death benefit;

(ii) Necessary to comply with this Rule or with insurance laws and regulations and established administrative procedures of the life insurer for issuance, transfer and redemption of flexible contracts, including, but not limited to, premium rate structure and premium processing, insurance underwriting standards, and the particular benefit afforded by the contract, *Provided, however*, That any procedure or action shall be reasonable, fair and not discriminatory to the interests of the affected contractholders and to all other holders of contracts of the same class or series funded by the separate account, *And provided further*, That any such action shall be disclosed in the form filed by the separate account with the Commission under paragraph (b)(3)(ii) of this Rule.

(13) Section 27 [15 U.S.C. 80a–27], to the following extent:

(i) Section 27(a)(1) [15 U.S.C. 80a–27(a)(1)], 27(h)(1) [15 U.S.C. 80a–27(h)(1)], and 27(h)(4) [15 U.S.C. 80a–27(h)(4)], to the extent that sales load, as defined in paragraph (c)(4) of this Rule, deducted does not exceed that permitted by either subparagraph (A) or (B) below:

(A) 9 per centum of the sum of the guideline annual premiums that would be paid during the period equal to the lesser of 20 years or the anticipated life expectancy of the insured named in the contract based on the 1980 Commissioners Standard Ordinary Mortality Table, *Provided*, That this subparagraph (b)(13)(i)(A) shall not prohibit deduction of sales load, in any manner permitted by this Rule, from payments made in excess of the sum of the guideline annual premiums that would be paid during the lesser of 20 years or the anticipated life expectancy of the insured based on the 1980 Commissioners Standard Ordinary Mortality Table; or

(B) 9 per centum of payments made thereon; *Provided*, That the separate account elects by written notice to the Commission to be governed (with respect to each class of flexible contract offered) by either subparagraph (b)(13)(i)(A) or (B).

(ii) Sections 27(a)(3) [15 U.S.C. 80a–27(a)(3)] and 27(h)(3) [15 U.S.C. 80a–27(h)(3)], *Provided*, That the proportionate amount of sales load deducted from any payment shall not exceed the proportionate amount deducted from any prior payment unless an increase is caused by the grading of cash surrender values into reserves or reductions in the annual cost of insurance;

(iii) Sections 27(c)(2) [15 U.S.C. 80a–27(c)(2)], 26(a)(1) [15 U.S.C. 80a–26(a)(1)], and 26(a)(2) [15 U.S.C. 80a–26(a)(2)], to the extent necessary to permit the actions described in paragraphs (A) through (F) of this section, *Provided*, That the life insurer complies with all other applicable provisions of section 26 as if it were a trustee, depositer or custodian for the separate account; files with the insurance regulatory authority of a state or territory of the United States or of the District of Columbia an annual statement of its financial condition in the form prescribed by the National Association of Insurance Commissioners, which most recent statement indicates that it has a combined capital and surplus, if a stock company, or an unassigned surplus, if a mutual company, of not less than $1,000,000; and is examined from time to time by the insurance regulatory authority of such state, territory or District of Columbia as to its financial condition and other affairs and is subject to supervision and inspection with respect to its separate operations.

(A) Payment of a fee to the life insurer, or to any affiliated person or agent of the insurer, for bookkeeping or other administrative services provided to the separate account, *Provided*, That the fee is not greater than the expenses, without profit: (*1*) Actually paid by the life insurer for the services provided and (*2*) increased by the value of any services provided directly by the life insurer, as determined in accordance with generally accepted accounting principles consistently applied. The standard set forth in this paragraph shall be applied as follows: if the separate account reserves the right to increase the fee, the fee shall not exceed the cost of the services to be provided for one year; or if the fee is guaranteed not to increase for a specified period of time, the fee shall not exceed the average expected cost of the services to be provided during the period of the guarantee;

(B) The holding of the assets of the separate account by the life insurer without a trust indenture or other such instrument;

(C) When the separate account is organized as a unit investment trust, the holding of the securities of any registered management investment company which offers its shares to the separate account in uncertificated form;

(D) When the separate account is organized as a management investment company, the holding of its assets in any manner permitted by paragraph (b)(9) of this Rule or by section 17(*f*) or the rules under it;

(E) The deduction of premium taxes imposed by any state or other governmental entity, the cost of insurance, and, if the separate account is organized as a management investment company, an investment advisory fee;

(F) The deduction of a charge for mortality, expense, and any guaranteed death benefit risks assumed by the life insurer under the flexible contracts (collectively, a "risk charge"), *Provided*, That the registration statement under the 1933 Act for flexible contracts includes:

(*1*) A representation that this section is being relied on;

(*2*) A representation that the level of the risk charge either is:

(*i*) Within the range of industry practice for comparable flexible or scheduled contracts, or

(*ii*) Reasonable in relation to the risks assumed by the life insurer under the contracts;

(*3*) A brief description of the methodology used to support the representation made in response to paragraph (b)(13)(iii)(F)(*2*) of this Rule and an undertaking to keep and make available to the Commission on request the documents used to support that representation;

(*4*) A representation that either:

(*i*) The proceeds from explicit sales loads will cover the expected costs of distributing the flexible contracts; or

(*ii*) (*A*) The life insurer has concluded that there is a reasonable likelihood that

the distribution financing arrangement of the separate account will benefit the separate account and contractholders and will keep and make available to the Commission on request a memorandum setting forth the basis for this representation; and

(*B*) (*1*) If the separate account is organized as a management investment company, a representation that the account will have a board of directors, a majority of whom are not interested persons of the separate account, formulate and approve any plan under Rule 12b–1 to finance distribution expenses; or

(*2*) If the separate account is organized as a unit investment trust, a representation that the account will invest only in management investment companies which have undertaken to have a board of directors, a majority of whom are not interested persons of the company, formulate and approve any plan under Rule 12b–1 to finance distribution expenses.

Notwithstanding the provisions of this paragraph (b)(13)(iii)(F), no risk charge may be deducted in reliance thereupon if the registration statement or amendment thereto which initially sets forth the deduction of such charge or its increase becomes effective by lapse of time pursuant to Section 8(a) of the 1933 Act or Rule 486 [17 CFR 230.486] thereunder. Such charge shall be disclosed in the prospectus and shall not be less than fifty per centum of the maximum charge for risk assumption as disclosed in the prospectus and as provided for in the contract. Any separate account organized under the act as a management investment company and deducting a risk charge pursuant to this section shall be exempt from section 12(b) and Rule 12b–1 thereunder to the extent that monies derived from the risk charge may be used to finance distribution of the flexible contracts;

(iv) Sections 27(c)(1) and 27(d), and sections 2(a)(32) and 22(c) and Rule 22c–1 thereunder, to the extent that:

(A) Such sections require that the flexible contract be redeemable or provide for a refund in cash, *Provided,* That the contract provides for election by the contract holder of a cash surrender value or certain non-forfeiture and settlement options which are required or permitted by the insurance law or regulation of the jurisdiction in which the contract is offered, *And provided further,* That unless required by the insurance law or regulation of the jurisdiction in which the contract is offered or unless elected by the contract-holder, the contract shall not provide for the automatic imposition of any option, including, but not limited to, an automatic premium loan, which would involve the accrual or payment of an interest or similar charge.

(B) Notwithstanding the provisions of paragraph (b)(13)(iv)(A) of this Rule, if the cash surrender value of the contract on any contract processing day is less than the amount necessary to pay the charges due under the contract, the contract may provide that the cash surrender value (and any excess paid for sales loading not used to keep the contract in force pursuant to paragraph (b)(13)(iv)(B)(*2*) of this Rule) shall be applied to purchase a non-forfeiture option specified by the life insurer in such contract, *Provided,* That the contract also provides that:

(*1*) Contract processing days occur not less frequently than monthly, and

(*2*) The amount of any excess paid for sales loading (as provided in paragraph (b)(13)(v)(A) of this Rule) shall first be applied to keep the contract in force, *Provided, however,* That if the contractholder subsequently makes a payment, the life insurer may recover such excess loading;

(C) Subject to other provisions of this Rule, sales loads may be deducted upon redemption.

(v) Section 27(d), *Provided,* that the flexible contract gives the holder thereof the right to:

(A) Surrender the contract at any time during the first 24 months after issuance and receive in cash an amount not less than the sum of the present value of his contract which is the cash surrender value next computed after receipt by the life insurer of the request for surrender in proper form, plus, depending upon the period over which such contract has been retained by the contractholder, an amount which is a refund of any excess paid for sales loading prior to or in connection with the surrender. The amount of sales loading to be refunded shall be equal to that part of the sales loading in excess of the sum of (*1*) the lesser of 30 per centum of the guideline annual premium or 30 per centum of the actual payments made during the first contract period, plus (*2*) the lesser of 10 per centum of the guideline annual premium or 10 per centum of the actual payments made during the second contract period, plus (*3*) 9 per centum of the payments made during the first or the second contract period after such payments exceed the guideline annual premium;

(B) Convert the contract at any time during the first 24 months after issuance so long as the contract is in force to a life insurance policy on the life of the insured under a plan of insurance (other than a plan involving a flexible contract as defined in paragraph (C)(1) of this Rule or a scheduled contract as defined in paragraph (c)(1) of Rule 6e–2) specified in the contract, issued by the life insurer or by an affiliated life insurance company, which provides for (*1*) at the election of the contract-holder, either the same death benefit or the same net amount at risk as the flexible contract at the time of conversion and (*2*) premiums which are based on the same issue age and risk classification of the insured as the flexible contract. The conversion shall be subject to an equitable adjustment in payments and cash values to reflect variances, if any, in the payments and cash values under the flexible contract and the new policy. The method of computing such adjustment shall be filed with the Commission as an exhibit to the form required under paragraph (b)(3)(ii) of this Rule;

(vi) A depositor or principal underwriter for a flexible contract sold subject to section 27(d) or Section 27(f), or both, shall be exempt from the requirements of Rule 27d–1 [17 CFR 270.27d–1] if an insurance company undertakes in writing to guarantee the performance of all obligations of such depositor or principal underwriter under sections 27(d) and 27(f) to refund charges and such insurance company, depositor and principal underwriter comply with all provisions of Rule 27d–2 [17 CFR 270.27d–2];

(vii) Section 27(e) [15 U.S.C. 80a–27(e)] and Rule 27e–1 [17 CFR 270.27e–1] thereunder, to the extent that the separate account and the depositor and principal underwriter therefor, when such persons are subject to paragraph (b)(13)(v)(A) of this Rule, are required to provide a notice of right of surrender and refund to holders of flexible contracts, if the life insurer or a duly authorized agent provides a notice of surrender and refund rights on a written document containing information comparable to that required by Form N–27I–1 [17 CFR 274.301] to the holder of any flexible contract under which a refund may be available, *Provided,* That such notice shall be sent by first class mail or personal delivery to the contractholder:

(A) Upon issuance of the flexible contract, which notice may be sent together with the issued contract and an illustration, in a form appropriate for inclusion in the prospectus for the flexible contract, of guideline annual premiums, death benefits and cash surrender values applicable to the age, sex and underwriting classification of the insured; and

(B) On any contract processing day, prior to the expiration of the surrender and refund right provided in paragraph (b)(13)(v)(A) of this Rule, on which the amounts available under the contract on such day to pay the charges authorized by the contract are less than the amount necessary to keep the contract in force until the next following contract processing day. This notice may be sent together with any notice required by applicable state authority to be sent in these circumstances; *Provided, however,* That the right of surrender and refund provided by paragraph (b)(13)(v)(A) of this Rule shall not expire until not less than 15 days after the mailing or receipt if personally delivered of the last notice referred to in this paragraph (b)(13)(vii)(B);

(viii) Section 27(f) and Rule 27f–1 thereunder [17 CFR 270.27f–1], *Provided,* That:

(A) The contractholder may elect to return the contract within 45 days of the date of the execution of the application for insurance, or within 10 days after receipt of the issued contract by the contractholder, or within 10 days after mailing or personal delivery of the notice of the right of withdrawal referred to in paragraph (b)(13)(viii)(C) of this Rule, whichever is later, and receive a refund equal to the sum of (*1*) the difference between the payments made, including any contract fees or other charges, and the amounts allocated to the separate account under the contract, (*2*) the value of the amounts allocated to the separate account under the contract on the date the returned contract is received by the insurer or its agent, and (*3*) any contract fees and other charges imposed on the amounts allocated to such separate account, *Provided, however,* That if state law or the contract so require, the redeeming contractholder shall receive a refund of all payments made for such contract;

(B) A refund in accordance with paragraph (b)(13)(viii)(A) of this Rule to redeeming contractholders will not in any way affect the interests in the separate account or the benefits of other flexible or scheduled contractholders;

(C) Notice of such withdrawal right and a statement of contract fees and other charges on a written document containing information comparable to that required by Form N–27I–2 [17 CFR 274.303] is sent by first class mail or personal delivery to the contractholder, which notice and statement may be accompanied by the flexible contract, and an illustration, in a form appropriate for inclusion in the prospectus for the flexible contract, of guideline annual premiums (or, if the contract is subject to paragraph (b)(13)((i)(B), payments), death benefits and cash surrender values applicable to the age, sex and underwriting classification of the insured;

(D) The contractholder, in conjunction with the notice of withdrawal right referred to in paragraph (b)(13)((viii)(C), is provided with a form of request for refund of the amount computed in accordance with paragraph (b)(13)(viii)(A), which form shall set forth:

(*1*) Instructions as to the manner in which a refund may be obtained, including the address to which the request form should be mailed; and

(*2*) Spaces necessary to indicate the date of such request, the contract number and the signature of the contractholder; and

(E) Within 7 days from the receipt of such duly executed timely request for refund, the life insurer will refund in cash to the contractholder the amount computed in accordance with paragraph (b)(13)(viii)(A) of this Rule; and

(ix) Solely for purposes of paragraphs (b)(13)(v) and (b)(13)(viii) of this Rule, the postmark date on the envelope containing the flexible contract shall determine whether such contract has been submitted for surrender, conversion, or withdrawal within the designated period.

(14) Section 32(a)(2) [15 U.S.C. 80a–32(a)(2)], *Provided:* That:

(i) The independent public accountant is selected before the effective date of the 1933 Act registration statement for flexible contracts, and the identity of the accountant is disclosed in the registration statement, and

(ii) The selection of the accountant is submitted for ratification or rejection to flexible contractholders at their first meeting and within one year after the effective date of the 1933 Act registration statement for flexible contracts, unless the time for holding the meeting is extended by order of the Commission.

(15) If the separate account is organized as a unit investment trust, all the assets of which consist of the shares of one or more registered management investment companies which offer their shares exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled contracts or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company, *Provided,* That: the board of directors of each investment company, constituted with a majority of disinterested directors, will monitor such company for the existence of any material irreconcilable conflict between the interests of variable annuity contractholders and scheduled or flexible contractholders investing in such company; the life insurer agrees that it will be responsible for reporting any potential or existing conflicts to the directors; and, if a conflict arises, the life insurer will, at its own cost, remedy such conflict up to and including establishing a new registered management investment company and segregating the assets underlying the variable annuity contracts and the scheduled or flexible contracts; Then:

(i) The eligibility restrictions of section 9(a) shall not apply to those persons who are officers, directors or employees of the life insurer or its affiliates who do not participate directly in the management or administration of any registered management investment company described in this paragraph (b)(15);

(ii) The life insurer shall be ineligible under paragraph (3) of section 9(a) to serve as investment adviser of or principal underwriter for any registered management investment company described in this paragraph (b)(15) only if an affiliated person of such life insurer, ineligible by reason of paragraphs (1) or (2) of section 9(a), participates in the management or administration of such company;

(iii) The life insurer may vote shares of the registered management investment companies held by the separate account without regard to instructions from contractholders of the separate account if such instructions would require such shares to be voted:

(A) To cause such companies to make (or refrain from making) certain investments which would result in changes in the sub-classification or investment objectives of such companies or to approve or disapprove any contract between such companies and an investment adviser when required to do so by an insurance regulator authority subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of this Rule; or

(B) In favor of changes in investment objectives, investment adviser of or principal underwriter for such companies subject to the provisions of paragraphs (b)(5)(ii) and (b)(7)(ii) (B) and (C) of this Rule;

(iv) Any action taken in accordance with paragraph (b)(15)(iii) (A) and (B) of this Rule and the reasons therefor shall be disclosed in the next report to contractholders made under Section 30(d) [15 U.S.C. 80a–29(d)] and Rule 30d–2 [17 CFR 270.30d–2];

(v) Any registered management investment company established by the life insurer and described in this paragraph (b)(15) shall be exempt from section 14(a), *Provided,* That until the company has total assets of at least $100,000, the life insurer shall have at least the minimum net worth prescribed in paragraph (b)(6) of this Rule; and

(vi) Any registered management investment company established by the life insurer and described in this paragraph (b)(15) shall be exempt from sections 15(a), 16(a), and 32(a)(2), to the extent prescribed by paragraphs (b)(7)(i), (b)(8)(i), and (b)(14) of this Rule, *Provided,* That the company complies with the conditions set forth in those paragraphs as if it were a separate account.

(c) When used in this Rule:

(1) "Flexible premiuim variable life insurance contract" means a contract of life insurance, subject to regulation under the insurance laws or code of every jurisdiction in which it is offered, funded by a separate account of a life insurer, which contract provides for:

(i) Payments which are not fixed by the life insurer as to both timing and amount, *Provided, however,* That the life insurer may fix the timing and minimum amount of payments for the first two contract periods and may prescribe a reasonable minimum amount for any additional payment;

(ii) A death benefit the amount or duration of which may vary to reflect the investment experience of the separate account; and

(iii) A cash value which varies to reflect the investment experience of the separate account.

(2) "Incidental insurance benefits" means insurance benefits provided pursuant to the flexible contract, other than any guaranteed and variable death benefit, which do not vary in amount in accordance with the investment experience of the separate account, and include, but are not limited to, accidental death and dismemberment benefits, disability income benefits, guaranteed insurability options, and family income or fixed benefit term riders.

(3) "Guaranteed death benefit" is any amount guaranteed by the life insurer to be paid pursuant to a flexible contract in the event of the death of the insured without regard to the investment experience of the separate account, if there are no outstanding loans or partial surrenders, but does not include any incidental insurance benefits.

(4) "Sales load" charged during a contract period is the excess of any payments made during the period over the sum of the following:

(i) The amount of the increase in the cash value for the period that is attributable to payments made and not to net investment earnings for the period;

(ii) The cost of insurance for the period based on the 1980 Commissioners Standard Ordinary Mortality Table and net interest at the annual effective rate specified for purposes of paragraph (c)(8)(i)(B) of this Rule;

(iii) A reasonable charge necessary to cover the risk assumed by the life insurer that the variable death benefit will be less than any guaranteed death benefit;

(iv) Any administrative expenses or fees which are deducted pursuant to paragraph (b)(13)(iii)(A) of this Rule;

(v) A deduction for and approximately equal to state premium taxes;

(vi) Any additional charge assessed if the insured does not meet standard underwriting requirements;

(vii) Any additional charge assessed specifically for any incidental insurance benefits;

(viii) Any additional charge, in the nature of an interest charge, assessed when payments are made more frequently than annually, but only to the extent that such payments are made to fulfill a minimum payment requirement imposed pursuant to paragraph (c)(1)(i) of this Rule;

(ix) Any amounts redeemed by the contractholder or paid out to the beneficiary upon the death of the insured which are not attributable to net investment earnings for the period; and

(x) For a participating flexible contract, a deduction for dividends to be paid or credited in accordance with the dividend scale in effect on the issue date of the contract assuming a gross annual investment return for the separate account which funds the contract of 5 per centum. The deduction may be determined by either of the following methods, but the same method must be used for each contract period:

(A) The actuarial level annual equivalent of dividends to be paid or credited over the contract periods described in paragraph (b)(13)(i) of this Rule, based upon the mortality, interest and lapse assumptions used in computing the dividend scale for the contract (and, if the contract is subject to paragraph (b)(13)(i)(A), the assumption that the guideline annual premium will be paid in each contract period) multiplied by the fraction of the contract year represented by the contract period; or

(B) That portion of the dividend to be paid for the contract year which does not depend on the making of payments in addition to those made during the period.

(5) "Contract period" means the period from a contract issue or anniversary date to the earlier of the next following anniversary date (or, if later, the last day of any grace period commencing before such next following anniversary date) or the termination date of the contract.

(6) "Variable death benefit" is the amount of death benefit, other than incidental insurance benefits, payable under a flexible contract which varies to reflect the investment experience of the separate account and which would be payable in the absence of any guaranteed death benefit.

(7) "Payment," as used in paragraphs (b)(13)(i), (b)(13)(ii), and (b)(13)(v)(A) of this Rule and in sections 27(a)(2) and 27(h)(2) solely with respect to flexible contracts, means for a contract period the gross premiums paid less any portion of such gross premiums charged for the items specified in paragraphs (c)(4)(vi), (c)(4)(vi), and (c)(4)(viii) of this Rule. "Payment," as used in any other section of this Rule, means the gross premiums paid or payable for the flexible contract, *Except,* That "Payment" shall not include any amount deducted by the life insurer to recover excess sales loading previously applied to keep the contract in force pursuant to paragraph (b)(13)(iv)(B)*(2)* of this Rule.

(8)(i) "Guideline annual premium" means the level annual amount that would be payable through the maturity date specified in paragraph (c)(8)(ii)(B) of this Rule for the future benefits under the contract if, subject to the provisions of paragraph (c)(8)(ii) of this Rule:

(A) The payments were fixed by the life insurer as to both timing and amount, and

(B) The payments were based on the 1980 Commissioners Standard Ordinary Mortality Table, net investment earnings at the greater of an annual effective rate of 5 per centum or rate or rates guaranteed at issuance of the flexible contract, the sales load under the contract, and the fees and charges associated with the contract specified in paragraphs (c)(4)(iii), (c)(4)(iv), (c)(4)(v), (c)(4)(vi), (c)(4)(vii), and (c)(4)(viii), (for the first two contract periods as permitted by paragraph (c)(1)(i)) of this Rule.

(ii) In computing the future benefits under the flexible contract for determining the guideline annual premium:

(A) The excess of the amount payable by reason of the death of the insured (determined without regard to any incidental insurance benefits) over the

cash value of the contract shall be deemed to be not greater than such excess at the time the contract was issued,

(B) The maturity date shall be the latest maturity date permitted under the contract but not less than 20 years after the date of issue or (if earlier) age 95, and

(C) The amount of any endowment benefit (or sum of endowment benefits) shall be deemed not to exceed the least amount payable by reason of the death of the insured (determined without regard to any incidental insurance benefits) at any time under the contract.

(9) "Guideline single premium" means the single amount payable at a specified time which would provide the future benefits under the contract until the maturity date specified in paragraph (c)(8)(ii)(B) of this Rule and which otherwise is computed on the same basis as the guideline annual premium.

(10) "Cash value" means the amount that would be available in cash upon voluntary termination of a contract by its owner before it becomes payable by death or maturity, without regard to any changes that may be assessed upon such termination and before deduction of any outstanding contract loan.

(11) "Cash surrender value" means the amount available in cash upon voluntary termination of a contract by its owner before it becomes payable by death or maturity, after any charges assessed in connection with the termination have been deducted and before deduction of any outstanding contract loan.

(12) "Net investment earnings" means investment earnings in the separate account after deduction of any asset charges, including but not limited to, such charges for income tax; brokerage and other investment expenses; mortality, expense, and guaranteed death benefit risks; and an investment advisory fee, but not including deductions for sales load. However, "net investment earnings" as used in paragraph (c)(4)(i) of this Rule shall not include any amount deducted pursuant to subparagraphs (ii) through (viii) of paragraph (c)(4).

(13) "Contract processing day" means any day on which charges under the contract are deducted from the separate account.

(d) The following computational rules shall be used in applying this Rule:

(1)(i) Paragraphs (b)(13)(i) and (b)(13)(ii) of this Rule shall be deemed to be satisfied with respect to any flexible contract under which sales load is deducted other than from payments prior to the allocation of net payments to the separate account if during each contract period through the maturity date specified in paragraph (c)(8)(ii)(B) of this Rule, the amount of sales load deducted is not more than the amount of sales load that could be deducted under a flexible contract that is identical to the actual contract except that sales load is deducted only from payments prior to the allocation of net payments to the separate account in any manner satisfying the provisions of the Act and this Rule; *Provided,* That, solely for a contract subject to paragraph (b)(13)(i)(A), during the period equal to the lesser of 20 years or the life expectancy of the insured named in the contract based on the 1980 Commissioners Standard Ordinary Mortality Table, payments may be assumed to be made in each of the alternative amounts:

(A) Level annual payments equal to the guideline annual premium for the actual contract, and

(B) A single payment made at issue equal to the guideline single premium at issue for the actual contract.

(ii) The amount of sales load deducted pursuant to any method permitted under paragraph (d)(1)(i) shall not exceed the proportionate amount of sales load deducted prior thereto pursuant to the same method unless an increase in such proportionate amount is caused by the grading of cash surrender values into reserves, or reductions in the annual cost of insurance.

(2)(i) Solely with respect to increases in or additions of insurance benefits requested by a contractholder after issuance of a flexible contract, the contract shall be deemed to satisfy paragraphs (b)(13)(i)(A), (b)(13)(ii), (b)(13)(v), (b)(13)(viii), and (d)(1)(ii) of this Rule, *Provided,* That during each contract period through the maturity date specified in paragraph (c)(8)(ii)(B) of this Rule:

(A) The amount of sales load imposed is not more than the amount of sales load that would be permissible under the base test contract, as defined in paragraph (d)(2)(iii)(B) of this Rule, and the incremental test contract, as defined in paragraph (d)(2)(iii)(C) of this Rule, and

(B) The sum of the sales loads charged in the contract period and all preceding contract periods shall not exceed the sum of the corresponding sales loads under the base test contract and the incremental test contract.

(ii) The following assumptions shall be used in applying paragraph (d)(2)(i):

(A) Payments for the actual contract, as defined in paragraph (d)(2)(iii)(A) of this Rule, and the base and incremental test contracts are paid in each of the following alternative amounts:

(*1*) Level annual payments for the base test contract equal to the guideline annual premium for the contract, commencing upon issuance; level annual payments for the incremental test contract equal to the difference between the guideline annual premium for the actual contract after the increase in or addition of insurance benefits and before such increase or addition, commencing upon such increase or addition; and level annual payments for the actual contract equal to the guideline annual premium for such contract, commencing upon issuance and adjusted for such increase or addition as of the date of such increase or addition; and

(*2*) A single payment at issue for the base test contract and for the actual contract in an amount equal to the guideline single premium for the actual contract at issue; and a single payment for the actual contract and the incremental test contract equal to the additional guideline single premium needed for the actual contract upon the increase in or addition of insurance benefits, as of the date of such increase or addition;

(B) Net investment earnings are earned at an annual effective rate specified in paragraph (c)(8)(i)(B) of this Rule; and

(C) No redemptions are made under the actual and test contracts.

(iii) For purposes of this paragraph (d)(2):

(A) "Actual contract" shall mean the flexible contract issued to the contractholder, and adjusted for the increase in or addition of insurance benefits, as of the date of the increase or addition;

(B) "Base test contract" shall mean the actual contract had the increase or addition not occurred;

(C) "Incremental test contract" shall mean a flexible contract that: (*1*) Is issued on the date of the increase or addition; (*2*) provides insurance benefits identical to the incremental change in insurance benefits under the actual contract upon such increase or addition; (*3*) deducts, in any manner permitted by this Rule, not more than 50 per centum of the sales load which would be permitted under the act and this Rule; and (*4*) is not subject to the surrender, conversion, and withdrawal provisions set forth in paragraphs (b)(13)(v) (A) and (B) and (b)(13)(viii) of this Rule: *Provided, however,* That if the increased or added benefit is subject to the surrender, conversion, and withdrawal provisions set forth in paragraphs (b)(13)(v) (A) and (B) and (b)(13)(viii) of this Rule, this paragraph (d)(2)(iii)(C) shall be applied by substituting "100" for

"50". For purposes of satisfying the provisions of the Act and this Rule, the amounts specified in paragraph (d)(2)(ii)(A) (*1*) and (*2*) of this Rule as paid for the incremental test contract shall be treated as the guideline annual premium and guideline single premium, respectively, for such contract;

(D) Any change in insurance benefits which would occur automatically under a contract, with or without the opportunity for contractholder disapproval, or any change in death benefit option shall not be considered an "increase in or addition of insurance benefits requested by a contractholder" for purposes of imposing additional sales load.

2. By revising § 270.6c–3 to read as follows:

**§ 270.6c–3 Exemptions for certain registered variable life insurance separate accounts.**

A separate account which meets the requirements of paragraph (a) of Rule 6e–2 [17 CFR 270.6e–2] or paragraph (a) of Rule 6e–3(T) [17 CFR 270.6e–3(T)] and registers as an investment company under Section 8(a) of the Act [15 U.S.C. 80a–8(a)], and the investment adviser, principal underwriter and depositor of such separate account, shall be exempt from the provisions of the Act specified in paragraph (b) of Rule 6e–2 or paragraph (b) of Rule 6e–3(T), except for sections 7 [15 U.S.C. 80a–7] and 8(a) of the Act, under the same terms and conditions as a separate account claiming exemption under Rule 6e–2 or Rule 6e–3(T).

## PART 274—[AMENDED]

Part 274 of Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

1. By revising § 274.301 and amending Form N–6EI–1 to read as follows:

**§ 274.301 Notification of claim of exemption pursuant to Rule 6e–2 or Rule 6e–3(T) under the Investment Company Act.**

This form shall be filed with the Commission as required by § 270.6e–2 or § 270.6e–3(T) of this chapter by each insurance company with respect to each separate account for which exemption is claimed pursuant to § 270.6e–2 or § 270.6e–3(T).

Form N–6EI–1

Notification of Claim of Exemption Pursuant to Rule —— Under the Investment Company Act of 1940

* * * * *

1. Rule as to use of Form:

This form shall be used as the notification of claim of exemption filed with the Commission under either Rule 6e–2 or 6e–3(T) under the Investment Company Act of 1940.

* * * * *

NOTIFICATION OF CLAIM OF EXEMPTION

The undersigned life insurer hereby notifies the Securities and Exchange Commission that it has established a separate account that will be maintained and operated in compliance with Rule —— under the Investment Company Act of 1940, and submits the following information:

* * * * *

SIGNATURE

Pursuant to Rule —— under the Investment Company Act of 1940, the undersigned ——————————
(Name of Separate Account
and ——————————
(Name of Life Insurer)
have caused this Notification of Claim of Exemption to be duly executed on behalf of the separate account claiming exemption in the city of ——————————
county of ——————————
state of ——————————
on the —— day of ——————, 19—
Attest: ——————————
(Name)
——————————
(Title)
——————————
(Name of Separate Account)
By ——————————
(Chairman of the Board of Directors)
Attest: ——————————
(Name)
——————————
(Title)
——————————
(Name of Life Insurer)
By ——————————
(Director, Trustee or Senior Officer)

### Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act [5 U.S.C. 605(b)], the Chairman of the Commission previously certified that rule 6e–3(T) and amendments to rule 6c–3 and Form N–6EI–1 will not have a significant economic impact on a substantial number of small entities. No comments were received on that certification.

### Paperwork Reduction Act

The information collection required by rule 6e–3(T) and Form N–6EI–1 has been submitted to the Office of Management and Budget for clearance. Rule 6c–3 is not subject to the Act because it does not impose an information collection requirement.

### Statutory Authority

Rule 6e–3(T) is issued and Form N–6EI–1 is amended pursuant to the provisions of sections 6(e) [15 U.S.C. 80a–6(e)] and 38(a) [15 U.S.C. 80a–37(a)] of the Act. Rule 6c–3 is amended pursuant to the provisions of sections 6(c) [15 U.S.C. 80a–6(C)] and 38(a) of the Act. Because this rulemaking is exemptive in nature, the Commission finds, pursuant to section 553(d)(1) of the Administration Procedure Act [5 U.S.C. 553(d)(1)], that the 30 day delay in effectiveness is not required, and, accordingly, the rule and rule and form amendments will become effective immediately upon publication in the **Federal Register.**

By the Commission.

**Shirley E. Hollis,**

*Acting Secretary.*

November 14, 1984.

[FR Doc. 84–31518 Filed 11–30–84; 8:45 am]

BILLING CODE 8010–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 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, D&C Red No. 33, and D&C Red No. 36 in Drugs and Cosmetics; Postponement of Closing Date

**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 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, D&C Red No. 33, and D&C Red No. 36 for use in drugs and cosmetics. The new closing date for the provisional listing of all of these color additives will be February 1, 1985. This postponement will provide additional time for the determination of 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, D&C Red No. 33, and D&C Red No. 36.

**DATES:** Effective December 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, D&C Red No. 33, and D&C Red No. 36 will be February 1, 1985.

**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 December 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; 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, D&C Red No. 33, and D&C Red No. 36 for use in drugs and cosmetics by a rule published in the **Federal Register** of October 2, 1984 (49 FR 38935). 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, 48 FR 44773 for D&C Red No. 33, and 49 FR 38935 for D&C Red No. 36.

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 consideration of the scientific and legal aspects of the data concerning the safety of their provisionally listed uses. FDA expected that the current closing dates would provide time for the preparation and publication of appropriate regulations in the **Federal Register** regarding the final decision on 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 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, D&C Red No. 33, and D&C Red No. 36 has required more time than anticipated, however. 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, D&C Red No. 36, 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 preparation and publication of the appropriate **Federal Register** documents setting forth the 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, D&C Red No. 33, and D&C Red No. 36 for use in coloring drugs and cosmetics. The continued use of these color additives for the short time needed for a fully coordinated review 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 December 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, D&C Red No. 36 and FD&C Yellow No. 6, as well as FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes, until February 1, 1985. To prevent any interruption in the provisional listing of D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, D&C Red No. 36, 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 December 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 FOODS, DRUGS, AND COSMETICS

**§ 81.1 [Amended]**

1. In § 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 "February 1, 1985" and by revising the closing dates for "D&C Red No. 8," "D&C Red No. 9," "D&C Red No. 33," and "D&C Red No. 36" in paragraph (b) to read "February 1, 1985."

**§ 81.27 [Amended]**

2. In § 81.27 *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," "D&C Red No. 33," and "D&C Red No. 36" in paragraph (d) to read "February 1, 1985" and by revising the closing dates for "FD&C Red No. 3" and "D&C Red No. 33" in paragraph (e) to read "February 1, 1985."

*Effective date.* This final rule is effective December 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: November 14, 1984.

**Joseph P. Hile**

*Associate Commissioner for Regulatory Affairs.*

[FR Doc. 84-31580 Filed 11-30-84; 8:45 am]

**BILLING CODE 4160-01-M**

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**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 Date

**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 February 1, 1985. 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 December 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 February 1, 1985.

**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 December 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 October 2, 1984 (49 FR 38936). 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 consideration of the scientific and legal aspects of the submissions of 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, somewhat different questions are raised by the request to list these color additives for noningested use. It has taken more time to review the data involved in resolving these questions than the agency anticipated. 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 December 3, 1984 closing date for the provisionally listed use of these color additives until February 1, 1985. This postponement will also provide additional time for the preparation and the publication of **Federal Register** documents setting forth the 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 review of the data and for the preparation of **Federal Register** documents that will announce the decision on these color additives will not pose a hazard to the public health.

Because of the short time until the October 2, 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 February 1, 1985. 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 December 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 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 FOODS, DRUGS AND COSMETICSs

**§ 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 "February 1, 1985."

**§ 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 "February 1, 1985."

*Effective date.* This final rule shall be effective December 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: November 14, 1984.

**Joseph P. Hile,**

*Associate Commissioner for Regulatory Affairs.*

[FR Doc. 84-31581 Filed 11-30-84; 8:45 am]

BILLING CODE 4160-01-M

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 100

**[CGD7 84-10]**

## Marine Parade; Pompano Beach 22nd Annual Christmas Boat Parade

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** Special Local Regulations are being adopted for the Pompano Beach 22nd Annual Christmas Boat Parade. The parade is scheduled to take place in all navigable waters from a center point between Lake Santa Barbara and Lettuce Lake. The regulations are needed to provide for the safety of life on navigable waters during the event.

**EFFECTIVE DATE:** These regulations will become effective at 1830 local time on December 16, 1984 and terminate at 2200 local time on December 16, 1984.

**FOR FURTHER INFORMATION CONTACT:** Ens. T.F. Tabrah, (305) 350–4309.

**SUPPLEMENTARY INFORMATION:** On September 6, 1984, the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (CGD7 84–10). Interested persons were requested to submit comments and no comments were received. This rule is being made effective in less than 30 days after publication in the **Federal Register.** There was not sufficient time remaining after receipt of the application for this event to provide for both a comment period and a 30 day delayed effective date. Since the regulations are necessary to protect lives and property during this event, the Coast Guard has determined that good cause exists under 5 U.S.C. 553(d)(3) to make this rule effective in less than 30 days after publication.

**Drafting Information**

The drafters of this regulation are Ens. T.F. Tabrah, project officer, USCG Group Miami and LCdr. K.E. Gray, project attorney, Seventh Coast Guard District Legal Office.

**Discussion of Comments**

The Pompano Beach 22nd Annual Christmas Boat Parade is a 10 mile parade with approximately 75–100 boats displaying decorative lighting expected to participate. Regulations are issued by the Commander, U.S. Coast Guard Group Miami as a public service to facilitate the holding of this event, to promote maritime safety, and to reduce to a minimum interference with other vessel traffic in the area.

**Economic Assessment and Certification**

This final rule is considered to be non-major under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This conclusion follows from the fact that the duration of this

temporary rule is short and the regulated area is small and not normally transited by commercial vessels. 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 upon a substantial number of small entities.

**List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water).

**Final Regulations**

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35–T710 to read as follows:

**§ 100.35–T710 Pompano Beach 22nd Annual Christmas Boat Parade.**

(a) *Regulated area:* All navigable waters from a center point between Lake Santa Barbara and Lettuce Lake, (approximate position 26–13.2N, 080–05.9W) proceeding north in the Intracoastal Waterway to the Hillsboro Blvd. Bridge in Hillsboro Beach.

(b) *Effective Date:* The regulations become effective at 1830 local time on 16 December 1984 and terminate at 2200 local time on 16 December 1984.

(c) All vessel traffic in the regulated area will be controlled by the Patrol Commander and will proceed at 5 MPH when passing parade participants.

(d) Rule 20 of the Navigation Rules, International-Inland of December 1983 will be suspended for registered participants only.

(e) A succession of not less than 5 short whistle or horn blasts from a patrol vessel will be signal for any non-participating vessels to stop immediately. The display of a red distress flare from a patrol vessel will be signal for any and all vessels to stop immediately.

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

Dated: November 9, 1984.

**G.E. Walton,**

*Captain, U.S. Coast Guard, Commander, USCG Group Miami.*

[FR Doc. 84–31530 Filed 11–30–84; 8:45 am]

BILLING CODE 4910–14–M

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**33 CFR Part 117**

**[CGD 08–84–03]**

## Drawbridge Operation Regulations; West Pearl River, LA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** At the request of the Louisiana Department of Transportation Development (LDOTD), the Coast Guard is changing the regulation governing the lift span bridge on U.S. Highway 90 over the West Pearl River, mile 7.9, near Pearlington, St. Tammany Parish, Louisiana, by requiring that at least four hours advance notice of opening be given at all times. The bridge presently is required to open on signal from 5:00 a.m. to 9:00 p.m. and on 12 hours notice from 9:00 p.m. to 5:00 a.m. This change is being made because of infrequent requests for opening the draw.

This action will relieve the bridge owner of the burden of having a person constantly available to open the draw from 5:00 a.m. to 9:00 p.m. and will still provide for the reasonable needs of navigation.

**EFFECTIVE DATE:** This regulation becomes effective on January 2, 1985.

**FOR FURTHER INFORMATION CONTACT:** Perry Haynes, Chief, Bridge Administration Branch, telephone (504) 589–2965.

**SUPPLEMENTARY INFORMATION:** On 1 October 1984, the Coast Guard published a proposed rule (49 FR 38656) concerning this amendment. The Commander, Eighth Coast Guard District, also published the proposal as a Public Notice dated 10 October 1984. In each notice interested persons were given until 15 November 1984 to submit comments.

**Drafting Information**

The drafters of this regulation are Perry Haynes, project officer, and Steve Crawford, project attorney.

**Discussion of Comments**

The only response to the public notice and the **Federal Register** was a comment of no objection from the Louisiana Department of Wildlife and Fisheries.

**Economic Assessment and Certification**

This regulation is 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 basis for this conclusion is that the bridge has averaged only 10 openings per month (one opening every three days) since 1981. These few vessels can reasonably provide four hours notice for a bridge opening by placing a collect call at any time to the LDOTD District Office in Hammond, Louisiana, telephone (504) 345–7390. Scheduling their arrival at the appointed time would involve little or no additional expense to the mariners. Since the economic impact of this regulation 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.

**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 revising § 117.511(b) to read as follows:

**PART 117—DRAWBRIDGE OPERATION REGULATIONS**

**§ 117.511 West Pearl River.**

* * * * *

(b) The draw of the US 90 bridge, mile 7.9 near Pearlington, shall open on signal if at least four hours notice is given.

(33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: November 23, 1984.

**W.H. Stewart,**

*Rear Admiral, U.S. Coast Guard.*

[FR Doc. 84–31529 Filed 11–30–84; 8:45 am]

BILLING CODE 4910–14–M

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**POSTAL SERVICE**

**39 CFR Part 111**

## Domestic Mail Manual, Miscellaneous Amendments

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for Issue 16 of the Domestic Mail Manual (DMM), which is incorporated by reference in the **Federal Register**, 39 CFR 111.1.

Most of the revisions are minor, editorial or clarifying. Substantive changes, such as the revised regulations on official mail and the use of padded envelopes in the registered mail system, have previously been published in the **Federal Register**.

**EFFECTIVE DATE:** September 27, 1984.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Kemp, (202) 245–4638.

**SUPPLEMENTARY INFORMATION:** The Domestic Mail Manual, which is incorporated by reference in the **Federal Register** (see 39 CFR 111.1), has been amended by the publication of a transmittal letter for issue 16, dated September 27, 1984. The text of all

published changes is filed with the Director of the Federal Register. Subscribers to the Domestic Mail Manual receive these amendments automatically from the Government Printing Office.

The following excerpt from the Summary of Changes section of the transmittal letter for issue 16 covers the minor changes not previously described in interim or final rules published in the **Federal Register.**

**Note.**—Issue 16 contains all DMM revisions published between July 19, 1984, and September 27, 1984. (Postal Bulletins 21467 through 21478.)

**Summary of Changes**

*Major Revision*

*Official Mail.*

* * * * *

*Other Revisions*

1. Section 119.1 is revised to include three additions to the list of registered U.S. Postal Service trademarks or service marks and one addition and three deletions from the list of proposed or pending registration of U.S. Postal Service trademarks or service marks (PB 21478, 9–27–84).

2. Exhibit 122.63*f* reflects mandatory changes and/or additions to the Optional State Distribution Center (SDC) labeling list for mailer prepared Second-Class newspaper treatment publications (PB 21471, 8–16–84).

3. Section 136.7 is revised to improve the handling of Express Mail drop shipments (PB 21476, 9–13–84).

4. Section 145.3 is revised to allow permit imprints to be printed on address labels (PB 21467, 7–19–84).

5. Section 153.24 is changed to clarify procedures for handling mail addressed to deceased persons (PB 21474, 9–6–84).

6. Sections 157.2 and 157.3 are amended to reflect the change in supervision of highway contract route (HCR) service and to add Express Mail to this service (21474, 9–6–84).

7. Section 261.3 is added to explain procedures used for experimental Tag 2705X, *Same Day—Move It* (PB 21474, 9–6–84).

8. Section 723.21 is revised to remove the current exclusion from bulk bound printed matter of parcels weighing less than 15 pounds that measure over 84 inches in length and girth combined (PB 21473, 8–30–84).

9. * * *

10. Minor editorial and typographical changes have been made to 115.91a; 132; 136.753c; 141.241; 145.42; 157.31b; 281; 282; 447.6; 464.242c(1); 468.31; Exhibit 482*c* (p.1, p.2); Exhibit 482 *e, f, g*; 667.322; 668; 712.1; 767.535; 768; 952.233; and Index: Customer Complaints.

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

Postal Service.

**PART 111—GENERAL INFORMATION ON POSTAL SERVICE**

In consideration of the foregoing, 39 CFR 111.3 is amended by adding at the end thereof the following:

**§ 111.3 Amendments to the Domestic Mail Manual.**

* * * * *

| Transmittal letter for issue | Dated | "Federal Register" publication |
|---|---|---|
| 16 | Sept. 27, 1984 | 49 FR 47232, December 3, 1984. |

(5 U.S.C. 552(a); 39 U.S.C. 401, 407, 408, 3001–3011, 3201–3218, 3403–3405, 3601, 3621; 42 U.S.C. 1973cc–13, 1973cc–14)

**Fred Eggleston,**

*Assistant General Counsel, Legislative Division.*

[FR Doc. 84–31489 Filed 11–30–84; 8:45 am]

**BILLING CODE 7710–12–M**

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**39 CFR Part 111**

**Business Reply Mail**

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This rule establishes final regulations for a variety of changes to Business Reply Mail (BRM) to be effective January 2, 1985.

The rule prescribes format requirements to accommodate mail processing optical character reader specifications, and makes changes throughout the Business Reply Mail section to simplify procedures and provide clearer instructions for mailers and postal personnel.

**EFFECTIVE DATE:** January 2, 1985.

**FOR FURTHER INFORMATION CONTACT:** Dick Greene, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260–5371, Telephone (202) 245–4530.

**SUPPLEMENTARY INFORMATION:** A detailed explanation of the nature and background of the proposed rule, including the reasons for its proposed adoption and a discussion of the major changes, accompanied its publication in the **Federal Register** on October 1, 1984 (49 FR 38661).

Five letters were received with comments on the proposed regulations. The comments and the Postal Service response are as follows:

1. A comment was received questioning the need for horizontal bars (917.526) and the half inch space requirement between the bars and the ZIP Code (917.525b). Because it appears that the horizontal bars have important recognition value, the Postal Service declines to change the proposed regulation. As to the half inch space, it is needed to preclude any possible interference which might affect the Postal Service's optical character readers. These readers often pick up marks or characters too close to the read area.

2. Two comments were received on the need for a grace period after the effective date of the final rule to allow mailers to use up existing stocks and to assure mailers that non-conforming BRM distributed prior to the final rule effective date will be acceptable for delivery.

Both in the proposal and in the final rule the Postal Service provided for a one-year grace period (See 917.6—Implementation Deadline) and has revised 917.6 to make it clear that non-conforming BRM already in distribution will continue to be acceptable for delivery.

3. One comment was received from the Postal Rate Commission stating that section 917.243b of the proposed regulation could be interpreted as modifying the postage payment guarantee contained in section 2.020 of the Domestic Mail Classification Schedule. Since the intent of the proposed regulation was only to insure that BRM permit holder would not be penalized for failure to accept BRM improperly used as a label, the Postal Service has revised 917.243b to make clear that it does not modify the postage guarantee and that it extends only to use of BRM as a label.

4. Two commenters opposed proposed regulation 917.593, which restricts BR labels to non-standard size BRM. The Postal Service believes that the use of BR labels on standard size envelopes and cards prevents efficient processing because the position and alignment of BR labels cannot be controlled. Furthermore, BR labels were never intended to be a means of circumventing format requirements for standard size BRM.

5. One commenter suggested that deletion of the legend "Business Reply Card" may cause permit holders to be unaware of lower postage rates. The Postal Service believes that permit holders are generally aware of the proper rates for their BRM. Furthermore,

the rates for cards are generally available and are listed elsewhere in the DMM. Deletion of the legend "Business Reply Card" will avoid printing errors when "Business Reply Mail" is inadvertently printed on cards and will eliminate another check on format requirements by postal personnel, thus streamlining the administration of BRM. Accordingly, proposed section 917.522 has not been revised.

6. One comment was received questioning whether proposed 917.525 c, which prohibits use of unique ZIP Codes on BRM, pertained only to unique ZIP + 4 codes and not to unique 5-digit ZIP Codes presently used for regular mail. This regulation applies to all unique ZIP Codes. The Postal Service must have exclusive BRM ZIP Codes, including 5-digit ZIP Codes, to prevent revenue losses when BRM (especially nonstandard BRM) gets mixed with postage paid regular mail because it has been batched and separated by ZIP Code.

7. One commenter suggested that business reply permit renewal notices be sent 60 to 90 days before renewal and that we keep track of them to ensure renewal, and that directive copy should be used on the outer envelope to assure that the renewal notice reaches the proper person in a large corporation. The Postal Service currently has a constant deadline of December 31 for renewals, which provides permit holders with a predictable annual date. Our present method has proven satisfactory and will be improved by the new requirement that the permit holder be notified by certified mail and given 10 days to renew. Permit holders will quickly become aware of the need for renewal when their BRM is held for 10 days. The absence of BRM delivery will call their attention to the problem. As a result, the Postal Service believes the method currently in place, as modified by these regulations, provides a more efficient way to renew BRM than the commentor's proposal. Additionally, the Postal Service will send the renewal notice to the address provided by the permit holder. Large corporations are expected to provide the proper address to direct the delivery of the renewal notice.

8. One comment concerned the requirement that the permit holder's name must always be printed even when BRM is distributed by dealers and third parties. It was suggested that adding the permit holder's name may not be beneficial to dealers and third parties.

This regulation allows a permit holder's permit to be used to represent the business of the permit holder by dealers and third parties. Dealers and third parties who prefer not to be identified by association with a permit holder may apply for their own permits.

For the reasons given and after careful consideration, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations.

See 39 CFR 111.1

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

Postal Service.

**PART 111—[AMENDED]**

Revise part 917 to read as follows:

**PART 917—BUSINESS REPLY MAIL (BRM)**

*917.1 General.*

.11 Description. BRM service enables mailers to receive First-Class Mail back from customers by paying postage only on the mail that is returned to them from their original distribution of BRM pieces. The permit holder guarantees payment of the appropriate First-Class postage plus a handling charge per piece on all returned BRM distributed under the permit holder's permit number. All BRM will be cancelled to assure that First-Class service standards are being met.

.12 Special Services. Special services (*e.g.*, insurance, registration, certified, C.O.D., return receipts) cannot be used with BRM.

.13 Distribution. Business reply cards, envelopes, self-mailers, cartons, and labels may be distributed by a valid BRM permit holder in any quantity for return to any post office in the United States and its territories and possessions, including military post offices overseas. Refer to International Mail Manual (IMM), 233.32, for international BRM requirements. Domestic BRM must not be sent to any foreign countries.

*917.2 Permits.*

.21 Application.

.211 Completing Forms. Completion of Form 3614, *BRM Application and Annual Renewal Notice*, appearing below, is required. Form 3614 and the annual permit fee must be submitted to the post office issuing the permit. On receipt of the application and fee, the postmaster will complete the permit portion of the form and assign the permit number. The postmaster will complete and give the customer Form 3544, *Receipt for Payment;* and provide Publication 115, *Business Reply Mail*, to the applicant. The postmaster will not return Form 3614 to the customer. (See 917.242 for exceptions when branches and dealers are involved.)

.212 Filing Forms. Post offices file Form 3614 by permit holder in alphabetical order. A copy of Form 3544 must be attached to Form 3614 as proof of payment. (*Exception:* Post offices with a large number of BRM permits may elect to file Form 3544 in permit number sequence, for cross reference purposes.)

.22 Annual Permit Renewals. A renewal notice (Form 3614) will be furnished each BRM permit holder by December 1 of each year. The permit holder must return the renewal notice and payment to the post office issuing the permit by December 31.

.23 Nonrenewed Permits. When records indicate a permit was not renewed, the permit holder will be informed in writing by certified mail that all *BRM mail will be held for ten days and then returned to sender*, if the permit is not renewed. The following methods will be followed if the permit is not renewed after the mailer has been notified in writing and ten days have elapsed:

a. BRM will be returned to the sender.

b. BRM that does not contain the sender's return address is forwarded to the nearest dead letter branch for proper handling with the endorsement "Business Reply Permit Cancelled."

c. BRM qualifying for the card rate is treated as waste (See 159).

d. Mail distributed by branches and dealers of the permit holder is returned to the post office where the permit is held for collection of postage and fees from the permit holder.

.24 Acceptance of BRM in any Post Office.

.241 Acceptance Conditions. BRM will be processed and delivered under the following conditions:

a. The permit holder's permit number, city, state, and name *must be printed on the BRM distributed.*

b. Post offices will not accept BRM for delivery and will require branches, agents or dealers to apply for a permit and pay the permit fee if branches, agents or dealers distribute BRM on behalf of a permit holder and the name of the permit holder is not printed above their name and address. Branches', agents', or dealers' names and addresses must be printed below the permit holder's name.

.242 Return Through More Than One Post Office. A permit holder can distribute BRM through any post office for delivery at any post office. The permit holder does not have to pay an additional permit fee to distribute or return BRM through other post offices

provided the permit holder submits a written authorization to the other post offices involved for the branch, agent, or dealer to receive the BRM, and the permit holder provides a copy of a valid Form 3544 (which shows the BRM permit fee was paid) to any post office that will be processing the BRM. The permit holder's written authorization must provide the name, address, and telephone number of the branch, agent or dealer authorized to receive BRM.

.243 Permit Holder's Guarantee. The permit holder guarantees payment of postage and fees on delivery of BRM. Any concern distributing BRM under one permit for return to its branches or dealers guarantees to pay postage on any returns refused by any authorized addresses, branches or dealers. Refusal to accept and pay the required charges for BRM offered for delivery will be grounds for immediate revocation of the BRM permit. Exceptions area as follows:

a. When refusal involves branches, agents and dealers, the BRM will be forwarded to the post office issuing the original permit for collection of the refused postage and fees from the permit holder before the BRM permit is revoked.

b. In all cases where BRM is improperly used as a label (See 917.522), the post office will treat the item as waste. The post office will not consider the permit holder's refusal to accept and pay BRM charges for improper use of BRM as a label as grounds for revocation of a BRM permit. However, the use of a proper business reply label requires the permit holder to pay postage in all cases.

*917.3 Postage and Fees.*

.31 General. There is an annual BRM permit fee. First-Class postage and a BRM per piece charge will be collected from the addresses upon delivery. An additional annual accounting fee is required for establishment of a business reply account.

.31 Zone Related BRM. All BRM must be cancelled. First-Class Zone Rated (Priority) BRM will be rated zone 1 if the zone cannot be determined from the cancellation or the sender's address on the BRM piece.

.31 Fees:

| | |
|---|---|
| BRM annual permit and renewal fee | $40.00 |
| BRM accounting fee | $75.00 |

The applicable and full BRM fee(s) must be paid each calendar year or portion thereof. Fees are not prorated. Fees are not refundable or transferable even when BRM permits or accounts are not used.

.33 Payment of Postage and Fees.

.331 General. Permit holders have three options for paying postage and fees on BRM returned: (1) In cash; (2) through a postage due account; or (3) through a business reply account.

.332 Cash or Postage Due Account. Payment may be paid in cash or through a regular postage due account as follows:

a. Amount Collected. The amount to be collected for cash or use of regular postage due account transactions is the appropriate First-Class postage, *plus a charge of 18 cents per piece.*

b. Account Fee. No business reply account fee will be charged when the regular postage due account is used. Use of a postage due account does not qualify the BRM for the lower per piece charge given permit holders with a business reply account.

c. Affixing Stamps or Meter strips. Postage due stamps or meter strips for the amount will be affixed to the mail or to Form 3582—A, *Postage Due Bill.* The stamps must be cancelled and delivered to the addressee with the mail when the amount due is paid.

.333 Business Reply Account. A business reply account must only be used for payment of postage and fees on BRM as follows:

a. Amount Collected. The amount to be collected for business reply account transactions is the appropriate First-Class postage, *plus a charge of 5 cents per piece.*

b. Account Fee. In addition to the annual permit and renewal fee, a separate accounting fee is charged for each business reply account at each post office where the mail is to be returned. The full fee must be paid for the whole or part of each calendar year.

c. The following conditions apply to business reply accounts:

1. Only one billing is provided for each business reply account.

2. When a permit holder distributes BRM with different addresses or post office box numbers under the same permit number in the same delivery unit and is covered by one business reply account, the BRM is separated by each different address or post office box number, but only one billing is provided for the business reply account.

3. When a permit holder with a business reply account desires a separation of charges, payment of a business reply accounting fee is required for *each* billing prepared for each separation. The permit holder pays the appropriate First-Class postage, plus a charge of 18 cents per piece, for each separation if a business reply account fee is not paid for each separation.

d. Insufficient Funds. When a business reply account contains insufficient funds to cover the amount due for postage and fees, the BRM is held and the permit holder notified by certified mail that the BRM is being held. If funds are not deposited within three days, the BRM is treated as a cash or postage due account transaction and the permit holder pays the appropriate First-Class postage plus a charge of 18 cents per piece. If funds are deposited within three days, all BRM held during the three days will be charged First-Class postage, plus 5 cents per piece.

e. BRM Addressed to Different Firms. BRM addressed to several different firms at the same delivery unit may be delivered to an agent authorized by a valid business reply permit holder. The agent will pay one business reply account fee for all the firms represented by the agent in the same delivery unit. If the agent, or any of the firms represented by the agent, desires a separation of charges then the conditions in 917.333(e) are applicable.

.334 Two or More BRM Pieces. Two or more BRM pieces may be mailed as a single item under the following conditions:

a. The BRM pieces are identically addressed and approximately the same size or shape. They must be securely or permanently fastened together. String or rubber bands are unacceptable.

b. The weight of the combined item must not exceed the permitted maximum size of 108 inches (length and girth) or the weight limit of 70 pounds.

c. BRM postage due calculations are based on the total weight of the item and the appropriate First-Class postage plus the BRM charge for one piece.

d. When two or more BRM pieces mailed together become separated, BRM postage and fee charges are calculated for each piece.

.340 BRM Bearing Stamps.

.341 BRM with postage affixed is handled in the same manner as other BRM. No effort is made to identify or separate BRM pieces having postage affixed. Applicable postage and fees are charged without deducting the amount of any postage stamps affixed.

.342 Refunds. The 5¢ or 18¢ per BRM piece charges are not refundable. However, business reply permit holders may request a credit or refund (as provided in 147.22) for the amount of postage affixed to BRM pieces by submitting a completed Form 3533, *Application and Voucher for Refund of Postage and Fees, to the postmaster* along with evidence of the excess postage payment for which a credit or refund is desired. Permit holders are entitled to a refund for postage affixed to BRM that may be attributed to printed

endorsements which solicit mailers to help reduce permit holder postage costs. To receive refunds for postage, business reply permit holders must present to the designated office properly faced and banded packages of 100 identical BRM pieces with identical amounts of postage affixed. Exceptions to this are:

a. A postmaster may accept a package of less than 100 business reply envelopes if necessary to prevent loss or hardship to a mailer.

b. The address side of the envelope may be separated and submitted as evidence, instead of the entire envelope, provided all address sides are separated in the same manner.

.343 Foreign Postage Refunds. The permit holder is only entitled to a refund of the U.S. First-Class postage rate charged to the permit holder, not any value of the foreign postage stamps nor the BRM per piece handling charges.

*917.4 Address Alterations.*

.41 General. The address on BRM pieces cannot be altered to an address other than that of the permit holder. BRM items cannot be converted for any other purpose than intended by the permit holder, *even when postage is affixed.*

.42 Processing. BRM with address alterations will be processed as follows:

a. BRM qualifying for the card rate is treated as waste (see 159).

b. Other BRM pieces with altered addresses must be endorsed "Return to Sender." If the BRM does not contain a return address, it will be followed to the nearest dead letter branch with the endorsement "Undeliverable As Addressed."

c. The only acceptable alteration of address information on BRM would be when the centralized mark-up (CMU) or the permit holder applies a label containing the new address of the permit holder. A new address label will be unacceptable if it interferes with the Facing Identification Mark (FIM), if it covers the permit holder's name printed on the BRM; or if a bar code was previously printed on the item.

*917.5 Format.*

.51 General. All forms of printing are permissible provided they are legible to the satisfaction of the Postal Service. However, handwriting, typewriting, or handstamping cannot be used to prepare the address side of BRM (see DMM 137 for exception on Official Mail). Printed borders are not authorized on business reply letters and cards; however, they are allowed on business reply labels and cartons and envelopes larger than 6⅛" high or 11½" long or ¼" thick. All colors of ink are acceptable provided there is at least a 30% reflectance difference throughout the red spectral range of 550 to 775 nanometers (nm) between the paper and ink.

.52 Format Elements (see Exhibit 917.52).

.521 "No Postage Necessary * * *" Endorsement. The endorsement "NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES" must be printed in the upper right hand corner of the face of the piece. The endorsement must not extend further than 1¾" from the right edge of the mail piece.

.522 Business Reply Legend. The appropriate BUSINESS REPLY legend must appear above the address in capital letters at least 3/16" in height. Authorized legends are:

| Legend | For use on |
|---|---|
| BUSINESS REPLY MAIL. | All BRM except for business reply labels. (Cards must qualify for the lower card rate—see 917.58.) |
| BUSINESS REPLY LABEL. | The legend "BUSINESS REPLY LABEL" means that the permit holder guarantees payment of First Class postage upon the return of mailable matter with the permit holder's business reply label. Items printed with the legend "BUSINESS REPLY MAIL" are not acceptable as labels. |

.523 Permit Number. Immediately below the BUSINESS REPLY legend the words "FIRST-CLASS PERMIT NO * * *" followed by the permit number and the name of the issuing post office (city and state) must be shown in capital letters.

.524 "Postage Will Be Paid * * *" Endorsement. The legend POSTAGE WILL BE PAID BY ADDRESSEE" must appear below the "FIRST-CLASS PERMIT NO * * *", not lower than 2¼" from the bottom edge of the BRM.

.525 Address. The complete address, including the name of the permit holder, street address, and/or post office box number, city, state, and ZIP Code must be printed directly on the mail piece. *Exception:* Preprinted labels with only delivery address information are permitted for addressing BRM. However, the permit holder's name must still be printed directly on the BRM. Permit holders are liable for the postage and fees on BRM returned with improper addressing. Mailers are encouraged, but not required, to use ZIP+4 Codes and corresponding bar codes on BRM. Other requirements are as follows:

a. The bottom line of the address must be no lower than ⅝", and the top line of the address must not be higher than 2¼", from the bottom edge of the mail piece. The space ⅝" from the bottom edge and 4½" from the right edge of the mail piece is reserved for bar codes. A clear margin void of any extraneous matter (except for the horizontal bars specified in 917.526) of at least 1" is required between the left and right edges of the mail piece and the address.

b. There must be at least ½" clearance between the ZIP Code and the horizontal bars.

c. Unique ZIP Codes, unless assigned exclusively for BRM/postage due mail, must not be used for BRM.

d. A company logo is permitted if it is located *no lower than the top of the street address or the post office box line.* The logo must not interfere with any of the required business reply endorsements.

e. The upper left corner of the address side is available for permit holder use (see Exhibit 917.52—Figure 3).

.526 Horizontal Bars. To facilitate rapid recognition of BRM, a series of horizontal bars parallel to the length of the mail piece must be printed immediately below the endorsement "NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES." The bars must be uniform in length, at least 1" long and 1/16 to 3/16 inch thick and evenly spaced. The vertical column of horizontal bars must not extent below the delivery address line, which is the line above the line containing the ZIP Code.

.527 Facing Identification Mark (FIM). FIM is a vertical bar code pattern printed at the top right portion of the address side of the BRM piece. FIM functions as an orientation mark for automatic facing and cancelling equipment. Requirements for FIM are as follows:

a. A FIM must be printed on all BRM except business reply labels, or BRM larger than 6⅛" high or 11½" long or ¼" thick. The following FIM types are applicable for BRM:

FIM B—For preprinted BRM, penalty, or franked mail *without* bar code. Prevents rejection on the facer canceller.

FIM C—For preprinted BRM and penalty or franked mail *with* bar code. Allows capture at facer canceller.

b. See Exhibit 917.52, Figure 2, for FIM printing location. Each FIM bar must be at least ½" high. Each bar must be at least .03125" (±.008" wide). Extraneous ink must not cause a bar to exceed specified limits. BRM is nonmailable when the FIM has insufficient ink coverage, improper measurement, ink in the space between the bars, or is either enlarged or reduced.

c. The combined effects of positional and rotational skew must be limited to ±5 degrees from the perpendicular edge

of the printed FIM to the top edge of the mail piece.

d. There must be at least a 30 percent reflectance difference throughout the red spectral range of 500 nm to 775 nm between the paper and ink.

e. Additional specifications for printing the FIM pattern and bar codes are contained in Publication 25, *A Guide to Business Mail Preparation.* USPS negatives or positives and specifications must be used for printing the FIM pattern and bar code. Negatives and positives are available, free of charge, from the local post office customer service representatives.

.528 Pre-Bar Coded BRM. Bar coding permits highly reliable sortation of mail through automated bar code sorters instead of manual or mechanized methods. Pre-bar coding of BRM is optional. If BRM is pre-bar coded, these requirements must be followed:

a. FIM C must be used for pre-bar coded business reply mail.

b. Each full bar must be 0.125 ± 0.10" high. Each half bar must be 0.050 ± .010" high. All bars printed must be 0.020 ± .005" wide. The horizontal spacing of all bars must be 21 bars per inch ± 1 bar. See Exhibit 917.52 for bar code printing location.

c. Extraneous ink must not exceed 0.003" in the allowed height or width of any bar or cause space-to-background print reflectance differences (PRD) to exceed 10%.

d. The combined effects of positional and rotational skew must be limited to ± 5 degrees from the perpendicular edge of the printed bar code to the bottom edge of the mail piece.

e. There must be at least a 30% reflectance difference throughout the red reflectance range of 500 nm to 775 nm between the paper and ink.

.53 BRM Format Review. Postal inspection of BRM before printing is not mandatory. However, permit holders receiving written postal approval of BRM before printing could avoid the cost of reprinting and distributing in the event of a nonmailable ruling. Postal approval of BRM requires that two BRM pieces be submitted to the post office where the permit is held or where the mail will be returned. The post office will return one BRM with written approval or required changes. The postmaster retains the other BRM piece and a copy of the written approval or required changes given to the mailer.

.54 BRM Format Corrective Action.

.541 The permit holder and authorized permit users must be notified in writing of specific errors when BRM formats do not meet current postal requirements. The *permit holder* is responsible for correcting BRM formal and ensuring that future formats meet specifications.

.542 Repeated instances of incorrect BRM formats, as determined by the Postal Service, are grounds for revocation of the business reply permit. The permit holder must be notified by certified mail and allowed ten days to respond before a permit is revoked.

.543 To obtain a new permit after a BRM permit has been revoked for failure to follow BRM format requirements, a new application (Form 3614) must be completed, the required BRM permit fee must be paid, a new business reply account fee must be paid (if used) and two samples of all BRM format must be submitted to the appropriate post office for approval for the next two-year period.

.55 Envelopes.

.551 Paper envelopes used for BRM must have a minimum base weight of 20 pounds (17" x 22", 500 sheet base). Nonpaper envelopes must be approved for mailability by the USPS Engineering Support Center, Rockville, Maryland 20852–6101.

.552 If the BRM envelope is made of paper with dark fibers, the print reflectance difference (PRD) between the fibers and the background should not exceed 10%.

.553 Envelope paper must not have phosphorescence exceeding 3.0 phosphory meter units (PMU) to avoid orientation problems in the facer canceller. Envelopes must have at least a 50% reflectance value.

.554 Half tone screening of less than 200 dots per inch must not be used in the background of the address area of the envelope as the cause OCR interference.

.555 BRM envelopes are nonmailable when sealed with wax, clasps, string, staples, or buttons, or when all edges are not straight or when the envelopes is not rectangular.

.56 Window Envelopes. A BRM window or open panel envelope must be prepared as follows:

a. The endorsements "NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES", and "POSTAGE WILL BE PAID BY THE ADDRESSEE.", the permit holder's name, horizontal bars; FIM; the legend "BUSINESS REPLY MAIL", First-Class permit number; city, and state; and the permit holder's name *must be printed* on the *address side of the envelope.*

b. There must be at least ⅛ inch clearance and no extraneous (nonaddress) printing around the edges of the address shown in the window even when the address is moved to its full limits inside the window envelope.

c. The window must not be positioned lower than ⅝" (unless there is 4" of clear space for the printing of bar codes from the right edge of the window) or higher than 2¼" from the bottom edge of the envelope. This area is reserved for addressing and bar codes. The address showing through for addressing and bar codes. The address showing through the window must be that of the permit holder or an authorized agent/dealer and must be at least 1" from the left or right edge of the mail piece.

d. Materials covering windows must allow the address to be readable.

e. Permit holders are responsible for the postage and fees on all BRM returned if the address is incomplete or cannot be read through the window.

.57 Self-Mailers. BRM self-mailers must be rectangular, at least 0.007" thick, and contain instructions for folding and sealing. Self-mailers are nonmailable when sealed with wax, clasps, string, staples, or buttons, and when they do not have straight sides.

.58 BRM Cards. Cards must be rectangular in shape, not less than 3½ × 5" or greater than 4¼ × 6" and of uniform thickness not less than 0.007".

.59 Business Reply Labels.

.591 Minimum size of label with the legend "Business Reply Label" 2 × 3" it is not necessary to print FIM or bar codes on BR labels; however, all other BRM format requirements must be met on the label.

.592 The series of horizontal bars on business reply labels must be at least ¾" in height.

.593 Business reply labels must not be used on standard size BRM cards and envelopes.

*917.6 Implementation Deadline*

All BRM distributed after December 31, 1985, must comply with the format requirements contained in this section or the BRM will not be accepted for distribution. Mailers are given a one-year grace period (between January 1 and December 31, 1985) to distribute and dispose of stocks of BRM which do not meet the format requirements in this section. All BRM distributed prior to December 31, 1985, will be delivered to a valid permit holder whenever returned.

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

(39 U.S.C. 401(2), (10), 404(a)(2), (4))

**W. Allen Sanders,**

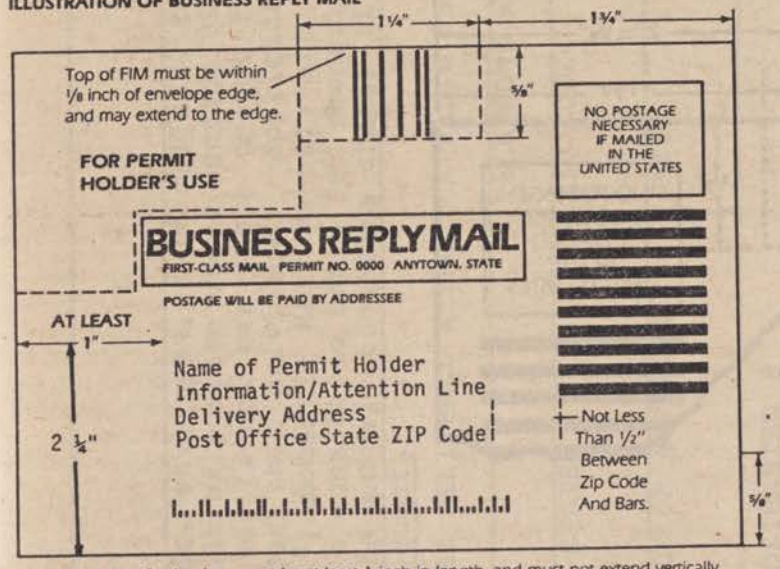
*Associate General Counsel, Office of General Law and Administration.*

BILLING CODE 7710-12-M

EXHIBIT 917.52 BUSINESS REPLY MAIL FORMAT REQUIREMENTS

Figure 3

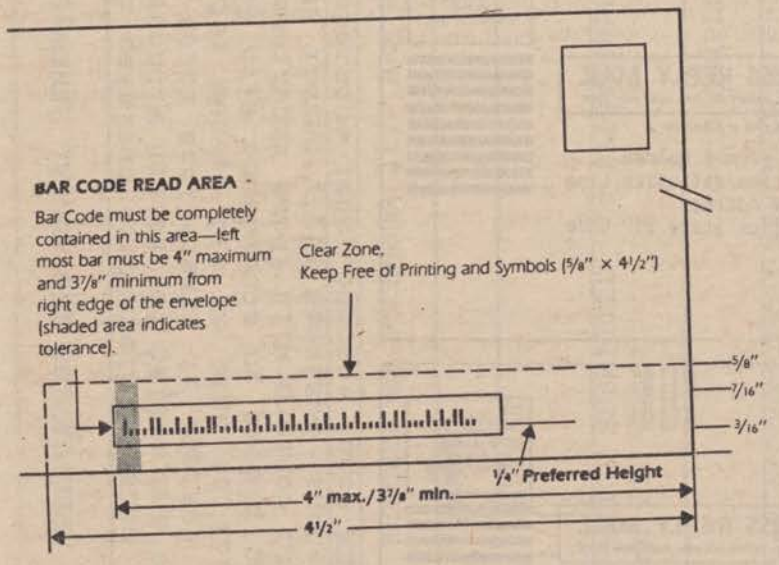
ILLUSTRATION OF BUSINESS REPLY MAIL




Horizontal identification bars must be at least 1-inch in length, and must not extend vertically below the delivery address line.

Figure 1

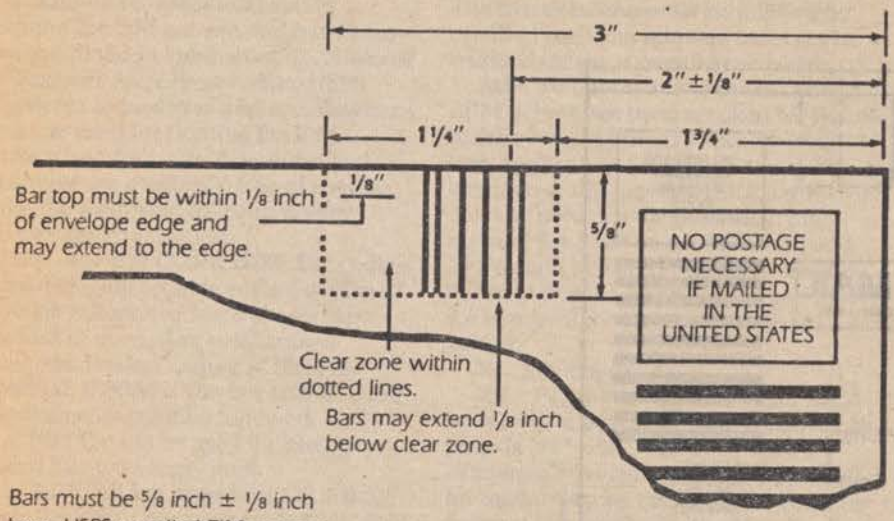
BAR CODE LOCATION



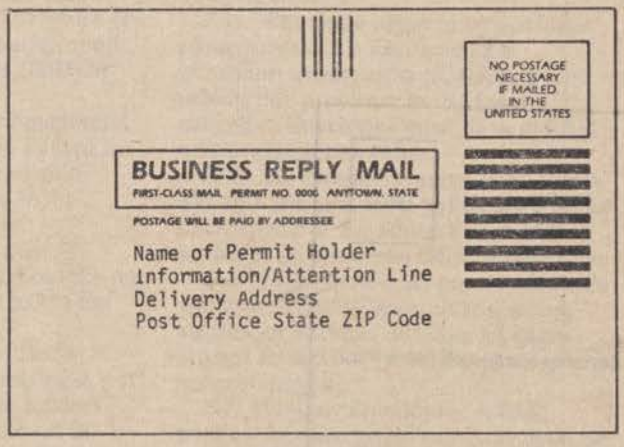

Both FIM and Bar Code must have at least 30% print reflectance differance and the combined effects of positional and rotational skew must be limited to ± degrees from the FIM or Bar Code to the top or bottom edge of the mail piece.

Figure 2

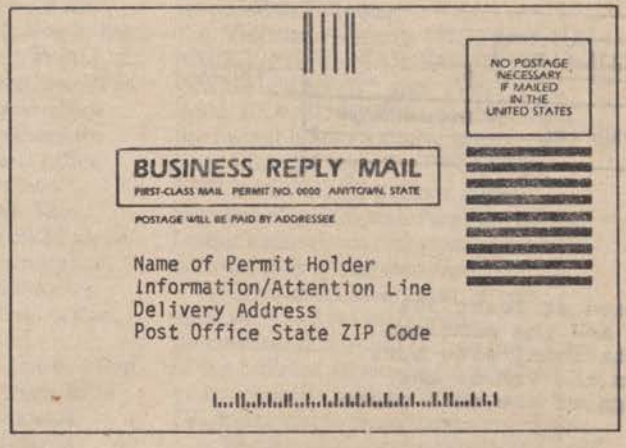
**FIM LOCATION**




Bars must be 5/8 inch ± 1/8 inch long. USPS supplied FIM patterns (A-B-C) are 5/8 inch long and should not be reduced or enlarged in size.




**FIM B**
FOR PRE-PRINTED BUSINESS REPLY PENALTY OR FRANKED MAIL WITHOUT BAR CODE. PREVENTS REJECTION ON THE FACER CANCELER.




**FIM C**
FOR PRE-PRINTED BUSINESS REPLY PENALTY OR FRANKED MAIL WITH BAR CODE. ALLOWS CAPTURE AT FACER CANCELER.*

Examples are reduced from actual size.

FORM 3614, BRM APPLICATION AND ANNUAL RENEWAL NOTICE

Application is made to distribute business reply cards, envelopes, self mailers, cartons, and labels prepared and mailed for return without prepayment of postage under Section 917, Domestic Mail Manual. Postage at First-Class rates and the additional per piece charge for business reply mail will be paid on all pieces returned under this privilege. Applicant agrees to prepare mailing pieces in accordance with Section 917, Domestic Mail Manual, and understands that failure to conform with those requirements may be considered basis for revocation of this permit. The annual business reply permit fee, and the annual accounting charge if payment is to be from a BRM trust account, must accompany this request.

PERMIT MUST BE RENEWED BY DECEMBER 31. BRM WILL NOT BE DELIVERED WITHOUT A VALID PERMIT.

| | | | |
|---|---|---|---|
| NAME AND ADDRESS OF PERMIT HOLDER (print or type) | NAME | | TELEPHONE NO. |
| | STREET | CITY AND STATE | ZIP CODE |
| POST OFFICE TO WHICH SUBMITTED (City, State and ZIP Code) | SIGNATURE AND TITLE OF APPLICANT | | DATE |

TO BE COMPLETED BY POSTMASTER

| | | | | |
|---|---|---|---|---|
| BRM ACCOUNT YES NO | BRM ACCOUNT FEE RECEIPT NO. | BRM PERMIT FEE RECEIPT NO. | ☐ APPLICATION APPROVED ☐ APPLICATION DENIED | PERMIT NUMBER |
| DATE OF ISSUANCE | DATE OF EXPIRATION | SIGNATURE OF POSTMASTER | | |

- POSTMASTER MUST GIVE CUSTOMER FORM 3544, RECEIPT FOR PAYMENT FOR PROOF OF HAVING A VALID PERMIT.

[FR Doc. 84-31556 Filed 11-30-84; 8:45 am]
BILLING CODE 7710-12-C

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 67

### National Flood Insurance Program; Final Flood Elevation Determinations; Alaska, et al.

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are finalized for the communities listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

**ADDRESSES:** See table below.

**FOR FURTHER INFORMATION CONTACT:** Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Federal Insurance Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

### List of Subjects in 44 CFR Part 67

Flood Insurance, Flood plains.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the 90-day period and the proposed base flood elevations have not been changed.

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| Alaska | Bethel (City), Bethel Division, FEMA–6604 | Kuskokwin River | At the intersection of Main and 1st Avenue | *17 |
| | Maps available for inspection at Planning Department, City Complex, Bethel, Alaska. | | | |
| California | Santa Cruz (city), Santa Cruz County, FEMA–6599 | Arana Gulch | Intersection of Arana Gulch and center of Soquel Avenue. | *33 |
| | | Carbonera Creek | 120 feet downstream from center of State Highway 1 (Cabrillo Freeway). | *35 |
| | | Moore Creek | Intersection of Moore Creek and center of Delaware Avenue. | *40 |
| | | San Lorenzo River | 20 feet upstream from center of Laurel Street | *18 |
| | | San Lorenzo River—Without consideration of levee. | 60 feet upstream from center of Riverside Avenue | *14 |
| | Maps available for inspection at City Planning Department, 809 Center Street, Santa Cruz, California 95060. | | | |
| Connecticut | Jewett City, borough, New London County, (FEMA Docket No. 6604). | Quinebaug River | At upstream corporate limits | *100 |
| | | | At downstream corporate limits | *85 |
| | | Pachaug River | At upstream corporate limits | *129 |
| | | | Confluence with Quinebaug River | *86 |
| | Maps available for inspection at City Hall, School Street, Jewett City, Connecticut. | | | |
| Connecticut | Lisbon, town, New London County, (Docket No. FEMA–6586). | Shetucket River | Downstream corporate limits | *37 |
| | | | Upstream of Norwich Avenue | *39 |
| | | | Upstream of Taftville Dam | *57 |
| | | | Upstream corporate limits | *64 |
| | | Quinebaug River | Downstream corporate limits | *37 |
| | | | Upstream of dam | *51 |
| | | | Approximately 1.5 miles upstream of dam | *59 |
| | | | Approximately 3 miles upstream of downstream corporate limits. | *70 |
| | | | Upstream of Connecticut Turnpike | *83 |
| | | | Upstream of Sylvandale Road | *86 |
| | | | Upstream of dam | *100 |
| | | | Upstream corporate limits | *101 |
| | | Blissville Brook | At confluence with Shetucket River | *37 |
| | | | Upstream of Ice House Road | *72 |
| | | | Upstream of Bundy Hill Road | *94 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | | Upstream of School House Road | *99 |
| | | | Approximately 150' downstream of State Route 169 | *124 |
| Maps available for inspection at the Town Clerk's Office, Lisbon, Connecticut. | | | | |
| Connecticut | North Stonington, Town, New London County, (FEMA Docket No. 6614). | Shunock River | Confluence with Pawcatuck River | *23 |
| | | | Voluntown Road (upstream side) | *30 |
| | | | Approximately 50 feet upstream of State Route 617 | *55 |
| | | | State Route 184 (upstream side) | *85 |
| | | | Approximately 1.6 miles upstream of State Route 184 (upstream side of footbridge). | *88 |
| | | | Dam (upstream side) | *115 |
| | | | Rocky Hollow Road (upstream side) | *131 |
| | | | Approximately .9 mile upstream of Main Street | *139 |
| | | Green Fell River | Approximately 400' downstream of downstream corporate limits. | *50 |
| | | | State Route 184 (upstream side) | *55 |
| | | | Approximately 170 feet upstream of Ashaway-Clarks Falls Road. | *71 |
| | | | Clarks Falls Dam (downstream side) | *78 |
| | | Pawcatuck River | Downstream corporate limits | *23 |
| | | | Approximately 400 feet upstream of Boom Bridge Road. | *26 |
| | | | Upstream corporate limits | *28 |
| | | Whitford Brook | Downstream corporate limits | *80 |
| | | | Upstream corporate limits | *88 |
| | | | Approximately .3 mile upstream from downstream corporate limits. | *91 |
| Maps available for inspection at the Town Clerk's Office, North Stonington, Connecticut. | | | | |
| Connecticut | Preston, town, New London County, (Docket No. FEMA-6586). | Shetucket River | At downstream corporate limits | *33 |
| | | | At confluence of Quinebaug River/corporate limits | *37 |
| | | Joe Clark Brook | At confluence with Poquetanuck Cove | *13 |
| | | | At upstream corporate limits | *21 |
| | | Thames River | Downstream corporate limits | *13 |
| | | | Upstream corporate limits | *14 |
| | | Quinebaug River | At confluence with Shetucket River | *37 |
| | | | Upstream of dam | *51 |
| | | | Approximately 1 mile downstream of upstream corporate limits. | *70 |
| | | | Upstream corporate limits | *77 |
| Maps available for inspection at the Building Inspector's Office, Town Hall, Norwich, Connecticut. | | | | |
| Connecticut | Sterling, town, Windham County, (Docket No. FEMA-6604). | Moosup River | Downstream corporate limits | *283 |
| | | | Upstream of Abandoned Railroad | *288 |
| | | | At confluence of East and West Branches of Moosup River. | *295 |
| | | | Approximately 30' upstream of State Route 14A | *336 |
| | | | Approximately 20' downstream of footbridge | *341 |
| | | | Approximately 890' upstream of footbridge | *343 |
| | | East Branch Moosup River | At confluence with Moosup River | *295 |
| | | | Upstream of State Route 14 | *296 |
| | | | Approximately 315' upstream of State Route 14 | *304 |
| | | West Branch Moosup River | At confluence with Moosup River | *295 |
| | | | Downstream of Church Street | *298 |
| | | | Approximately 95' upstream of Church Street | *304 |
| Maps available for inspection at the Town Clerk's Office, Oneco, Connecticut. | | | | |
| Florida | City of Dunnellon, Marion County, (Docket No. FEMA-6599). | Withlacoochee River | About 1.5 miles downstream of U.S. Highway 41 | *31 |
| | | | About 3.9 miles upstream of U.S. Highway 41 | *35 |
| | | Rainbow River | Within corporate limits | *34 |
| Maps available for inspection at the City Hall, Dunnellon, Florida. | | | | |
| Florida | City of Fort Myers, Lee County, (Docket No. FEMA-6614). | Caloosahatchee | At intersection of Seaboard Street and First Street | *8 |
| | | | At intersection of Flower Street and First Street | *8 |
| | | | At intersection of Avacado Drive and Gasparilla Drive | *8 |
| | | | About 0.6 mile west of intersection of Valencia Way and Lynnwood Avenue. | *9 |
| | | | Along east bank from Commerce Street to southern corporate limit. | *10 |
| | | Billy Creek | Just upstream of Palmetto Avenue | *8 |
| | | | About 0.3 mile upstream of Nuna Avenue | *12 |
| Maps available for inspection at City Hall, Planning, Building and Zoning Department, Fort Myers, Florida. | | | | |
| Idaho | Kooskia (city), Idaho County, FEMA-6604 | Middle Fork Clearwater River | Intersection of Fall Street and Ping Street | *1,255 |
| | | South Fork Clearwater River | 50 feet upstream of centerline of B Street | *1,247 |
| | | South Fork Clearwater River—Without Consideration of levee. | Intersection of 1st Avenue and Main Street | *1,250 |
| Maps available for inspection at City Hall, Kooskia, Idaho. | | | | |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| Illinois | Unincorporated areas of Douglas County (Docket No. FEMA-6604). | Kaskaskia River | Downstream county boundary | *643 |
| | | | Upstream county boundary | *667 |
| | | "A" Creek | At mouth | *646 |
| | | | Just downstream road 200E | *652 |
| | | West Fork Creek | At mouth | *652 |
| | | | Just downstream road 100E | *653 |
| | | Lake Fork Creek | At mouth | *652 |
| | | | Just downstream of U.S. Route 36 | *657 |
| | | Bear Creek | At mouth | *652 |
| | | | Just downstream of U.S. Route 36 | *663 |
| | | Dry Fork Creek | At mouth | *655 |
| | | | Just downstream road 1350N | *673 |
| | | Embarras River | Just upstream of U.S. Route 36 | *641 |
| | | | About 3400 feet upstream of Sycamore Street | *651 |
| | | Jordan Slough | Within community | *650 |
| | | West Ditch | Within community | *651 |
| | | Hayes Branch | Just upstream of Prairie Street | *650 |
| | | | About 3250 feet upstream of North Line Road | *652 |
| | | Scattering Fork | About 1350 feet downstream of Egyptian Trail Road | *648 |
| | | | About 750 feet upstream of Egyptian Trail Road | *651 |
| Maps available for inspection at the County Clerk's Office, Douglas County Courthouse, Tuscola, Illinois. | | | | |
| Illinois | Unicorporated areas of Lawrence County (Docket No. FEMA-6599). | Wabash River | At southern county boundary | *414 |
| | | | About 0.5 mile upstream of northern county boundary | *434 |
| | | Embarras River | At mouth | *420 |
| | | | About 700 feet upstream of U.S. Route 50 | *433 |
| | | | About 4300 feet upstream of northern county boundary. | *439 |
| | | Brushy Creek | Just upstream of County Route 5 | *438 |
| | | | About 0.5 mile upstream of State Route 801 | *442 |
| | | Muddy Creek | Just upstream of Unnamed Road 5.5 miles upstream of mouth. | *433 |
| | | | Just upstream of U.S. Route 50 | *448 |
| | | | About 0.45 mile upstream of Cedar Street | *455 |
| Maps available for inspection at the County Clerk's Office, Lawrence County Courthouse, Lawrenceville, Illinois. | | | | |
| Illinois | Village of Erie, Whiteside County (Docket No. FEMA-6604). | Rock River | About 1.02 miles downstream of Erie Road | *592 |
| | | | About 0.78 mile upstream of Erie Road | *594 |
| Maps available for inspection at the Village Clerk's Office, Erie, Illinois. | | | | |
| Illinois | City of LaSalle, La Salle County (Docket No. FEMA 6614). | Illinois River | About 1.57 miles downstream of State Route 351 | *462 |
| | | | About 0.95 mile upstream of the Illinois Central Gulf Railraod. | *463 |
| | | Shallow flooding (overflow from unnamed creek). | About 1050 feet southeast of the intersection of St. Vincents Avenue and 24th Street. | *593 |
| Maps available for inspection at the 1st Floor Bulletin Board, City Hall, 745 Second Street, LaSalle, Illinois. | | | | |
| Illinois | Unincorporated areas of Pulaski County (Docket No. FEMA-6614). | Mississippi River | At confluence of Cache River Diversion Channel | *337 |
| | | | About 1.2 miles upstream of confluence of Cache River Diversion Channel. | *337 |
| | | Ohio River | Just upstream of confluence of Cache River | *331 |
| | | | About 6.7 miles upstream of Lock and Dam No. 53 | *334 |
| Maps available for inspection at the County Clerk's Office, Pulaski County Courthouse, Mound City, Illinois. | | | | |
| Illinois | Village of Seneca, La Salle and Grundy Counties (Docket No. FEMA-6599). | Illinois River | About 0.8 mile downstream of Chicago, Rock Island and Pacific Railroad. | *497 |
| | | | At Chicago, Rock Island and Pacific Railroad | *498 |
| Maps available for inspection at the Clerk's Office, Village Hall, 116 W. Williams Street, Seneca, Illinois. | | | | |
| Illinois | Unincorporated areas of Wabash County (Docket No. FEMA-6604). | Wabash River | At downstream county boundary | *387 |
| | | | At upstream county boundary | *414 |
| Maps available for inspection at the County Clerk's Office, Wabash County Courthouse, Mt. Carmel, Illinois. | | | | |
| Illinois | Unincorporated areas of White County (Docket No. FEMA-6614). | Wabash River | At confluence of Little Wabash River | *369 |
| | | | About 1.9 miles upstream of Illinois Central Railroad | *387 |
| | | Little Wabash River | At mouth | *369 |
| | | | About 5.3 miles upstream of County Highway 815 | *387 |
| | | Elliott Creek | At mouth | *385 |
| | | | About 800 feet upstream of South State Street | *400 |
| | | Center Tributary | At mouth | *391 |
| | | | About 750 feet upstream of mouth | *391 |
| | | North Tributary | At mouth | *390 |
| | | | About 400 feet upstream of County Highway 3 | *401 |
| Maps available for inspection at the County Clerk's Office, White County Courthouse, Carmi, Illinois. | | | | |
| Indiana | City of Fort Wayne, Allen County (Docket No. FEMA 6614). | Maumee River | About 0.5 mile downstream of confluence of Pierson Ditch. | *753 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | | Just upstream of Columbia Avenue | *758 |
| | | St. Marys River | At confluence with St. Joseph River | *758 |
| | | | About 0.45 mile upstream of Lower Huntington Road | *766 |
| | | Pierson Ditch | At mouth | *753 |
| | | | Just downstream of Lake Avenue | *762 |
| | | | Just upstream of Lake Avenue | *769 |
| | | | About 0.6 mile upstream of State Boulevard | *787 |
| | | Branch No. 1 | At confluence with Pierson Ditch | *772 |
| | | | Just downstream of State Boulevard | *776 |
| | | St. Joseph River | At mouth | *758 |
| | | | About 0.4 mile upstream of confluence of Swift Ditch | *767 |
| | | Summer Drain | At mouth | *762 |
| | | | Just upstream of Northcrest Drive | *778 |
| | | | Just upstream of Archwood Lane | *793 |
| | | | Just upstream of Ludwig Road | *814 |
| | | Unnamed Tributary No. 1 | At mouth | *762 |
| | | | Just downstream of Crescent Avenue | *766 |
| | | | Just upstream of Crescent Avenue | *773 |
| | | | Just downstream of Hobson Road | *776 |
| | | Unnamed Tributary No. 2 | About 1000 feet downstream of Martin Luther Drive | *782 |
| | | | Just downstream of Leo Road | *786 |
| | | Fairfield Ditch | At mouth | *763 |
| | | | Just downstream of Lower Huntington Road | *764 |
| | | | Just upstream of Lower Huntington Road | *769 |
| | | | Just downstream of Baer Field Thruway | *775 |
| | | Trier Ditch | Just downstream of Paulding Road | *769 |
| | | | About 1.0 mile upstream of Paulding Road | *770 |
| | | Junk Ditch | Within community | *759 |
| | | Spy Run | At mouth | *758 |
| | | | Just upstream of Sherman Boulevard | *775 |
| | | | Just downstream of Washington Center Road | *804 |
| | | Lowther-Newhaus Ditch | At mouth | *776 |
| | | | Just downstream of Leesburg Road | *794 |
| | | Natural Drain No. 2 | Just upstream of Washington Center Road (downstream crossing). | *808 |
| | | | About 0.37 mile upstream of Washington Center Road (upstream crossing). | *829 |
| | | Natural Drain No. 7 | At mouth | *817 |
| | | | Just downstream of Huguenard Road | *834 |
| | | Bercot Drain | At mouth | *819 |
| | | | Just downstream of Huguenard Road | *836 |
| | | Swift Ditch | At mouth | *767 |
| | | | About 0.41 mile upstream of mouth | *777 |
| | | Schoppman Ditch | At mouth | *764 |
| | | | About 0.09 mile upstream of St. Joe Road | *773 |
| | | Becketts Run | At mouth | *765 |
| | | | About 0.8 mile upstream of mouth | *769 |
| | | Chapman Ditch | About 0.52 mile downstream of Airport Runway | *786 |
| | | | About 0.15 mile upstream of Airport Runway | *794 |
| | | Lawrence Branch | Just upstream of Covington Road | *785 |
| | | | Just upstream of State Route 14 | *799 |
| | | Flaugh Ditch | About 0.57 mile downstream of State Route 14 | *785 |
| | | | Just upstream of State Route 14 | *794 |
| | | Brown No. 2 | About 2000 feet downstream of Chalfant Road | *822 |
| | | | Just downstream of Chalfant Road | *833 |
| Maps available for inspection at the City County Building, 1 Main Street, Fort Wayne, Indiana. | | | | |
| Indiana | (Uninc.) Knox County (Docket No. FEMA-6333) | Wabash River | At confluence of White River | *405 |
| | | | About 13.3 miles upstream of U.S. Route 50 | *434 |
| | | White River | At mouth | *405 |
| | | | About 3.7 miles upstream of confluence of Buckhorn Creek. | *428 |
| | | Maria Creek | At mouth | *430 |
| | | | Just upstream of State Route 550 | *430 |
| | | Smalls Creek | At mouth | *429 |
| | | | Just downstream of State Route 550 | *454 |
| | | Snapp Creek | At mouth | *427 |
| | | | About 1.8 miles upstream of U.S. Route 41 | *448 |
| | | Kessinger Ditch | About 1.0 mile downstream of U.S. Route 50 | *446 |
| | | | About 1,800 feet upstream of Southeast 300 South Road. | *457 |
| Maps available for inspection at the Area Plan Commission Office, Knox County Courthouse, Seventh and Busseron Streets, Vincennes, Indiana. | | | | |
| Iowa | City of Cedar Falls, Black Hawk County (Docket No. FEMA-6599) | Cedar River | About 5,200 feet downstream of confluence of Dry Run Creek. | *858 |
| | | | About 21,200 feet upstream of U.S. Highway 218 | *871 |
| | | Cedar River Diversion | Just upstream of U.S. Highway 20 | *859 |
| | | | At divergence from Cedar River | *863 |
| | | Dry Run Creek | At mouth | *860 |
| | | | About 2,250 feet upstream of West Ridgeway Avenue | *928 |
| | | University Branch Dry Run Creek | At mouth | *863 |
| | | | Just downstream of Hudson Road | *893 |
| | | | About 200 feet upstream of Hudson Road | *902 |
| | | | About 8,600 feet upstream of Hudson Road | *953 |
| | | Southwest Branch Dry Run Creek | At mouth | *871 |
| | | | About 11,800 feet upstream of Hudson Road | *917 |
| | | West Branch Dry Run Creek | At mouth | *894 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | | About 150 feet downstream of West 27th Street | *929 |
| | | | About 100 feet upstream of West 27th Street | *934 |
| | | | About 2,100 feet upstream of West 27th Street | *934 |
| | | Black Hawk Creek | At downstream corporate limits | *860 |
| | | | At upstream corporate limits | *861 |
| | | Unnamed tributary to Cedar River | Just upstream of Clayton Ulrich Dam | *887 |
| | | | Just downstream of U.S. Highway 20 | *895 |
| | | | Just upstream of U.S. Highway 20 | *900 |
| | | | Just downstream of Union Road | *940 |
| | | | Just upstream of Union Road | *946 |
| | | | About 600 feet upstream of Union Road | *952 |
| | | Unnamed tributary to Dry Run Creek. | At mouth | *881 |
| | | | About 850 feet upstream of South Lawn Road | *895 |
| Maps available for inspection at the Community Development Department, City Hall, 220 Clay Street, Cedar Falls, Iowa. | | | | |
| Kansas | City of Colwich, Sedgwick County (Docket No. FEMA-6604). | Cowskin Creek | About 3,100 feet downstream of State Highway 96 | *1,369 |
| | | | About 2,100 feet upstream of State Highway 96 | *1,374 |
| Maps available for inspection at the City Clerk's Office, City Hall, Colwich, Kansas. | | | | |
| Kentucky | Unincorporated areas of Pike County (Docket No. FEMA 6614). | Ratliff Creek | At mouth | *670 |
| | | | About 1.133 miles upstream of U.S. Route 460 and 23 | *729 |
| | | | About 1.148 miles upstream of U.S. Route 460 and 23 | *736 |
| | | | About 1.313 miles upstream of U.S. Route 460 and 23 | *744 |
| | | | About 1.326 miles upstream of U.S. Route 460 and 23 | *748 |
| | | | Just downstream of Private Drive (about 1.75 miles upstream of U.S. Route 460 and 23). | *783 |
| | | | Just upstream of Private Drive (about 1.75 miles upstream of U.S. Route 460 and 23). | *789 |
| | | | About 1.918 miles upstream of U.S. Route 460 and 23 | *806 |
| | | | About 1.928 miles upstream of U.S. Route 460 and 23 | *813 |
| | | | Just downstream of Private Drive (about 2.483 miles upstream of U.S. Route 460 and 23). | *880 |
| | | | Just upstream of Private Drive (about 2.483 miles upstream of U.S. Route 460 and 23). | *887 |
| | | | About 2.993 miles upstream of U.S. Route 460 and 23 | *971 |
| | | Shelby Creek | At mouth | *686 |
| | | | Just upstream of U.S. Route 119 and 23 (about 7.09 miles upstream of State Route 1469). | *943 |
| | | | Just downstream of Fleming Branch Road | *1,025 |
| | | | Just upstream of Fleming Branch Road | *1,030 |
| | | | About 0.03 mile upstream of Chessie System (about 2.05 miles upstream of Fleming Branch Road). | *1,159 |
| | | Marrowbone Creek | At mouth | *709 |
| | | | Just upstream of Private Drive (about 0.125 mile upstream of Rockhouse Creek Road). | *883 |
| | | | Just downstream of Coal Company Drive | *1,123 |
| | | | Just upstream of Coal Company Drive | *1,128 |
| | | | Just upstream of Chessie System (about 0.26 mile upstream of Coal Company Drive). | *1,148 |
| | | Johns Creek | About 0.39 mile downstream of confluence of Raccoon Creek. | *732 |
| | | | About 2.68 miles upstream of confluence of Raccoon Creek. | *747 |
| | | Raccoon Creek | At mouth | *734 |
| | | | At confluence of Burning Fork | *756 |
| | | Big Creek | At mouth | *652 |
| | | | About 450 feet upstream of Road Fork Road | *750 |
| | | Pond Creek | At mouth | *671 |
| | | | Just upstream of State Route 1056 | *868 |
| | | Blackberry Creek | At mouth | *704 |
| | | | Just upstream of Blue Spring Branch Road | *846 |
| | | Peter Creek | At mouth | *722 |
| | | | Just upstream of State Route 199 | *845 |
| | | Right fork, Peter Creek | At mouth | *845 |
| | | | About 0.34 mile upstream of Norfolk Southern Railway (Norfolk Southern Railway about 0.32 mile upstream of mouth. | *870 |
| | | Left fork, Peter Creek | At mouth | *845 |
| | | | About 1.24 miles upstream of Beech Creek Road | *1,035 |
| | | Zebulon tributary | At mouth | *857 |
| | | | Just downstream of Private Drive (about 0.142 mile downstream of U.S. Route 119). | *866 |
| | | | Just upstream of Private Drive (about 0.142 mile downstream of U.S. Route 119). | *873 |
| | | | Just downstream of Private Drive (about 0.046 mile downstream of U.S. Route 119). | *881 |
| | | | Just upstream of Private Drive (about 0.046 mile downstream of U.S. Route 119). | *887 |
| | | | About 0.034 mile upstream of U.S. Route 119 | *896 |
| | | Brushy Branch | At mouth | *1,146 |
| | | | About 0.46 mile upstream of Private Drive | *1,252 |
| | | Ashcamp Branch | At mouth | *1,063 |
| | | | Just downstream of State Route 195 (about 0.46 mile upstream of State Route 197). | *1,123 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | | Just upstream of State Route 195 (about 0.46 mile upstream of State Route 197). | *1,127 |
| | | | Just downstream of Ashcamp Branch Road | *1,380 |
| | | | Just upstream of Ashcamp Branch Road | *1,385 |
| | | | About 0.97 mile upstream of Happy Hollow Road | *1,451 |
| | | Levisa Fork | At downstream county boundary | *662 |
| | | | About 2.75 miles upstream of Russell Fork Road | *696 |
| | | Russell Fork | At mouth | *695 |
| | | | At state boundary | *866 |
| | | Burning Fork | At mouth | *756 |
| | | | At confluence of Zebulon Tributary | *857 |
| | | Tug Fork | At confluence of Big Creek | *652 |
| | | | At upstream county boundary | *827 |
| Maps available for inspection at the Pike County Courthouse, Pikeville, Kentucky. | | | | |
| Maine | Dixfield, town, Oxford County; (Docket No. FEMA-6604). | Webb River | U.S. Route 2 (upstream side) | *419 |
| | | | Kingdom Road bridge (upstream side) | *430 |
| | | | Confluence with Aunt Hannah Brook | *434 |
| | | | Upstream corporate limits | *437 |
| Maps available for inspection at the Town Hall, Dixfield, Maine. | | | | |
| Maine | Limerick, town, York County (Docket No. FEMA-6604) | Little Ossipee River | Downstream corporate limits | *296 |
| | | | Upstream or Flowage Dam | *312 |
| | | | State Route 5 (upstream side) | *318 |
| | | | At confluence of Pendexter Brook | *327 |
| | | | Clarks Bridge Road, extended | *347 |
| | | | Upstream corporate limits | *374 |
| Maps available for inspection at the Town Hall, Limerick, Maine. | | | | |
| Maine | Lisbon, town, Androscoggin, County (Docket No. FEMA-6604). | Androscoggin River | Confluence of Little River | *83 |
| | | | Worumbo Mill Dam (upstream side) | *108 |
| | | | Confluence of Sabattus River | *115 |
| | | | Upstream corporate limits | *124 |
| | | Sabattus River | At confluence with Androscoggin River | *115 |
| | | | Mill Street (upstream side) | *158 |
| | | | Webster Road (upstream side) | *174 |
| | | | Upstream corporate limits | *188 |
| | | No Name Brook | Confluence with Sabattus River | *186 |
| | | | Upstream corporate limits | *189 |
| | | Barker Brook | Confluence with Sabattus River | *159 |
| | | | Ridge Road (upstream side) | *161 |
| | | Salmon Brook | Corporate limits | *138 |
| | | | Approximately 200' upstream of corporate limits | *138 |
| Maps available for inspection at the Town Clerk's Office, Lisbon, Maine. | | | | |
| Maine | North Berwick, town, York County (Docket No. FEMA-6604). | Great Works River | Downstream corporate limits | *104 |
| | | | Upstream side of North Berwick Dam | *126 |
| | | | Downstream side of Cardmill Dam | *144 |
| | | | Upstream side of Oak Woods Road | *179 |
| | | | Upstream side of Roberts Road | *190 |
| | | | Upstream side of Bauneg Beg Dam | *210 |
| | | | Upstream side of Sand Pond Road | *225 |
| | | | Upstream corporate limits | *227 |
| Maps available for inspection at the Town Clerk's Office, Town Office Building, Main Street, North Berwick, Maine. | | | | |
| Maine | Sanford, town, York County (Docket No. FEMA-6604) | Great Works River | Downstream corporate limits | *210 |
| | | | Upstream side of Sand Pond Road | *225 |
| | | | Upstream side of Old Mill Road | *234 |
| | | | Upstream side of Twombly Road | *248 |
| | | Goodall Brook | At confluence with Great Works River | *238 |
| | | | Upstream side of Berwick Road | *257 |
| Maps available for inspection at the Town Clerk's Office, Sanford, Maine. | | | | |
| Maine | Waldoboro, town, Lincoln County (Docket No. FEMA-6614). | Medomak River | Approximately 1.5 miles downstream of Main Street | *10 |
| | | | Upstream side of Main Street bridge | *15 |
| | | | Upstream side of U.S. Route 1 | *49 |
| | | | Upstream side of Cross Street | *63 |
| | | | Upstream side of Upper Depot Road | *83 |
| | | | At Ellard Mank Road | *124 |
| | | | At confluence with Medomak Pond | *137 |
| | | Little Medomak Pond Outlet Stream. | At confluence with Medomak Pond | *137 |
| | | | Upstream side of Storer Mountain Road | *231 |
| | | Medomak Pond | Entire shoreline | *137 |
| | | Little Medomak Pond | Entire shoreline | *231 |
| Maps available for inspection at Town Clerk's Office, Waldoboro, Maine. | | | | |
| Maine | Waterboro, town, York County (Docket No. FEMA-6604). | Little Ossipee River | Downstream corporate limits | *290 |
| | | | Upstream of Little Ossipee Flowage Dam | *312 |
| | | | Upstream State Route 5 | *318 |
| | | | Upstream corporate limits | *355 |
| | | Little Ossipee Lake | Entire shoreline | *313 |
| Maps available for inspection at the Town Clerk's Office, Town Hall, Waterboro, Maine. | | | | |

—Continued

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| Massachusetts | Edgartown, town, Dukes County (FEMA Docket No. 6614). | Nantucket Sound | Shoreline of Sengekontacket Pond at Felix Neck | *11 |
| | | | Shoreline of Sengekontacket Pond at Bran Point | *10 |
| | | | Shoreline at Edgartown Beach | *14 |
| | | | Shoreline of Edgartown Harbor at Litchfield Road (extended). | *14 |
| | | | Shoreline of Edgartown Harbor 0.6 mile northeast of Litchfield Road (extended). | *19 |
| | | | Shoreline at Cape Poge | *20 |
| | | | Shoreline of Cape Poge Bay at John Oliver Point | *14 |
| | | | Shoreline of Cape Poge Bay at Whister Point | *10 |
| | | | Shoreline 700 feet north of Dyke Road (extended) | *13 |
| | | | Shoreline at Dyke Road (extended) | *14 |
| | | | Shoreline at Inner Harbor at Cooke Street (extended) | *13 |
| | | Atlantic Ocean | Shoreline at Wasque Point | *12 |
| | | | Shoreline of Katama Bay at Wasque Avenue (extended). | *9 |
| | | | Shoreline of Katama Bay at Long Point | *10 |
| | | | Shoreline of Katama Bay 700 feet west of Long Point | *15 |
| | | | Shoreline of Edgartown Great Pond at Kanomika Neck | *10 |
| | | | Shoreline of Edgartown Great Pond at West Point | *9 |
| | | | Shoreline at Western Corporate limits | *12 |
| Maps available for inspection at the office of Steven Bryant, Building Inspector, Edgartown, Massachusetts. | | | | |
| Massachusetts | Lynn, City, Essex County (Docket No. FEMA-6599) | Atlantic Ocean | Shoreline at Grosvenor Street extended | *19 |
| | | | Shoreline at Newhall Street extended | *12 |
| | | | Shoreline at Wolcott Road extended | *17 |
| | | Saugus River | Saugus River at east side of General Edwards bridge | *10 |
| | | | Saugus River at crossing of Western Avenue | *9 |
| | | | Entire shoreline of Little River | *8 |
| | | Cedar Pond | Entire shoreline | *101 |
| | | Flax Pond | Entire shoreline | *56 |
| | | Sluice Pond | Entire shoreline | *65 |
| Maps available for inspection at the City Engineer's Office, Lynn City Hall, City Hall Square, Lynn, Massachusetts. | | | | |
| Massachusetts | Oak Bluffs, town, Dukes County (FEMA Docket No. 6614). | Lagoon Pond | Shoreline at northeast side of causeway | *9 |
| | | | Shoreline approximately .6 mile northeast of causeway | *13 |
| | | | Shoreline at Forest Avenue (extended) | *12 |
| | | | Shoreline at Lagoon Road (extended) | *9 |
| | | Nantucket Sound | Shoreline of Vineyard Haven Harbor approximately .3 mile west of Hospital Road (extended). | *14 |
| | | | Shoreline of Vineyard Haven Harbor at Troy Street (extended). | *13 |
| | | | Shoreline at West Avenue (extended) | *16 |
| | | | Shoreline at Commercial Avenue (extended) | *13 |
| | | | Shoreline at Samoset Avenue (extended) | *22 |
| | | | Shoreline approximately 200 feet south of Tuckernuck Avenue (extended). | *14 |
| | | | Shoreline at Cannonicus Avenue (extended) | *22 |
| | | | Shoreiine approximately .6 mile south of South Circuit Avenue (extended). | *15 |
| | | | Shoreline of east shore of Joseph Sylvia State Beach Park. | *14 |
| | | | Shoreline of Sengekontacket Pond at Sarson Island | *10 |
| | | | Shoreline of Sengekontacket Pond at Brush Island | *12 |
| Maps available for inspection at the office of Alfred Matell, Building Inspector, Oak Bluffs Town Hall, Oak Bluffs, Massachusetts. | | | | |
| Massachusetts | Westport, Town, Bristol County (FEMA Docket No. 6586). | Rhode Island Sound | Shoreline approximately 900 feet west of Quicksand Point. | *31 |
| | | | John Reed Road (extended) | *19 |
| | | | South end of Sixteenth Avenue (extended) | *18 |
| | | | Shoreline at Gooseberry Neck | *16 |
| | | | Entire shoreline Richmond Pond | *15 |
| | | | Shoreline at Horseneck Point | *14 |
| Maps available for inspection at the Building Inspector's Office, Westport, Massachusetts. | | | | |
| Michigan | (Twp) White Lake, Oakland County (Docket No. FEMA-6527). | Huron River | Just downstream of Cooley Lake Road | *931 |
| | | | Just downstream of Oxbow Lake Dam | *938 |
| | | | Just upstream of Oxbow Lake Dam | *944 |
| | | | Just downstream of Pontiac Lake Dam | *952 |
| | | | Just upstream of Pontiac Lake Dam | *965 |
| | | Sugden Creek | Mouth at Huron River | *932 |
| | | | Just upstream of the Bogie Lake Weir | *938 |
| | | Bogie Lake | Shoreline | *938 |
| | | Lake Neva | Shoreline | *946 |
| | | Cedar Island Lake | Shoreline | *935 |
| | | Pontiac Lake | Shoreline | *965 |
| | | White Lake | Shoreline | *1,021 |
| | | Grass Lake | Shoreline | *1,018 |
| | | Mandon Lake | Shoreline | *937 |
| | | Round Lake | Shoreline | *936 |
| | | Tull Lake | Shoreline | *954 |
| | | Cooley Lake | Shoreline | *936 |
| | | Long Lake | Shoreline | *936 |
| Maps available for inspection at the Clerk's Office, Town Hall, 7525 Highland Road, White Lake, Michigan. | | | | |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| Missouri | (Uninc.) Butler County (Docket No. FEMA-6614) | Black River | At southern county boundary (downstream crossing) | *298 |
| | | | About 0.23 mile upstream of State Highway 53 | *319 |
| | | | About 3.5 miles downstream of confluence of Shady Creek. | *336 |
| | | | About 0.4 mile downstream of confluence of Shady Creek. | *341 |
| | | | Just upstream of Missouri Pacific Railroad | *350 |
| | | | At northern county boundary | *376 |
| | | Pike Creek | Just upstream of U.S. Highway 67 | *338 |
| | | | Just downstream of County Highway PP | *343 |
| | | Cane Creek | Just upstream of Missouri Pacific Railroad | *329 |
| | | | Just upstream of County Highway M | *342 |
| | | | Just downstream of County Highway PP | *358 |
| | | Menorkenut Slough | Just downstream of State Highway 53 | *313 |
| | | | Just downstream of County Highway 582 | *313 |
| | | Ditch No. 31 | At mouth | *313 |
| | | | Just downstream of County Highway 663 | *314 |
| | | Little Black River | About 4.8 miles downstream of U.S. Highway 160 | *308 |
| | | | At western county boundary | *341 |
| | | Beaverdam Creek | At mouth | *326 |
| | | | At western county boundary | *412 |
| | | Shallow Flooding-Sheet Flow (overflow from Black River). | At Cane Creek Ditch, about 2.2 miles south of County Highway 260. | *298 |
| | | | At County Highway 335 intersection with County Highway 346. | *307 |
| | | | Southeast of County Highway 605 intersection with Ashcroft Road. | *334 |
| Maps available for inspection at the County Clerk's Office, Butler County Courthouse, Poplar Bluff, Missouri. | | | | |
| Missouri | City of Hartville, Wright County (Docket No. FEMA-6604). | Woods Fork Gasconade River | About 900 feet downstream of State Highway 38 | *1,142 |
| | | | About 3,950 feet upstream of State Highway 38 | *1,152 |
| Maps available for inspection at the Merchantile-Wright County Bank, Hartville, Missouri. | | | | |
| Missouri | City of Hollister, Taney County (Docket No. FEMA 6614). | White River | At confluence of Coon Creek | *715 |
| | | | About 0.27 mile upstream of Missouri Pacific Railroad | *717 |
| | | Turkey Creek | At mouth | *716 |
| | | | About 1.0 mile upstream of Third Street | *742 |
| Maps available for inspection at City Hall, Hollister, Missouri. | | | | |
| Missouri | City of Cronogo, Jasper County (Docket No. FEMA-6604). | Center Creek | About 3,000 feet downstream of Burlington Northern Railroad. | *887 |
| | | | About 6,800 feet upstream of Third Street | *898 |
| Maps available for inspection at City Hall, Cronogo, Missouri. | | | | |
| Missouri | Village of Redings Mill, Newton County | Shoal Creek | About 2,300 feet downstream of State Highway 86 | *909 |
| | | | About 2,700 feet upstream of State Highway 86 | *912 |
| Maps available for inspection at the City Clerk's Office, Box 68, Route 4, Joplin, Missouri. | | | | |
| Missouri | Town of Wakenda, Carroll County (Docket No. FEMA-6599). | Missouri River | Within community | *665 |
| Maps available for inspection at the Missouri Valley Human Resources Development Corporation, 606 E. Benton, Carrollton, Missouri. | | | | |
| Missouri | Unincorporated areas of Warren County (Docket No. FEMA-6614). | Missouri River | At downstream county boundary | *486 |
| | | | At upstream county boundary | *517 |
| | | Big Creek | About 0.85 mile downstream of Fairlane Acres Road | *727 |
| | | | About 1.2 miles upstream of Fairlane Acres Road | *762 |
| | | Hickory Lick Creek | Just upstream of County Highway AA | *772 |
| | | | About 0.3 mile upstream of County Highway AA | *775 |
| | | Peruque Creek | About 3,500 feet downstream of confluence of Skunk Creek. | *667 |
| | | | Just upstream of Roelker Road | *713 |
| | | Tuque Creek Tributary | About 630 feet downstream of Missouri-Kansas-Texas Railroad. | *495 |
| | | | About 200 feet downstream of State Highway 47 | *496 |
| Maps available for inspection at the County Clerk's Office, Warren County Courthouse, Warrenton, Missouri. | | | | |
| Nebraska | Village of Barneston, Gage County (Docket No. FEMA-6614). | Big Blue River | Within community | *1,195 |
| Maps available for inspection at Fire Hall 6, Barneston, Nebraska. | | | | |
| New Jersey | Aberdeen, township, Monmouth County (FEMA Docket No. 6604). | Matawan Creek | At downstream corporate limits | *20 |
| | | | Approximately 360' downstream of upstream corporate limits. | *34 |
| | | Mohingson Brook | Confluence with Matawan Creek | *12 |
| | | | Upstream side of Main Street | *22 |
| | | | Upstream side of CONRAIL | *38 |
| | | | Upstream side of Lloyd Road | *54 |
| | | | Upstream corporate limits | *88 |
| | | Gravelly Run | At downstream corporate limits | *22 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | | Downstream side of State Route 34 | *28 |
| | | | Upstream side of Mill Road | *42 |
| | | | At upstream corporate limits | *68 |
| | | Raritan Bay | Shoreline at confluence of Whale Creek | *18 |
| | | | Shoreline at South Concourse Drive extended | *17 |
| | | | Shoreline at confluence of Matawan Creek | *17 |
| Maps available for inspection at the Township Municipal Building, 1 Aberdeen Square, Aberdeen, New Jersey. | | | | |
| New Jersey | North Caldwell, borough, Essex County (FEMA Docket No. 6499). | Passaic River | Total length within corporate limits | *171 |
| | | Green Brook | Downstream corporate limits | *227 |
| | | | Central Avenue (upstream side) | *356 |
| | | | Dam 5 (upstream side) | *411 |
| Maps available for inspection at the Municipal Building, Gould Avenue, North Caldwell, New Jersey. | | | | |
| New Jersey | Readington, township, Hunterdon County (FEMA Docket No. 6586). | Lamington River | Downstream corporate limits | *97 |
| | | | Lamington Road—upstream side | *106 |
| | | | Interstate Route 78—upstream side | *115 |
| | | | Upstream corporate limits | *116 |
| | | Rockaway Creek | Confluence with Lamington River | *99 |
| | | | Island Road—downstream side | *103 |
| | | | Lamington Road—downstream side | *113 |
| | | | Mill Road—upstream side | *122 |
| | | | Oldwick Road—upstream side | *146 |
| | | | Interstate 78—upstream side | *159 |
| | | | Upstream side of dam near Rockaway Road | *162 |
| | | | Upstream corporate limits | *201 |
| | | South Branch Rockaway Creek | Confluence with Rockaway Creek | *124 |
| | | | U.S. Route 22—upstream side | *128 |
| | | | Cushetunk Lake Dam—upstream side | *143 |
| | | | Upstream side of Access Road upstream of Cushetunk Lake. | *146 |
| | | | Mountain Road—upstream side | *158 |
| | | | Upstream corporate limits | *173 |
| | | Chambers Brook | Downstream corporate limits | *94 |
| | | | County Line Road—upstream side | *99 |
| | | | Ridge Road—upstream side | *119 |
| | | | Coddington Road—upstream side | *133 |
| | | | Approximately 400 feet downstream of Pulaski Road | *158 |
| | | Holland Brook | Downstream corporate limits | *88 |
| | | | Centerville Road—upstream side | *103 |
| | | | Downstream side of Pinebank Road—downstream crossing. | *125 |
| | | | Upstream side of Holland Brook Road—downstream crossing. | *134 |
| | | | Upstream side of dam downstream of Holland Brook Road—2nd crossing. | *142 |
| | | | Upstream side of Holland Brook Road—upstream crossing. | *149 |
| | | | Upstream side of Access Road upstream of Holland Brook Road—upstream crossing. | *158 |
| | | | Downstream side of Access Road downstream of Whitehouse Road. | *181 |
| | | Pleasant Run | Downstream corporate limits | *95 |
| | | | Old York Road—upstream side | *101 |
| | | | U.S. Route 202—downstream side | *104 |
| | | South Branch Raritan River | Downstream corporate limits | *87 |
| | | | Higginsville Road—upstream side | *93 |
| | | | Main Street—upstream side | *99 |
| | | | U.S. Route 202—downstream side | *103 |
| | | | Downstream side of dam upstream of Rockefellows Mill Road. | *106 |
| | | | Upstream side of CONRAIL second crossing | *111 |
| | | | State Route 523—downstream side | *115 |
| | | Tributary A to the South Branch Raritan River. | Confluence with South Branch Raritan River | *108 |
| | | | CONRAIL culvert—upstream side | *115 |
| | | | Approximately 1 mile upstream of CONRAIL culvert | *131 |
| | | | Barley Sheaf Road—upstream side | *155 |
| Maps available for inspection at the Readington Township Municipal Building, Whitehouse Station, New Jersey. | | | | |
| New Mexico | Village of Bosque Farms, Valencia County (FEMA-6356). | Rio Grande (East Overbank) | Approximately 450 feet south of the intersection of Cottonwood and West Bosque Loop. | *4,861 |
| | | | Approximately 100 feet north of the intersection of West Bosque Loop and Willow Trail. | *4,865 |
| | | | Approximately 100 feet north of the intersection of Otero Drain and North Bosque Loop. | *4,867 |
| Maps available for inspection at Village Hall, 1455 West Bosque Loop, Bosque Farms, New Mexico 87042. | | | | |
| New York | Greenville, town, Orange County (Docket No., FEMA-6604). | Rutgers Creek | At downstream corporate limits | *657 |
| | | | Logtown Road (downstream side) | *767 |
| | | | Dam (upstream side) | *784 |
| | | | Minisink Turnpike (upstream side) | *820 |
| Maps available for inspection at the Town Hall, Middletown, New York. | | | | |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| New York | Kirkland, town, Oneida County (FEMA Docket No. 6614). | Oriskany Creek | Downstream corporate limits | *504 |
| | | | Upstream of dam | *527 |
| | | | Upstream Norton Avenue | *564 |
| | | | At confluence of White Creek | *600 |
| | | | Upstream State Route 12B | *628 |
| | | | Upstream Dugway Road | *651 |
| | | | Approximately .9 mile upstream of confluence of Turkey Creek. | *684 |
| | | | Approximately 100' upstream of upstream corporate limits. | *730 |
| | | St. Mary's Brook | Confluence with Oriskany Creek | *528 |
| | | | Upstream Kirkland Avenue | *535 |
| | | | Downstream Norton Avenue | *564 |
| | | White Creek | Confluence with Oriskany Creek | *600 |
| | | | Upstream side Grant Road | *632 |
| | | | Approximately .64 mile upstream Grant Road | *687 |
| | | Turkey Creek | Confluence with Oriskany Creek | *666 |
| | | | Upstream face Page Road | *696 |
| Maps available for inspection at the Town Clerk's Office, Post Office Building, Clinton, New York. | | | | |
| New York | Lafayette, town, Onondaga County (FEMA Docket No. 6614). | Butternut Creek | Downstream corporate limits | *607 |
| | | | Upstream of dam | *642 |
| | | | Upstream of Smith Road | *683 |
| | | | Upstream side of Apulia Road (downstream crossing) | *740 |
| | | | Upstream of Colton Road | *821 |
| | | | Upstream side of U.S. Route 20 | *864 |
| | | | Upstream side of Gates Road | *896 |
| | | | Upstream corporate limits | *961 |
| | | Onondaga Creek | Approximately 2,200 feet downstream of Tully Farms Road. | *505 |
| | | | Upstream of Nichols Road | *530 |
| | | | Upstream corporate limits | *567 |
| | | Kennedy Creek | Approximately 1,400 feet downstream of Interstate Route 81. | *1,004 |
| | | | Upstream of U.S. Route 11 | *1,019 |
| | | | Upstream side of Sentinel Heights Road | *1,048 |
| | | | Approximately 2,950 feet upstream of Sentinel Heights Road. | *1,098 |
| | | Cascades Creek | Confluence with Butternut Creek | *870 |
| | | | Upstream of Gates Road | *915 |
| | | | Approximately 4,100 feet upstream of Clark Hollow Road. | *1,003 |
| Maps available for inspection at the Town Offices, Route 20, Lafayette, New York. | | | | |
| New York | Minisink, town, Orange County (FEMA Docket No. 6614). | Wallkill River | Downstream corporate limits | *387 |
| | | | Approximately 2.5 miles upstream of Pine Island Turnpike bridge. | *388 |
| | | | Downstream side of Oil City Road Bridge | *389 |
| | | | Upstream corporate limits | *390 |
| | | Rutgers Creek | Confluence with the Wallkill River | *387 |
| | | | Approximately 1.0 mile upstream of confluence with the Wallkill River. | *393 |
| | | | Carter Road bridge (upstream side) | *418 |
| | | | Ridgebury Road bridge (upstream side) | *449 |
| | | | County Route 22 bridge (upstream side) | *453 |
| | | | Fordlea Road bridge (upstream side) | *457 |
| | | | Pine Island Turnpike bridge (upstream side) | *463 |
| | | | Langlitz Road bridge (upstream side) | *467 |
| | | | Waterloo Road bridge (upstream side) | *480 |
| | | | Pine Hill Road bridge (upstream side) | *529 |
| | | | Goodridge Road bridge (upstream side) | 557 |
| | | | Mandys Road bridge (upstream side) | *622 |
| | | | Upstream corporate limits | 657 |
| Maps available for inspection at the Clerk's Office, the Building Inspector's Office, and the Planning Board Chairman's Office. | | | | |
| New York | Rhinebeck, village, Dutchess County (FEMA Docket No. 6599). | Landsman Kill | Downstream corporate limits | *130 |
| | | | U.S. Route 9 (upstream side) | *160 |
| | | | Parsonage Street (upstream side) | *189 |
| | | | Upstream corporate limits | *194 |
| | | Rhinebeck Kill | Downstream corporate limits | *140 |
| | | | Approximately 200' upstream of U.S. Route 9 | *146 |
| Maps available for inspection at the Town Clerk's Office, Village Hall, 76 East Market Street, Rhinebeck, New York. | | | | |
| New York | Scio, town, Allegany County (FEMA Docket No. 6586) | Genesee River | At downstream corporate limits | *1,427 |
| | | | Upstream Knight Creek Road | *1,445 |
| | | | 2,000 feet upstream of confluence of Vandermark Creek. | *1,452 |
| | | | 6,600 feet downstream of confluence of Brimmer Brook. | *1,465 |
| | | | Upstream corporate limits | *1,478 |
| | | Brimmer Brook | At confluence with Genesee River | *1,475 |
| | | | At first upstream corporate limits | *1,494 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | | 2,270 feet downstream of downstream crossing of Petrolia Road. | *1,708 |
| | | | 300 feet upstream of downstream crossing of Petrolia Road. | *1,760 |
| | | | 800 feet downstream of Yeager Hill Road | *1,830 |
| | | | 950 feet upstream of upstream Petrolia Road crossing | *1,870 |
| | | Knight Creek | At confluence with Genesee River | *1,436 |
| | | | Downstream side of second crossing of Knight Creek Road. | *1,470 |
| | | | Downstream side of third crossing of Knight Creek Road. | *1,505 |
| | | | 3,250 feet upstream of third crossing of Knight Creek Road. | 1,534 |
| | | Vandermark Creek | At confluence with Genesee River | 1,448 |
| | | | Downstream side of first crossing of Vandermark Road | 1,520 |
| | | | Downstream side of second crossing of Vandermark Road. | *1,566 |
| Maps available for inspection at Town Hall, Scio, New York. | | | | |
| New York | Sullivan, town, Madison County (FEMA Docket No. 6614). | Chittenango Creek | Confluence with Oneida Lake | *373 |
| | | | Approximately 150' upstream of State Route 31 | *385 |
| | | | Oxbow Road (upstream side) | *391 |
| | | | Peck Road (upstream side) | *396 |
| | | | Approximately 150' upstream of Fyler Settlement Road | *399 |
| | | | Interstate Route 90 (upstream side) | *401 |
| | | | Kirkville Road (upstream side) | *404 |
| | | | Hoags Road (upstream side) | *406 |
| | | | Bolivar Road (upstream side) | *414 |
| | | | CONRAIL (upstream side) | *417 |
| | | | Old Erie Canal (upstream side) | *430 |
| | | | Downstream corporate limits with Village of Chittenango. | *435 |
| | | | Upstream corporate limits with Village of Chittenango | *484 |
| | | | Dike Road (upstream side) | *501 |
| | | | Upstream side of bridge abutments | *538 |
| | | | Most upstream corporate limits | *548 |
| | | Oneida Lake | Entire shoreline | *373 |
| | | Canaseraga Creek | Confluence with Oneida Lake | *373 |
| | | | State Route 31 (upstream side) | *378 |
| | | | Tag Road (upstream side) | *392 |
| | | | Approximately 400' upstream of Interstate Route 90 | *397 |
| | | | New Boston Road (upstream side) | *412 |
| | | | CONRAIL (upstream side) | *417 |
| | | | Harsh Road (upstream side) | *420 |
| | | | Old Erie Canal (upstream side) | *430 |
| | | | State Routes 5 and 13 (upstream side) | *460 |
| | | Cowaselon Creek | Confluence with Canaseraga Creek | *385 |
| | | | Upstream corporate limits | *386 |
| Maps available for inspection at the Town Offices, Lakeport Road, Sullivan, New York. | | | | |
| New York | Wawayanda, town, Orange County (Docket No. FEMA-6604). | Wallkill River | At downstream corporate limits | *366 |
| | | | Approximately 1 mile upstream of downstream corporate limits. | *368 |
| | | | Upstream side of Maple Avenue | *382 |
| | | Rutgers Creek | Approximately .86 mile downstream of Lower Road | *387 |
| | | | At Lower Road | *398 |
| | | | Upstream side of Carter Road | *418 |
| | | | Upstream side of Ridgebury Road | *449 |
| | | | Upstream side of State Route 284 | *450 |
| Maps available for inspection at the Town Hall, Richbury Hill Road, Slate Hill, New York. | | | | |
| New York | Wellsville, town, Allegany County (FEMA Docket No. 6581). | Brimmer Brook | At downstream corporate limits | *1,493 |
| | | | Upstream side of Philips Road | *1,510 |
| | | | Approximately 500 feet upstream State Route 417 | *1,590 |
| | | | Upstream corporate limits | *1,708 |
| | | Chenunda Creek | At confluence with Genesee River | *1,518 |
| | | | Upstream side of State Route 19 | *1,541 |
| | | | At upsteam corporate limits | *1,561 |
| | | Dyke Creek | At downstream corporate limits | *1,505 |
| | | | Upstream side of State Route 417 | *1,514 |
| | | | Upstream side of CONRAIL | *1,524 |
| | | | Upstream side of Williams Grove Road | *1,546 |
| | | | Approximately 0.45 mile upstream of Williams Grove Road. | *1,553 |
| | | Genesee River | At downstream corporate limits | *1,478 |
| | | | At downstream corporate limits for the Village of Wellsville. | *1,486 |
| | | | At upstream corporate limits for the Village of Wellsville. | *1,499 |
| | | | Upstream side of Weidrick Road | *1,515 |
| | | | At confluence of Chenundo Creek | *1,518 |
| | | | At upstream corporate limits | *1,521 |
| | | Wightman Hollow Creek | At confluence with Dyke Creek | *1,528 |
| | | | Downstream side of State Route 417 | *1,550 |
| | | | 400 feet upstream of first crossing of Wightman Hollow Road. | *1,610 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | | Upstream side of second crossing of Wightman Hollow Road. | *1,660 |
| | | | Approximately 0.43 mile upstream of second crossing of Wightman Hollow Road. | *1,726 |
| Maps available for inspection at the Municipal Building, Main Street, Wellsville, New York. | | | | |
| North Carolina | Town of Andrews, Cherokee County (Docket No. FEMA-6599). | Valley River | About 0.22 mile downstream from Old Route 19-129 | *1,719 |
| | | | Just downstream of Old Route 19-129 | *1,719 |
| | | | Just upsteam of Old Route 19-129 | *1,730 |
| | | | About 0.16 mile upstream of Tatham Gap Road | *1,772 |
| | | Tatham Creek | Mouth at Valley River | *1,772 |
| | | | Just downstream of Old Route 19-129 | *1,797 |
| Maps available for inspection at the Town Hall, Andrews, North Carolina. | | | | |
| North Carolina | Town of Atlantic Beach, Carteret County (FEMA-6604). | Atlantic Ocean | Intersection of East Broadwalk Street and South Greenville Avenue. | *10 |
| | | | Approximately 400 feet south of the intersection of West Atlantic Boulevard and Charlotte Avenue. | *14 |
| | | Bogue Sound | Intersection of State Highway 58 and Brooks Avenue | *7 |
| Maps available for inspection at Building Inspector's Office, Town Hall, Salter Patch Road, Atlantic Beach, North Carolina 28512. | | | | |
| North Carolina | Unincorporated Areas of Currituck County (Docket No. FEMA 6614). | Atlantic Ocean | About 500 feet east of Sandfiddler Road (extended), 1.2 miles south of Anemone Road. | *9 |
| | | | Near intersection of Sandfiddler Road and Canar Road. | *9 |
| | | | About 300 feet east of intersection of Ocean Trail and Shad Street. | *9 |
| | | | About 300 feet east of Ocean Trail and 2 miles south of Shad Street. | *9 |
| | | | From 2,850 feet north of intersection of Sandfiddler Road and Pompand Lane to about 4,500 feet south and 1,600 feet east of Sandfiddler Road at Anemone Road. | *10 |
| | | | Just landward of shoreline from about 1.3 miles north of intersection of Ocean Way and Ocean Trail to about 350 feet east of Ocean Trail at southern county boundary. | *11 |
| | | | Along shoreline from about 1.5 miles north of Ocean Way to southern county boundary. | *12 |
| | | | Just landward of shoreline from about 1.5 miles north of Ocean Way to about 500 feet south of Coral Lane. | *12 |
| | | | Along shoreline from northern county boundary to about 1.5 miles north of Ocean Way. | *13 |
| | | Atlantic Ocean/Albermarle Sound | About 0.4 mile west of intersection of U.S. Route 158 and Snows Lane. | *8 |
| | | | About 1,200 feet west of intersection of U.S. Route 158 and SR 1100. | *8 |
| | | | Along shoreline from point west of intersection of Snows Lane and U.S. Route 158 to U.S. Route 158 bridge over Currituck Sound. | *10 |
| | | Atlantic Ocean/Albemarle Sound/ North River. | Along shoreline of North River and Indiantown Creek from about 1.5 miles upstream of Taylors Bay to U.S. Route 158. | *6 |
| | | | At the intersection of NC 34 and NC 168 | *6 |
| | | | Along shoreline from about 2,400 feet south from mouth of Lutz Creek to about 1.5 miles northwest of mouth of Taylors Bay. | *7 |
| | | | Along shoreline from point west of intersection of Snows Lane and U.S. Route 158 to about 2,400 feet south from mouth of Lutz Creek. | *8 |
| | | Atlantic Ocean/Currituck Sound | About 1 mile north of intersection of SR 1135 and SR 1136. | *5 |
| | | | About 0.5 mile east of intersection of NC 3 and SR 1131. | *5 |
| | | | Landward of seawalls along shoreline from just east of SR 1158 to about 1,000 feet north of SR 1159. | *5 |
| | | | About 0.5 mile northeast of intersection of U.S. Route 158 and NC 3. | *5 |
| | | | About 0.7 mile west of intersection of Canar Road and Ocean Pearl Road. | *5 |
| | | | About 1 mile northwest of Tasman Drive just landward of shoreline at Parkers Bay. | *5 |
| | | | At the intersection of Swan Drive and SR 1245 (on Bell Island). | *5 |
| | | | Along NC 168 and about 0.5 mile southeast of intersection of NC 168 and SR 1246. | *5 |
| | | | Along NC 615 near Back Bay | *5 |
| | | | At intersection of SR 1301 and SR 1236 | *5 |
| | | | About 2,200 feet along Brumley Road east of its intersection with NC 615. | *5 |
| | | | Along southern shoreline from southeastern tip of Knotts Island to about 2 miles north of Live Oak Point. | *6 |
| | | | At intersection of SR 1248 and SR 1249 | *6 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | | Along Webster Creek, about 4,100 feet upstream of the mouth. | *6 |
| | | | At the intersection of Walnut Island Boulevard and Keller Lane. | *6 |
| | | | Along Shingle Landing Creek just downstream of SR 1222. | *6 |
| | | | From Deal Island at northern county boundary along eastern shoreline to south end of Beasley Bay. | *6 |
| | | | In the area of Capsies Creek on Knotts Island | *6 |
| | | | Along western shoreline from one mile south of Dowdy's Bay to mouth of Northwest River. | *7 |
| | | | Along eastern shoreline from south end of Beasley Bay to southern county boundary (about 4000 feet west of Ocean Trail). | *7 |
| | | | At intersection of SR 1251 and SR 1253 | *7 |
| | | | At intersection of New Beach Road and U.S. Route 158. | *7 |
| | | | About 0.9 mile east of intersection of U.S. Route 158 and SR 1116. | *7 |
| | | | About 0.25 mile east of intersection of U.S. Route 158 and SR 1111. | *7 |
| | | | Along eastern shoreline of Knotts Island (Simpson Neck) from northern county boundary to southeastern tip of island. | *7 |
| | | | Along western shoreline from mouth of Webster Creek to one mile south of Dowdy's Bay. | *8 |
| | | | Along western shoreline from U.S. Route 158 bridge over Currituck Sound to mouth of Webster Creek. | *9 |
| | | | Along western shoreline of North Landing River from northern county boundary to Troublesome Point. | *9 |
| Maps available for inspection at the Currituck County Courthouse, Currituck, North Carolina. | | | | |
| North Carolina | Town of Emerald Isle, Carteret County (Docket No. FEMA-6604). | Atlantic Ocean/Bogue Sound | Along northern shoreline from eastern corporate limits to 19th Street. | *7 |
| | | | Along northern shoreline from 19th Street to Kelly Lane. | *8 |
| | | | About 150 feet south of intersection of Sound Drive and East View Drive. | *9 |
| | | | Along northern shoreline from Kelly Lane to Old Ferry Road. | *9 |
| | | | At the intersection of Coast Guard Road and Reed Drive. | *9 |
| | | | Along northern shoreline from Old Ferry Road to about 600 feet northeast of the intersection of Coast Guard Road and Bay Court. | *10 |
| | | | At Channel Drive cul-de-sac | *12 |
| | | | At the intersection of Emerald Drive and the northern corporate limits. | *12 |
| | | Atlantic Ocean | About 100 feet north of southern shoreline from the eastern corporate limits to about 200 feet west of 1st Street. | *11 |
| | | | About 100 feet south of intersection of 2nd Street and Ocean Drive. | *12 |
| | | | About 150 feet north of southern shoreline, just east of Bogue Inlet Drive. | *12 |
| | | | Just east of Surf Scooter Court cul-de-sac | *12 |
| | | | At Catamaran Court cul-de-sac | *12 |
| | | | At the intersection of Channel Drive and Station Street | *12 |
| | | | About 150 feet north of southern shoreline just west of Bogue Inlet Drive. | *13 |
| | | | Along the southern shoreline from eastern corporate limits to the intersection of West Summerplace Circle and Ocean Drive. | *16 |
| | | | Along the southern shoreline from the intersection of Fawn Drive and Ocean Drive to the western corporate limits. | *16 |
| | | | Along the southern shoreline from the intersection of West Summerplace Circle and Ocean Drive to the intersection of Fawn Drive and Ocean Drive. | *17 |
| Maps available for inspection at the Town Hall, Route 1, Emerald Isle, North Carolina. | | | | |
| North Carolina | Town of Indian Beach, Carteret County (Docket No. FEMA-6604). | Atlantic Ocean | About 100 feet north of southern shoreline (both land tracts). | *11 |
| | | | Along southern shoreline (both land tracts) | *16 |
| | | Atlantic Ocean/Bogue Sound | Along northern shoreline of the eastern land tract of Indian Beach. | *6 |
| | | | Along northern shoreline of the western land tract of Indian Beach. | *7 |
| Maps available for inspection at the Town Hall, Indian Beach, North Carolina. | | | | |
| North Carolina | City of Jacksonville, Onslow County (FEMA-6604) | Brick Kiln Branch | Approximately 200 feet downstream of State Highway 24. | *24 |
| | | | Just upstream of State Highway 24 | *14 |
| | | Brinson Creek | Just downstream of Seaboard Coastline Railroad | *5 |
| | | | Just downstream of U.S. Highway 17 | *8 |
| | | Burnt House Branch | Approximately 50 feet downstream of Hargett Street | *10 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | Dotey's Branch | Just upstream of Dewitt Street | *12 |
| | | | Just upstream of Gum Branch Road | *23 |
| | | Little Creek | Just downstream of Decatur Road | *11 |
| | | | Just downstream of Souix Drive | *18 |
| | | Mill Creek | Just downstream of Doris Avenue | *12 |
| | | | Just upstream of Gum Branch Road | *19 |
| | | Mill Creek North Tributary | Just upstream of Forest Grove Avenue | *13 |
| | | | Approximately 1000 feet upstream of Dewitt Street | *18 |
| | | New River | Just upstream of Old Bridge Street | *7 |
| | | Northeast Creek | Just upstream of Pine Green Road | *14 |
| | | Northeast Creek Tributary | Just downstream of Courtland Drive | *15 |
| | | | Just downstream of Country Club Drive | *22 |
| | | Sandy Run Branch | Just upstream of Onslow Drive | *11 |
| | | | Just downstream of Bell Fork Road | *25 |
| | | Scales Creek | Just upstream of State Highway 24 | *11 |
| | | | Just upstream of Camp Lejune Railroad | *24 |
| | | Socoe Creek | Just downstream of Barn Street | *12 |
| | | | Just upstream of Barn Street | *15 |

Maps available for inspection at City Hall, 211 Johnson Boulevard, Jacksonville, North Carolina 28540.

| | | | | |
|---|---|---|---|---|
| North Carolina | Unincorporated areas of Pender County (FEMA-6604) | Bear Den Branch | Just downstream of U.S. Highway 42 | *47 |
| | | Bill Branch | Approximately 500 feet downstream of State Highway 53. | *39 |
| | | | Just upstream of State Highway 53 | *46 |
| | | Bull Branch | Just downstream of State Road 1001 | *53 |
| | | | Just upstream of State Road 1302 | *60 |
| | | Bulltail Creek | Just upstream of State Road 1211 | *65 |
| | | Burgaw Creek | Just downstream of State Road 1509 | *20 |
| | | | Just upstream of the Seaboard Coast Line Railroad | *36 |
| | | Buxton Branch | Just downstream of U.S. Highway 421 | *46 |
| | | Colvins Creek | Just upstream of State Road 1100 | *50 |
| | | | Just downstream of State Road 1201 | *63 |
| | | Crooked Run | Just upstream of State Road 1332 | *61 |
| | | | Just downstream of State Road 1319 | *64 |
| | | Doctors Creek | Just downstream of State Road 1304 | *51 |
| | | Dry Branch | Just downstream of U.S. Highway 421 | *51 |
| | | Guffords Branch | Just downstream of Old Burgaw Road (SR 1400) | *22 |
| | | Horse Branch | Just upstream of State Road 1345 | *39 |
| | | | Just upstream of State Route 1339 | *51 |
| | | Horse Branch Tributary | Just downstream of State Road 1345 | *42 |
| | | Jones Creek | Just downstream of Lake Ann Dam | *53 |
| | | | Approximately 400 feet upstream of Lake Ann Dam | *60 |
| | | | Just downstream of State Road 1201 | *66 |
| | | Lewis Creek | Just upstream of NC 117 | *27 |
| | | Long Creek | Just downstream of State Highway 210 | *10 |
| | | Mill Branch | Just downstream of State Road 1128 | *29 |
| | | | Just upstream of State Highway 53 | *66 |
| | | Moores Creek | Just downstream of North Carolina Highway 210 | *14 |
| | | | Approximately 5,000 feet upstream of U.S. Highway 421. | *60 |
| | | Mulberry Branch | Just downstream of State Highway 210 | *17 |
| | | N.E. Cape Fear River | Just upstream of State Highway 53 | *20 |
| | | | At Croons Bridge Road (SR 1318) | *24 |
| | | Rileys Creek | Approximately 1,700 feet south of the intersection of NC 210 and Old Burgaw Road. | *12 |
| | | Rockfish Creek | Approximately 1,400 feet downstream of Proposed Interstate Highway 40. | *26 |
| | | Sills Creek | Just upstream of State Road 1324 | *51 |
| | | Sills Creek Tributary No. 1 | Just downstream of State Road 1325 | *66 |
| | | Sills Creek Tributary No. 1 | Approximately 450 feet downstream of State Road 1328. | *60 |
| | | Taylor Branch | Just downstream of a Private Dam | *47 |
| | | | Just upstream of a Private Dam | *51 |
| | | Tuckahoe | Just downstream of State Road 1207 | *58 |
| | | Atlantic Ocean | Approximately 1,000 feet south of the intersection of SR 1603 and SR 1582. | *12 |
| | | Topsail Sound | Intersection of SR 1561 and SR 1563 | *8 |
| | | | Intersection of Sound View Drive and Fairway Drive | *10 |

Maps available for inspection at Administrative Building, Burgaw, North Carolina 28425.

| | | | | |
|---|---|---|---|---|
| North Carolina | Town of Pine Knoll Shores, Carteret County (FEMA-6604). | Atlantic Ocean | Along shoreline | *14 |
| | | Bogue Sound | Along shoreline at Hoffman inlet | *7 |
| | | | Approximate 10,000 feet west of Pine Knoll Boulevard (extended) along shoreline. | *6 |

Maps available for inspection at Town Hall, Pine Knoll Boulevard, Atlantic Beach, North Carolina 28512.

| | | | | |
|---|---|---|---|---|
| North Carolina | Town of Surf City, Pender County (FEMA-6604) | Atlantic Ocean | Along shoreline | *16 |
| | | | Approximately 100 feet south of intersection of Hispaniola Lane & North Carolina Highway 50. | *11 |
| | | | Approximately 550 feet south of intersection of New River Drive & Pender Avenue. | *11 |
| | | Topsail Sound | At the intersection of New River Drive & Pender Avenue. | *7 |
| | | | At the intersection of Topsail Drive & Roland Avenue | *8 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | | Approximately 600 feet north of intersection of Hispano Lane & North Carolina Highway 50. | *10 |
| Maps available for inspection at Town Hall, North New River Drive, Surf City, North Carolina 28445. | | | | |
| North Carolina | Town of Topsail Beach, Pender County (FEMA-6604) | Atlantic Ocean | Along shoreline at inlet Drive (extended) | *17 |
| | | | Along shoreline at Barwick Avenue (extended) | *16 |
| | | Topsail Sound | Along shoreline at Sunset Avenue | *10 |
| Maps available for inspection at Town Hall, 820 South Anderson Boulevard, Topsail Beach, North Carolina 28445. | | | | |
| Ohio | Unincorporated areas of Champaign County (Docket No. FEMA-6614). | Lee Creek | About 0.5 mile downstream of Township Road 39 (at county boundary). | *1,002 |
| | | | About 200 feet upstream of State Route 29 | *1,122 |
| | | Graves Creek | About 1.25 miles downstream of Crowl Road | *989 |
| | | | Just downstream of Crowl Road | *1,001 |
| | | | Just upstream of Crowl Road | *1,007 |
| | | | About 0.55 mile upsteam of State Route 245 | *1,032 |
| | | Graves Creek Tributary F | About 0.5 mile downstream of Crowl Road | *994 |
| | | | About 200 feet upstream of Crowl Road | *1,022 |
| | | Dugan Run | About 550 feet downstream of Muzzys Road | *1,000 |
| | | | Just downstream of Conrail (near Jackson Hill Road) | *1,122 |
| | | | Just upstream of Conrail (near Jackson Hill Road) | *1,127 |
| | | | About 0.55 mile upstream of State Route 714 | *1,156 |
| | | Dugan Run Tributary B | At mouth | *1,134 |
| | | | Just downstream of State Route 714 | *1,155 |
| Maps available for inspection at the County Commissioner's Office, Champaign County Courthouse, Urbana, Ohio. | | | | |
| Ohio | City of Hamilton, Butler County (Docket No. FEMA-6604). | Great Miami River | About 3.5 miles downstream of Pershing Street | *566 |
| | | | Just downstream of U.S. Route 127 | *592 |
| Maps available for inspection at the Planning Director's Office, Municipal Building, High and Monument Streets, Hamilton, Ohio. | | | | |
| Ohio | City of Defiance, Defiance County (Docket No. FEMA-6604). | Maumee River | About 0.36 mile downstream of Domersville road | *677 |
| | | | About 1.1 miles upstream of Norfolk Southern Railway | *680 |
| | | Auglaize River | At mouth | *679 |
| | | | About 0.93 mile upstream of Jefferson Street | *682 |
| Maps available for inspection at the City Engineer's Office, City County Building, Defiance, Ohio. | | | | |
| Ohio | City of Napoleon, Henry County (Docket No. FEMA-6604. | Maumee River | About 1.6 miles downstream of Detroit Toledo and Ironton Railroad. | *656 |
| | | | About 2.3 miles upstream of Perry Street | *660 |
| Maps available for inspection at the Municipal Building, 255 Riverview Avenue, Napoleon, Ohio. | | | | |
| Ohio | City of Newark, Licking County (Docket No. FEMA-6599). | Licking River | About 0.8 mile downstream of confluence of Shawnee Run. | *801 |
| | | | At confluence of South Fork Licking River | *813 |
| | | South Fork Licking River | At confience with Licking River | *813 |
| | | | Just downstream of National Drive | *816 |
| | | | About 0.2 mile downstream of Orchard Street | *818 |
| | | | About 0.1 mile upstream of Orchard Street | *819 |
| | | North Fork Licking River | At confluence with Licking River | *813 |
| | | | About 140 feet upstream of Everett Avenue | *823 |
| | | | Just downstream of dam | *833 |
| | | | Just upstream of dam | *839 |
| | | | About 3.1 miles upstream of Water Works Road | *863 |
| | | Raccoon Creek | At mouth | *817 |
| | | | Just upstream of Chessie System railroad | *822 |
| | | | Just upstream of North 21st Street | *832 |
| | | | About 0.5 mile upstream of Cherry Valley Road | *885 |
| | | Log Pond Run (Downstream of COE-LPRDP Outflow). | Just upstream of Eddy Street | *852 |
| | | | Just downstream of North 21st Street | *861 |
| | | | About 4,800 feet upstream of North 21st Street | *870 |
| | | | About 100 feet downstream of U.S. Army Corps of Engineers-Log Pond Run Diversion Project (COE-LPRDP) Outflow. | *875 |
| | | Log Pond Run (Upstream of COE-LPRDP Outflow). | Just upstream of Goosepond Road | *880 |
| | | | Just downstream of King Road | *886 |
| Maps available for inspection at City Hall, 40 W. Main Street, Newark, Ohio. | | | | |
| Ohio | Village of Powell, Delaware County (Docket No. FEMA-6604). | Olentangy River | At downstream corporate limits | *774 |
| | | | At upstream corporate limits | *775 |
| Maps available for inspection at the Village Hall, 5 N. Liberty Street, Powell, Ohio. Send comments to Honorable J. Thomas Cantwell, Mayor, Village of Powell, Village Hall, 5 N. Liberty Street, P.O. Box 124, Powell, Ohio 43065. | | | | |
| Ohio | Village of West Liberty, Logan County (Docket No. FEMA-6604). | Mad River | About 2100 feet downstream of U.S. Route 68 | *1,082 |
| | | | About 300 feet upstream of Baird Street | *1,091 |
| | | Mud Run | Just downstream of Sidney Street | *1,081 |
| | | | Just downstream of State Route 245 | *1,084 |
| | | | Just upstream of State Route 245 | *1,089 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | | About 1400 feet upstream of State Route 245 | *1,089 |
| | | Macochee Creek | At confluence with Mad River | *1,088 |
| | | | About 1300 feet upstream of confluence with Mad River. | *1,088 |
| Maps available for inspection at the Village Hall, West Liberty, Ohio. | | | | |
| Oregon | Albany (city), Linn and Benton Counties FEMA-6614 | Willamette River | 400 feet upstream from centerline of Southern Pacific Railroad. | *201 |
| | | Calapooia River | Intersection of Bonnie Street and 15th Avenue | *204 |
| | | Oak Creek | 10 feet upstream from centerline of Southern Pacific Railroad. | *210 |
| | | Calapooia River Split Flow | 90 feet downstream from center of 53rd Avenue | *212 |
| | | Truax Creek | 10 feet upstream from most westerly corporate limit crossing. | *210 |
| Maps available for inspection at Planning Department, 127 Broadalbin, SW, Albany, Oregon. | | | | |
| Pennsylvania | Allegheny, township, Blair County (FEMA Docket No. 6599). | Beaverdam Branch Juniata River | Approximately .15 mile downstream corporate limits | *966 |
| | | | Downstream Legislative Route 07059 | *989 |
| | | | Upstream Sewage Treatment Plant Road | *1,035 |
| | | | Confluence of Burgoon Run and Mill Run | *1,045 |
| | | Blair Gap Run | Confluence with Beaverdam Branch Juniata River | *973 |
| | | | Most downstream corporate limits | *977 |
| | | | Approximately .47 mile upstream of most downstream corporate limits. | *997 |
| | | | Second crossing corporate limits | *1,031 |
| | | | Most upstream corporate limits | *1,049 |
| | | | Approximately .12 mile upstream of Township Route 388. | *1,102 |
| | | Burgoon Run | Confluence with Beaverdam Branch Juniata River | *1,045 |
| | | | Upstream corporate limits | *1,080 |
| | | Mill Run | Confluence with Beaverdam Branch Juniata River and Burgoon Run. | *1,045 |
| | | | Approximately 75' upstream of upstream corporate limits. | *1,053 |
| | | Sugar Run | At East Burns Avenue | *1,070 |
| | | | Upstream Oak Avenue | *1,120 |
| | | | Upstream of fifth upstream Access Road | *1,235 |
| | | | Upstream of 7th upstream Access Road | *1,307 |
| | | | Approximately .25 mile upstream of Sugar Run Road | *1,431 |
| | | Brush Run | Most downstream corporate limits | *962 |
| | | | Approximately .64 mile upstream downstream corporate limits. | *971 |
| | | | Most upstream corporate limits | *983 |
| | | Gillans Run | Downstream corporate limits | *1,021 |
| | | | Upstream Township Route 406 | *1,086 |
| | | | Approximately .53 mile upstream Township Route 414 | *1,199 |
| | | Spencer Run | At Legislative Road 07059 | *1,042 |
| | | | Upstream of Township Route 406 | *1,123 |
| | | | Upstream U.S. Route 22 | *1,164 |
| | | | Upstream of Township Route 425 | *1,208 |
| | | | Upstream of 4th upstream Access Road | *1,249 |
| | | | Approximately .17 mile downstream of most upstream Access Road. | *1,345 |
| | | | Approximately .21 mile upstream of most upstream Access Road. | *1,456 |
| | | Tributary to Gillans Run | Downstream corporate limits | *1,034 |
| | | | Upstream of Township Route 406 | *1,090 |
| | | | Approximately .2 mile upstream of U.S. Route 22 (2nd crossing). | *1,219 |
| Maps available for inspection at the Municipal Building, R.D. 1, Duncansville, Pennsylvania. | | | | |
| Rhode Island | Little Compton, town, Newport County (FEMA Docket No. 6599). | Sakonnet River | 2,300 feet northwest of intersection of Taylors Lane and Taylors Lane south. | #1 |
| | | | Shoreline approximately 1.4 miles southeast of Church Point. | *22 |
| | | | Shoreline at Taylors Lane extended | *18 |
| | | | Shoreline approximately 1,700 feet south of Hardy Subdivision Road extended. | *24 |
| | | | Shoreline at Hardy Subdivision Road extended | *28 |
| | | | Shoreline at June Way extended | *31 |
| | | Rhode Island Sound | 500 feet south along Rhode Island Road from intersection with Pennsylvania Road. | #1 |
| | | | Shoreline at Sakonnet Point | *18 |
| | | | Shoreline approximately 300 feet south of Little Pond Cove extended. | *20 |
| | | | Shoreline at Ocean Drive extended | *24 |
| | | | Shoreline approximately 1,250 feet north of Ocean Drive extended. | *26 |
| | | | Shoreline approximately 300 feet south of Point Meadows extended. | *31 |
| Maps available for inspection at the Town Clerk's Office, Town Hall, Little Compton, Rhode Island. | | | | |
| Rhode Island | New Shoreham, Town, Washington County (FEMA Docket No. 6614). | Atlantic Ocean | Shoreline at Black Rock Point | *25 |
| | | | Shoreline at Southeast Point | *23 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | Rhode Island Sound | Shoreline 1,000 feet northeast of Southeast Point | *21 |
| | | | Shoreline at Old Harbor Point | *19 |
| | | | Shoreline 800 feet southeast of Water Street extended | *14 |
| | | | Shoreline at Water Street extended | *13 |
| | | | Shoreline 800 feet northwest of Beach Avenue extended. | *13 |
| | | | Shoreline 4,500 feet southwest of Jerrys Point | *20 |
| | | | Shoreline at Jerrys Point | *14 |
| | | | Shoreline at Balls Point | *17 |
| | | | Shoreline at Sandy Point | *13 |
| | | Block Island Sound | Shoreline 500 feet south of Sandy Point | *9 |
| | | | Shoreline of Great Salt Pond at Cormorant Point | *11 |
| | | | Shoreline of Great Salt Pond at Harris Point | *11 |
| | | | Shoreline 1,000 feet southwest of Grace Point | *11 |
| | | | Shoreline at Cooneymus Road extended | *15 |
| | | | Shoreline at Southwest Point | *20 |
| Maps available for inspection at the Town Clerk's Vault, New Shoreham, Rhode Island. | | | | |
| Tennessee | Town of Farragut, Knox County (FEMA-6604) | Little Turkey Creek | Just downstream of Turkey Creek Drive. (Flooding at this location is affected by backwater from Tennessee River). | *815 |
| | | | Approximately 160 feet upstream of Virtue Road | *856 |
| | | | Just downstream of Kingston Pike | *900 |
| | | North Fork Turkey Creek | Just upstream of Kingston Pike | *881 |
| | | | Just downstream of Grigsby Chapel Road | *935 |
| | | Turkey Creek | Approximately 110 feet upstream of Turkey Creek Drive. | *816 |
| | | Turkey Creek | Approximately 180 feet downstream of Kingston Pike | *872 |
| Maps available for inspection at the Town Hall, 1428A Kingston Pike, Farragut, Tennessee 37933. | | | | |
| Texas | Unincorporated areas of Aransas County (FEMA-6604). | Gulf of Mexico | South of San Jose Island along eastern shoreline | *10 |
| | | | South of San Jose Island along western shoreline | *8 |
| | | Aransas Bay | Along the southern shoreline of Mud Island | *7 |
| | | | Along shoreline at Jay Bird Point | *6 |
| | | | East of Aransas County Airport along the shoreline | *6 |
| | | | Along eastern shoreline Traylor Island | *12 |
| | | Mesquite Bay | Along shoreline of Roddy Island | *8 |
| | | San Antonio Bay | East of Thomas Pond along shoreline | *7 |
| | | St. Charles Bay | Along shoreline at Black Jack Point | *10 |
| | | | South of Buqentine Dam | *11 |
| | | Aransas Bay/St. Charles Bay | Along shoreline of Goose Island | *10 |
| | | Copana Bay | Along shoreline at Shell Point | *10 |
| | | | Along shoreline at Redfish Point | *5 |
| | | Port Bay | At Swan Lake | *7 |
| Maps available for inspection at the Office of Leonard Sepcht, Flood Plain Administrator, Aransas County Courthouse, 301 N. Live Oaks, Rockport Texas 78382. | | | | |
| Texas | City Aransas Pass, Aransas, Nueces and San Patricio Counties (FEMA-6604). | Gulf of Mexico/Redfish Bay | Intersection of Highland Avenue and State Highway 361. | *10 |
| | | | Intersection of the State Highway 35 and Young Avenue. | *9 |
| Maps available for inspection at City Hall, 600 West Cleveland Street, Aransas Pass, Texas 78336. | | | | |
| Texas | City of Bayside, Refugio County (FEMA-6604) | Copano Bay | Along shoreline at Driscoll Ave (extended) | *10 |
| | | | Along western shoreline at Black Point | *9 |
| Maps available for inspection at Bayside Community Building, Bayside Texas, 78340. | | | | |
| Texas | Euless, city, Tarrant County (FEMA Docket No. 6604) | Little Bear Creek | Approximately 900' upstream of confluence with Big Bear Creek. | *511 |
| | | | North Main Street (upstream side) | *525 |
| | | | At Industrial Boulevard | *538 |
| | | | At upstream corporate limits | *546 |
| | | Blessing Branch | Approximately 8,500' upstream of confluence with West Fork Trinity River. | *540 |
| | | | Fuller Wiser Road (upstream side) | *554 |
| | | | North Main Street (upstream side) | *574 |
| | | Sulphur Branch | At downstream corporate limits | *493 |
| | | | At upstream corporate limits | *506 |
| | | Hurricane Creek | At downstream corporate limits | *501 |
| | | | Marlene Drive (upstream side) | *522 |
| | | | At upstream corporate limits | *537 |
| | | Stream HC-1 | Confluence with Hurricane Creek | *515 |
| | | | Kynette Drive (upstream) | *535 |
| | | | Upstream corporate limits | *546 |
| | | Boyd Branch | At downstream corporate limits | *515 |
| | | | State Route 10 (upstream side) | *540 |
| | | | Approximately 950' upstream of Villa Road | *549 |
| Maps available for inspection at the City Hall, Euless, Texas. | | | | |
| Texas | City of Ingleside, San Patricio County (FEMA-6604) | Kinney Bayou | Just upstream of Eighth Street | *12 |
| | | | Just downstream of Live Oak Street | *13 |
| | | Combined flooding effects from Kinney Bayou and Corpus Christi Bay. | Approximately 550 feet west of the intersection of Port Avenue and FM 1069. | *9 |
| Maps available for inspection at City Hall, 501½ San Angelo Street, Ingleside, Texas 78362. | | | | |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| Texas | Unincorporated areas of Matagorda County (FEMA-6614). | Bucks Bayou | Just downstream of an unnamed road located approximately 3,800 feet upstream of the confluence with Peyton Creek. | *25 |
| | | | Approximately 300 feet downstream of FM 457 | *38 |
| | | Cedar Lake Creek | Approximately 400 feet downstream of FM 2611 | *10 |
| | | | Approximately 300 feet downstream of State Highway 521. | *19 |
| | | Cottonwood Creek | Just upstream of the confluence of Dry Creek | *29 |
| | | | Approximately 100 feet downstream of FM 2668 | *52 |
| | | East Carancahua Creek | Just downstream of FM 616 | *26 |
| | | | Approximately 1,500 feet downstream of State Route 111. | *44 |
| | | Hardeman Slough | Just upstream of State Highway 35 | *39 |
| | | | Just upstream of Southern Pacific Railroad | *43 |
| | | Linnville Bayou | Just downstream of Missouri Pacific Railroad | *33 |
| | | | Approximately 1,000 feet downstream of State Highway 35. | *38 |
| | | Live Oak Creek | Just downstream of State Highway 60 | *31 |
| | | | Just upstream of FM 2668 | 42 |
| | | Tres Palacios River | Just downstream of the confluence of Briar Creek | *19 |
| | | | Just downstream of State Highway 35; East Bound | *24 |
| | | | Just downstream of the confluence of Juanita Creek | *36 |
| | | Tres Palacios Bay | Just downstream of State Highway 35 Bridge over Turtle Creek. | *14 |
| | | Matagorda Bay | At Crab Lake (entire shoreline) | *10 |
| | | Gulf of Mexico | At Matagorda Peninsula Airport | *10 |
| | | East Matagorda Bay | At confluence of Intracoastal Waterway with Live Oak Bayou. | *11 |
| Maps available for inspection at Matagorda County Building Official's Office, County Courthouse, Bay City, Texas 77414. | | | | |
| Texas | City of Port Aransas, Nueces County (FEMA)-6604) | Corpus Christi Bay | At the intersection of Avenue G and 6th Street | *8 |
| | | Gulf of Mexico | Avenue G extended at shoreline | *10 |
| Maps available for inspection at City Hall, P.O. Drawer I, Port Aransas, Texas 78373. | | | | |
| Texas | City of Port Lavaca, Calhoun County (FEMA-6604) | Little Chocolate Bayou | Just upstream of State Highway 35 | *13 |
| | | Lynn Bayou | Approximately 500 feet upstream of Oakglen Drive | *16 |
| | | Lavaca Bay | Shoreline at Cypress Street (extended) | *16 |
| Maps available for inspection at Office of Public Works, City Hall, Port Lavaca, Texas 77979. | | | | |
| Texas | Unincorporated areas of Refugio County (FEMA-6604). | Mission River | Approximately 600 feet downstream of Missouri Pacific Railroad. | *35 |
| | | Blanco Creek | Just downstream of State Highway 202 | *53 |
| | | Copano Bay/Mission Bay | Just east of FM 2678 on Mission River | *8 |
| | | St. Charles Bay | Just south of the intersection of State Highway 35 and State Highway 774. | *10 |
| | | San Antonio Bay | Approximately 250 feet east of Farm to Market Road 2040 just north of Aransas County Line. | *8 |
| | | Hynes Bay | At the outermost tip of McDowell Point | *8 |
| | | San Antonio Bay/Guadlupe Bay/Mission Lake/Green Lake. | Just west of Calhoun County line on State Highway 35 | *11 |
| Maps available for inspection at Refugio County Judge's Office, County Courthouse, Room 104, Refugio, Texas 78377. | | | | |
| Texas | City of Rockport, Aransas County (FEMA-6604) | Gulf of Mexico/Aransas Bay | Along shoreline at Water Street | *7 |
| | | Gulf of Mexico/Little Bay | Along shoreline at Concho Street extended east of Austin Street. | *6 |
| Maps available for inspection at City Hall, 319 North Broadway, Rockport, Texas 78382. | | | | |
| Texas | Unincorporated areas of San Patricio County (FEMA-6604. | Hondo Creek | Just downstream of FM 54 | *44 |
| | | | Just upstream of FM 50 | *74 |
| | | Taft Creek A | Approximately 600 feet upstream of Southern Pacific Railroad. | *53 |
| | | Taft Creek B | Just upstream of FM 102 | *41 |
| | | Jack Green Hollow | Approximately 900 feet upstream of McNally Road | *140 |
| | | Nueces River (Part 1) | Approximately 400 feet upstream of FM 666 | *35 |
| | | Nueces River (Part 2) | Just upstream of Missouri Pacific Railroad | *12 |
| | | Chiltipin Creek | Just downstream of U.S. Route 77 | *48 |
| | | Peter's Swale | Approximately 400 feet upstream of FM 42 | *70 |
| | | | Approximately 100 feet upstream of U.S. Highway 77 (upstream crossing). | *73 |
| | | Nueces Bay | At the south end of Highway FM 1074 at the county limits. | *16 |
| | | | At the mouth of Nueces River at Nueces Bay | *16 |
| | | | Just downstream of Missouri Pacific Railroad | *14 |
| | | Corpus Christi Bay | At the mouth of Gum Hollow with Corpus Christi Bay | *15 |
| | | | At the mouth of an unnamed stream just east of the City of Portland with Corpus Christi Bay. | *15 |
| | | | At the mouth of Kinney Bay with Ingleside Cove | *8 |
| | | Red Fish Bay | Just upstream of State Highway 35, 1000 feet east of intersection of Highway FM 1069 and FM 2725 on an extension line of FM 1069. | *9 |
| | | Copano Bay/Mission Bay/Port Bay | Just downstream of Highway FM 881 | *8 |
| Maps available for inspection at County Courthouse, 400 W. Sinton, Rm 105, Sinton, Texas 78387. | | | | |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| Texas | City of Seadrift, Calhoun County (FEMA-6614) | Gulf of Mexico/San Antonio Bay | Intersection of Second Street and Washington Avenue | *8 |
| | Maps available for inspection at City Hall, Seadrift, Texas 77983. | | | |
| West Virginia | Anawalt, town, McDowell County (FEMA Docket No. 6604). | Tug Fork | Downstream corporate limits | *1,640 |
| | | | Approximately 0.7 mile upstream of Johnson Street bridge. | *1,668 |
| | | | Upstream side of Norfolk and Western Railway bridge (2nd upstream crossing). | *1,688 |
| | | | Upstream corporate limits | *1,707 |
| | | Little Creek | Confluence with Tug Fork | *1,685 |
| | | | Upstream side of Railroad Avenue bridge | *1,688 |
| | | | Upstream corporate limits | *1,700 |
| | Maps available for inspection at the Town Hall, Anawalt, West Virginia. | | | |
| West Virginia | Gary, City, McDowell County (Docket No. FEMA-6604). | Tug Fork | Downstream corporate limits | *1,371 |
| | | | U.S. Steel Building (Upstream Side) | *1,400 |
| | | | At confluence of Sandlick Creek | *1,411 |
| | | | Maintenance Road 49 (upstream side) | *1,429 |
| | | | Payton Place Road (upstream side) | *1,450 |
| | | | Most upstream corporate limits | *1,470 |
| | | Sandlick Creek | At confluence with Tug Fork | *1,411 |
| | | | Approximately 170 ' downstream of County Route 13/2. | *1,451 |
| | Maps available for inspection at the City Hall, Gary, West Virginia. | | | |
| West Virginia | Kanawha County (FEMA Docket No. 6604) | Kanawha River | Approximately 170 feet downstream of County Route 13/2. | *587 |
| | | | At confluence of of Davis Creek | *592 |
| | | | Upsteam side of Marmet Locks and Dam | *601 |
| | | | At State Route 61 spur bridge | *606 |
| | | | Approximately .15 mile downstream of London Lock & Dam #3. | *617 |
| | | | At upstream county boundary | *625 |
| | | Pocatalico River | At downstream county boundary | *601 |
| | | | Approximately .4 mile upstream of County Road 7 | *609 |
| | | | Approximately 800 feet downstream of County Road 21/7. | *616 |
| | | | At confluence of Tupper Creek | *624 |
| | | | Approximately .3 mile upstream of County Road 21 | *631 |
| | | | Approximately 800 feet upstream of County Road 33 (1st upstream crossing). | *646 |
| | | | Approximately 1,000 feet upstream of County Road 33 (2nd upstream crossing). | *656 |
| | | | Approximately 200 feet downstream of upstream county boundary. | *672 |
| | | Rocky Fork | At confluence with Pocatalico River | *603 |
| | | | At State Route 622 (2nd crossing) | *610 |
| | | | At County Road 5/13 | *629 |
| | | | Approximately 50 feet downstream of State Route 62 | *660 |
| | | | Approximately 50 feet upstream of Dam Road | *693 |
| | | Tupper Creek | At confluence with Pocatalico River | *624 |
| | | | Approximately 600 feet downstream of confluence of Legg Fork. | *629 |
| | | | Approximately 200 feet upstream of Interstate Route 77 (1st upstream crossing). | *645 |
| | | | Approximately 100 feet upstream of County Road 29 | *663 |
| | | | Approximately 70 feet downstream of County Road 24 | *688 |
| | | | Approximately .46 mile downstream of County Road 21/25. | *713 |
| | | | Approximately 40 feet downstream of County Road 21/25. | *738 |
| | | | Downstream side of parking lot culverts | *748 |
| | | | Upstream side of County Road 21 | *791 |
| | | | Approximately 860 feet upstream of County Road 21 | *797 |
| | | Legg Fork | At confluence with Tupper Creek | *629 |
| | | | Downstream side of County Road 28/2 | *639 |
| | | | Approximately 130 feet upstream of County Road 28 | *657 |
| | | | Approximately .93 mile upstream of County Road 28 | *677 |
| | | | At confluence of Huggard Branch | *700 |
| | | Huggard Branch | At confluence with Legg Fork | *700 |
| | | | Approximately .46 mile upstream of confluence with Legg Fork. | *730 |
| | | | At 1st upstream Access Road | *761 |
| | | | Approximately 90 feet downstream of 2nd upstream Access Road. | *782 |
| | | | Approximately .33 mile upstream of 2nd upstream Access Road. | *808 |
| | | Coal River | At confluence with Kanawha River | *588 |
| | | | Approximately 6.0 mile upstream of confluence with Kanawha River. | *600 |
| | | | At confluence of Smith Creek | *612 |
| | | | Approximately 1,000 feet upstream of State Route 214 | *625 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | | Approximately 1.1 miles upstream of State Route 214 | *627 |
| | | Smith Creek | At confluence with Coal River | *612 |
| | | | Approximately 100 feet downstream of County Road 9 (2nd upstream crossing). | *625 |
| | | | Approximately 75 feet upstream of County Road 12 (1st upstream crossing). | *635 |
| | | | At County Road 12 (2nd upstream crossing) | *645 |
| | | | At confluence of Little Smith Creek | *678 |
| | | | Approximately 775 feet downstream of County Road 12 (3rd upstream crossing). | *715 |
| | | | At County Road 12 (4th upstream crossing) | *750 |
| | | | Approximately 100 feet upstream of County Road 12 (5th upstream crossing). | *790 |
| | | | Approximately 700 feet upstream of County Road 12 (6th upstream crossing). | *820 |
| | | Little Smith Creek | At confluence with Smith Creek | *678 |
| | | | Approximately 120 feet upstream of County Road 9/3 | *698 |
| | | | Approximately .61 mile upstream of County Road 9/3 | *733 |
| | | | Approximately 1.29 miles upstream of County Road 9/3. | *769 |
| | | | Approximately 1.82 miles upstream of County Road 9/3. | *820 |
| | | | Approximately 2.22 miles upstream of County Road 9/3. | *870 |
| | | | Approximately 2.24 miles upstream of County Road 9/3. | *909 |
| | | Davis Creek | At downstream county boundary | *592 |
| | | | At State Route 214 | *604 |
| | | | Approximately 1.4 miles downstream of County Road 20 (1st upstream crossing). | *626 |
| | | | Approximately 200 feet downstream of County Road 20 (1st upstream crossing). | *648 |
| | | | At county Road 20/5 | *665 |
| | | | At County Road 23 (1st upstream crossing) | *683 |
| | | | Approximately 50 feet downstream of confluence of Kanawha Fork. | *709 |
| | | Tyler Creek | Approximately .20 mile downstream of county boundary. | *599 |
| | | | Upstream side of County Road 5/6 | *605 |
| | | | Upstream side of State Route 62 (3rd upstream crossing). | *632 |
| | | | Approximately 100 feet upstream of confluence of Landers Creek. | *655 |
| | | Twomile Creek | At downstream county boundary | *603 |
| | | | Approximately 100 feet upstream of confluence of Edens Fork. | *609 |
| | | | Approximately 50 feet upstream of 2nd upstream Access Road. | *621 |
| | | | Approximately 60 feet upstream of County Road 21/14. | *640 |
| | | | Approximately .30 mile downstream of County Road 21/13. | *661 |
| | | | Approximately 65 feet downstream of County Road 21/13. | *682 |
| | | | Approximately 540 feet downstream of County Road 21 (2nd upstream crossing). | *700 |
| | | | Approximately 150 feet upstream of County Road 21 (2nd upstream crossing). | *717 |
| | | | Approximately 50 feet downstream of County Road 21 (3rd upstream crossing). | *745 |
| | | | Approximately 860 feet upstream of County Road 21 (4th upstream crossing). | *775 |
| | | | Approximately .3 mile upstream of County Road 21 (4th upstream crossing). | *805 |
| | | Edens Fork | At confluence with Twomile Creek | *609 |
| | | | Upstream side of County Road 27 (1st upstream crossing). | *615 |
| | | | Upstream side of County Road 27/1 | *627 |
| | | | Upstream side of County Road 27/4 | *646 |
| | | | Upstream side of County Road 27 (2nd upstream crossing). | *656 |
| | | | Approximately 1 mile upstream of County Road 27 (2nd upstream crossing). | *705 |
| | | | At County Road 27 (3rd upstream crossing) | *739 |
| | | | Approximately .28 mile upstream of County Road 27 (4th upstream crossing). | *787 |
| | | Elk River | At downstream county boundary | *595 |
| | | | At confluence of Coopers Creek | *609 |
| | | | At confluence of Little Sandy Creek | *612 |
| | | | At confluence of Blue Creek | *619 |
| | | | At Old Queen Shoals bridge | *634 |
| | | | At upstream county boundary | *649 |
| | | Elk Twomile Creek | At confluence with Elk River | *595 |
| | | | Upstream side of Greenbriar Street (1st upstream crossing). | *610 |
| | | | Downstream side of County Road 46 (1st upstream crossing). | *637 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | | Upstream side of County Road 46 (4th upstream crossing). | *664 |
| | | | Approximately 200 feet upstream of County Road 46 (8th upstream crossing). | *717 |
| | | Coopers Creek | At confluence with Elk River | *609 |
| | | | Approximately 100 feet downstream of confluence of Bens Fork. | *627 |
| | | | Approximately 250 feet upstream of County Road 119/14. | *648 |
| | | | Downstream side of County Road 28 | *659 |
| | | | Approximately .77 mile upstream of County Road 28 | *677 |
| | | Little Sandy Creek | At confluence with Elk River | *612 |
| | | | Approximately 300 feet upstream of Interstate 79 (1st upstream crossing). | *620 |
| | | | Approximately 800 feet downstream of County Road 39. | *639 |
| | | | Approximately 300 feet upstream of County Road 43/14. | *658 |
| | | | Approximately 60 feet upstream of County Road 43/6 | *667 |
| | | Blue Creek | At confluence with Elk River | *619 |
| | | | Upstream side of Access Road | *624 |
| | | | Approximately 130 feet downstream of confluence of Lower Threemile Fork. | *630 |
| | | Big Sandy Creek | At downstream county boundary | *630 |
| | | | Approximately 750 feet upstream of confluence of Thorofare Run. | *631 |
| | | Thorofare Run | At confluence with Big Sandy Creek | *631 |
| | | | Upstream side of County Road 59 (1st upstream crossing). | *687 |
| | | | Upstream side of County Road 59 (2nd upstream crossing). | *742 |
| | | | Approximately .74 mile upstream of County Road 59 (2nd upstream crossing). | *845 |
| | | Campbells Creek | At confluence with Kanawha River | *598 |
| | | | Upstream side of County Road 73 (1st upstream crossing). | *611 |
| | | | Upstream side of County Road 73/3 | *626 |
| | | | Upstream side of County Road 73/5 | *637 |
| | | | Upstream side of County Road 73 (2nd upstream crossing). | *658 |
| | | | Upstream side of County Road 73/8 | *695 |
| | | | Upstream side of County Road 73 (3rd upstream crossing). | *712 |
| | | | Approximately 400 feet downstream of confluence of Eightmile Hollow. | *794 |
| | | Lens Creek | Approximately 850 feet upstream of confluence with Kanawha River. | *602 |
| | | | Upstream side of County Road 68 | *627 |
| | | | At confluence of Ring Hollow | *674 |
| | | | At confluence of Fourmile Fork | *688 |
| | | | Approximately .63 mile above confluence of Fourmile Fork. | *720 |
| | | | Upstream side of 9th upstream Access Road | *751 |
| | | | Approximately .77 mile above 9th upstream Access Road. | *804 |
| | | Witcher Creek | At confluence with Kanawha River | *604 |
| | | | Upstream side of County Road 70 (2nd upstream crossing). | *613 |
| | | | Approximately .5 mile downstream of confluence of Laurel Fork. | *672 |
| | | | Approximately 100 feet downstream of confluence of Left Fork. | *701 |
| | | Fields Creek | At confluence with Kanawha River | *604 |
| | | | Upstream side of County Road 77/1 | *621 |
| | | | Upstream side of Delta Route 14 | *652 |
| | | | Upstream side of Delta Route 13 | *672 |
| | | | Approximately .60 mile upstream of Delta Route 13 | *701 |
| | | Cabin Creek | At confluence with Kanawha River | *607 |
| | | | Upstream side of County Road 79/3 (1st upstream crossing). | *633 |
| | | | Upstream side of County Road 79/4 (2nd upstream crossing). | *668 |
| | | | Upstream side of County Road 79/3 (3rd upstream crossing). | *692 |
| | | | Upstream side Chessie System (5th upstream crossing). | *720 |
| | | | Upstream side of County Road 74 | *745 |
| | | | Upstream side of Chessie System (7th upstream crossing). | *801 |
| | | | Downstream side of County Road 79/3 (4th upstream crossing). | *848 |
| | | | Upstream side of County Road 76 (1st upstream crossing). | *907 |
| | | | Upstream side of County Road 76 (2nd upstream crossing). | *1,029 |
| | | | Upstream side of Chessie System (12th upstream crossing). | *1,066 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | | Upstream side of County Road 76 (3rd upstream crossing). | *1,130 |
| | | Kellys Creek | At downstream county boundary | *632 |
| | | | Upstream side of County Road 81 (1st upstream crossing). | *670 |
| | | | Upstream side of County Road 81/6 | *710 |
| | | | Upstream side of Kellys Creek and Northwestern Railroad (2nd upstream crossing). | *752 |
| | | | Approximately .76 mile downstream County Road 81 (3rd upstream crossing). | *790 |
| | | | Upstream side County Road 81 (3rd upstream crossing). | *845 |
| | | | At confluence of Hurricane Fork | *863 |
| | | Hurricane Fork | At confluence with Kellys Creek | *863 |
| | | | Upstream side of County Road 81 | *919 |
| | | | Approximately .80 mile upstream of County Road 81 | *997 |
| | | Paint Creek | At confluence with Kanawha River | *614 |
| | | | Upstream side of County Road 83/2 | *624 |
| | | | Upstream side of County Road 83/3 | *650 |
| | | | Upstream side of County Road 83/1 | *669 |
| | | | Upstream side of County Road 83 | *695 |
| | | | Downstream of Interstate Route 77 | *718 |
| | | Hughes Creek | At confluence with Kanawha River | *616 |
| | | | Upstream U.S. Route 60 | *622 |
| | | | Approximately 1.07 mile upstream of U.S. Route 60 | *670 |
| | | East Bank Tributary | At confluence with Kanawha River | *610 |
| | | | Approximately 80 feet upstream of upstream county boundary. | *620 |
| | | Upper Creek | Approximately .72 mile upstream of confluence with Kanawha River. | *722 |
| | | | At upstream county boundary | *736 |
| Maps available for inspection at the Planning Commission, Kanawha County Courthouse, 409 Virginia Street East, Charleston, West Virginia. | | | | |
| West Virginia | Keystone, town, McDowell County (FEMA Docket No. 6604). | Elkhorn Creek | Downstream corporate limits | *1,623 |
| | | | Norfolk and Western Railway bridge (upstream side) | *1,668 |
| | | | Upstream corporate limits | *1,675 |
| | | | Approximately 0.15 mile upstream of corporate limits | *1,682 |
| Maps available for inspection at the City Hall, Keystone, West Virginia. | | | | |
| West Virginia | Kimball, town, McDowell County (FEMA Docket No. 6604). | Elkhorn Creek | Downstream corporate limits | *1,478 |
| | | | At confluence of Laurel Branch | *1,485 |
| | | | Upstream corporate limits | *1,497 |
| Maps available for inspection at the City Hall, Welch, West Virginia. | | | | |
| West Virginia | Mabscott, town, Raleigh County (Docket No. FEMA-6604). | Whitestick Creek | Downstream corporate limits | *2,284 |
| | | | Upstream side of North Hill Street | *2,290 |
| | | | At Mill Road | *2,325 |
| Maps available for inspection at the Town Hall, Mabscott, West Virginia. | | | | |
| West Virginia | Mercer County (FEMA Docket No. 6599) | Bluestone River | Approximately 3.0 miles downstream of dam | *1,961 |
| | | | Approximately 2.3 miles downstream of dam | *1,980 |
| | | | Approximately 1.3 miles downstream of dam | *2,000 |
| | | | Approximately 0.5 mile downstream of dam | *2,022 |
| | | | Approximately 0.1 mile upstream of dam | *2,040 |
| | | | Approximately 1.6 miles upstream of dam | *2,060 |
| | | | Upstream of most downstream crossing of U.S. Route 19. | *2,070 |
| | | | Upstream of most downstream Access Road | *2,079 |
| | | | Upstream of State Route 10 | *2,087 |
| | | | Approximately 2.7 miles upstream State Route 10 | *2,098 |
| | | | Approximately 3.8 miles upstream State Route 10 | *2,110 |
| | | | Approximately 0.5 mile upstream of second downstream Access Road. | *2,120 |
| | | | Approximately 0.9 mile downstream of third downstream Access Road. | *2,140 |
| | | | Upstream of third downstream Access Road | *2,161 |
| | | | Approximately 1.0 mile upstream of third downstream Access Road. | *2,180 |
| | | | Upstream State Route 71 (first crossing) | *2,195 |
| | | | At confluence of Crane Creek | *2,210 |
| | | | Upstream County Route 15 (2nd crossing) | *2,220 |
| | | | Approximately .9 mile downstream of Norfolk and Western Railway (fourth crossing). | *2,230 |
| | | | At downstream county boundary (Bramwell) | *2,241 |
| | | | At upstream county boundary (Bramwell) | *2,260 |
| | | | Upstream of second dam | *2,280 |
| | | | At County Route 52/6 (downstream crossing) | *2,289 |
| | | | Most upstream county boundary | *2,302 |
| | | East River | Approximately .34 mile downstream 1st corssing Norfolk & Western Railway. | *1,646 |
| | | | 1st crossing Norfolk & Western Railway (downstream) | *1,652 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | | 0.6 mile upstream most downstream Access Road | *1,667 |
| | | | Downstream county boundary (Oakvale) | *1,703 |
| | | | Upstream county boundary (Oakvale) | *1,754 |
| | | | 1st most downstream Private Drive (downstream) | *1,790 |
| | | | 4th Access Road (upstream) | *1,821 |
| | | | County Route 38/3 (upstream) | *1,868 |
| | | | At 2nd Private Drive | *1,910 |
| | | | 6th crossing Norfolk & Western Railway (upstream) | *1,944 |
| | | | 1st crossing County Route 38/5 (upstream) | *1,966 |
| | | | 2nd crossing County Route 38/5 (upstream) | *2,007 |
| | | | 3rd crossing County Route 38/5 (upstream) | *2,058 |
| | | | 0.5 mile upstream Interstate 77 | *2,103 |
| | | | 6th Access Road (upstream) | *2,140 |
| | | | At confluence of Dyepot Branch | *2,171 |
| | | | 0.65 mile upstream of confluence of Dyepot Branch | *2,194 |
| | | Payne Branch | At confluence with East River | *1,700 |
| | | | Upstream U.S. Route 460 | *1,735 |
| | | | Approximately 0.5 mile upstream of U.S. Route 460 | *1,771 |
| | | | Upstream County Route 28 | *1,812 |
| | | | Approximately 0.5 mile upstream of County Route 28 | *1,863 |
| | | Blacklick | At confluence with Bluestone River | *2,077 |
| | | | At confluence of Rocky Branch | *2,078 |
| | | | Upstream County Route 7/1 (second crossing) | *2,168 |
| | | | Upstream County Route 16/4 | *2,234 |
| | | | Approximately 0.5 mile upstream County Route 16/4 | *2,323 |
| | | | Approximately 0.8 mile downstream U.S. Route 19 | *2,333 |
| | | | Upstream of U.S. Route 19 | *2,347 |
| | | | Approximately 1.0 mile upstream U.S Route 19 | *2,359 |
| | | | Approximately 2.0 miles upstream U.S. Route 19 | *2,374 |
| | | | Approximately 3.0 miles upstream U.S. Route 19 | *2,428 |
| | | Widemouth Creek | Approximately 0.4 mile downstream Access Road (1st crossing). | *2,341 |
| | | | Upstream Norfolk and Western Railway (2nd crossing) | *2,355 |
| | | | At downstream county boundary (Matoaka) | *2,359 |
| | | | At upstream county boundary (Matoaka) | *2,368 |
| | | | Downstream of second Access Road | *2,369 |
| | | | Approximately 130 feet upstream of Norfolk and Western Railway (sixth crossing). | *2,372 |
| | | Lorton Lick Creek | At confluence with Bluestone River | *2,213 |
| | | | Approximately 0.5 mile upstream of confluence with Bluestone River. | *2,237 |
| | | | Approximately 1.0 mile upstream of confluence with Bluestone River. | *2,257 |
| | | | Approximately 1.5 miles upstream of confluence with Bluestone River. | *2,329 |
| | | | Approximately 40 feet upstream of State Route | *2,412 |
| | | Brush Fork | At county boundary | *2,332 |
| | | | Approximately 1.0 mile upstream of county boundary | *2,338 |
| | | | Upstream State Route 123 | *2,341 |
| | | | Upstream County Route 23/3 | *2,359 |
| | | | Approximately .16 mile upstream County Route 11 (third crossing). | *2,372 |
| | | Brush Creek | Approximately .15 mile downstream Interstate Route 77. | *2,354 |
| | | | Upstream County Route 7/4 | *2,365 |
| | | | Upstream County Route 16 (1st crossing) | *2,375 |
| | | | Upstream County Route 16 (2nd crossing) | *2,380 |
| | | | At County Route 16 (3rd crossing) | *2,383 |
| | | | Downstream county boundary (at Princeton) | *2,386 |
| | | | Upstream county boundary (at Princeton) | *2,393 |
| | | | Downstream County Route 34/1 | *2,400 |
| | | | Upstream U.S. Route 19, 21 & 460 (2nd crossing) | *2,404 |
| | | | Approximately 1.1 miles downstream of County Route 19/33. | *2,409 |
| | | | At confluence of South Fork | *2,415 |
| | | Daves Fork | Approximately .34 mile downstream of county boundary. | *2,389 |
| | | | At county boundary (Princeton) | *2,397 |
| | | | Upstream State Route 20 | *2,420 |
| | | | Upstream County Route 14 | *2,467 |
| | | | Approximately .27 mile upstream County Route 14 | *2,472 |
| | | Christian Fork | At confluence with Daves Fork | *2,401 |
| | | | Approximately 0.7 mile upstream of confluence with Daves Fork. | *2,410 |
| | | | Approximately 1.38 miles upstream of confluence with Daves Fork. | *2,433 |
| | | South Fork | At confluence with Brush Creek | *2,415 |
| | | | Upstream second upstream Access Road | *2,419 |
| | | | Upstream U.S. Route 19, 21 and 460 (1st crossing) | *2,426 |
| | | | Upstream County Route 19/34 | *2,436 |
| | | | At confluence of Middle Fork | *2,443 |
| | | Middle Fork | At confluence with South Fork | *2,443 |
| | | | Approximately .68 mile upstream of confluence with South Fork. | *2,455 |
| | | Glady Fork | Approximately 390 feet downstream of Bluefield Road | *2,395 |
| | | | Approximately .15 mile upstream of Bluefield Road | *2,401 |

Maps available for inspection at the Mercer County Courthouse, Princeton, West Virginia.

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| West Virginia | Northfork, town, McDowell County (FEMA Docket No. 6604). | Elkhorn Creek | Downstream corporate limits | *1,690 |
| | | | Norfolk and Western Railway bridge (downstream side). | *1,710 |
| | | | Confluence of North Fork | *1,718 |
| | | | Approximately 686 feet upstream of upstream corporate limits. | *1,733 |
| Maps available for inspection at the City Hall, Central Avenue, Northfork, West Virginia. | | | | |
| Wisconsin | Village of Loganville, Sauk County (Docket No. FEMA-6604). | Narrows Creek | Downstream corporate limits | *914 |
| | | | Upstream corporate limits | *914 |
| Maps available for inspection at the Village Clerk's Office, Village Hall, Loganville, Wisconsin. | | | | |
| Wisconsin | City of Reedsburg, Sauk County (Docket No. FEMA-6604. | Baraboo River | About 3.95 miles downstream of Chicago and North Western Railroad. | *877 |
| | | | About 0.60 mile upstream of confluence of Hobbs Creek. | *881 |
| | | Hay Creek | Mouth at Baraboo River | *880 |
| | | | About 3,200 feet upstream of mouth | *880 |
| Maps available for inspection at the Zoning Administrator's Office, City Hall, 134 S. Locust, Reedsburg, Wisconsin. Send comments to Honorable John W. Bernien, Mayor, City of Reedsburg, City Hall, 134 S. Locust, Reedsburg, Wisconsin 53959. | | | | |

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Appeals of the proposed base flood elevations were received and have been resolved by the Agency.

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| New York | Chittenango, village, Madison County (FEMA Docket No. 6546). | Chittenango Creek | Downstream corporate limits | *435 |
| | | | Upstream Russel Street | *445 |
| | | | Upstream Perryville Road | *461 |
| | | | Upstream corporate limits | *484 |
| Maps available for inspection at the Village Hall, 222 Genesee Street, Chittenango, New York. | | | | |
| New York | Hempstead, town, Nassau County (Docket No. FEMA-6550). | Atlantic Ocean | Entire shoreline within community | *14 |
| | | Reynolds Channel | Shoreline at northern end of Jefferson Boulevard (extended). | *7 |
| | | | Shoreline at northern end of Richard Street (extended) | *8 |
| | | | Shoreline at Cinder Island | *9 |
| | | Middle Bay | Shoreline at Colony Drive (extended) | *9 |
| | | | Shoreline of Parsonage Creek at Jay Way (extended) | *7 |
| | | East Bay | Shoreline at Whaleneck Point | *9 |
| | | | Shoreline of Mud Creek at John Street (extended) | *7 |
| | | Head of Bay | Shoreline at Meadows Road (extended) | *9 |
| | | | Shoreline of Hook Creek at Rockaway Turnpike | *8 |
| Maps available for inspection at the Office of the Commissioner of the Building Department, Town Hall, Hempstead, New York. | | | | |
| Ohio | City of Harrison, Hamilton County (Docket No. FEMA-6592). | Whitewater River | About 10,400 feet downstream of Indiana-Ohio State boundary. | *503 |
| | | | About 9,200 feet upstream of Indiana-Ohio State boundary. | *517 |
| | | Dry Fork of Whitewater River | Within community | 544 |
| Maps available for inspection at the Building Commissioner's Office, Harrison, Ohio. | | | | |
| Texas | Ft. Bend County Levee Improvement District, No. 2 (FEMA-6592). | Oyster Creek | Approximately 200 feet upstream of Blair Road | *69 |
| | | | Approximately 1600 feet upstream of Colonist Park Road. | *72 |
| | | | Just upstream of Oyster Creek Dr. | *73 |
| Maps available for inspection at Vinson and Elkins Law Firm, 2800 First City Tower, Houston, Texas 77002. | | | | |
| Texas | Unincorporated areas of Nueces County (FEMA-6604). | Nueces River (Part 1) | Approximately 400 feet upstream of FM 666 | *35 |
| | | Nueces River (Part 2) | Approximately 21,000 feet upstream of Missouri Pacific Railroad. | *15 |
| | | Oso Creek | Just upstream of FM 2444 | *15 |
| | | | Approximately 2,800 feet upstream of State Highway 286. | *20 |
| | | Oso Creek Tributary No. 5 | Approximately 900 feet upstream of FM 2244 | *24 |
| | | | Approximately 600 feet upstream of County Road 47 | *31 |
| | | Oso Creek Tributary No. 6 | Approximately 900 feet upstream of County Road 26 | *19 |
| | | Oso Creek Tributary No. 14 | Approximately 700 feet upstream of McGloin Road | *44 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | Ditch A | Approximately 500 feet downstream of Bauer Road | *75 |
| | | Ditch B | Approximately 1100 feet upstream of Timber Bridge | *81 |
| | | Ditch BN | Just upstream of State Highway 44 | *80 |
| | | Ditch C | Just downstream of City of Robstown Corporate limits. | *67 |
| | | | Approximately 5500 feet upstream of FM 1694. | |
| | | Ditch F | Approximately 5480 feet upstream of confluence with Ditch A. | *81 |
| | | Carretta Creek | Just upstream of U.S. Highway 77 Bypass | *40 |
| | | | Just upstream of City of Bishop Corporate limits (Approximately 1450 feet upstream of North Avenue F). | *57 |
| | | North Carretta Creek | Approximately 550 feet upstream of East 6th Street | *51 |
| | | Laguna Madre | At Matanza Windmill | *11 |
| | | Gulf of Mexico/Laguna Madre | At Yorktown Boulevard over Oso Creek | *10 |
| | | Corpus Christi Bay | At Mustang Island Road Bridge over Newport Pass | *10 |
| | | Nueces Bay | At Navigation Boulevard Bridge over Tule Lake Channel. | *12 |
| | | Oso Bay | 6000 feet south of NASA tracking station | *12 |
| Maps available for inspection at the Nueces County Engineer's Office, County Courthouse, 901 Leopard Street, Corpus Christi, Texas 78401. | | | | |
| West Virginia | Wood County (FEMA Docket No. 6546) | Ohio River | At downstream county boundary at confluence of Pond Creek. | *599 |
| | | | At confluence of Sandy Creek | *606 |
| | | | At confluence of Tributary A | *613 |
| | | | At upstream county boundary at confluence of Bull Creek. | *620 |
| | | Little Kanawha River | At downstream county boundary at confluence of Washington Creek. | *610 |
| | | | Approximately 11 miles upstream of confluence of Tygart Creek. | *610 |
| | | Tygart Creek | At confluence with Little Kanawha River | *610 |
| | | | Upstream of Interstate Route 77 (downstream crossing). | *610 |
| | | | Upstream of County Route 21/22 | *621 |
| | | | Upstream of Interstate Route 77 culvert | *638 |
| | | | Upstream of southbound ramp of Interstate Route 77 | *664 |
| | | | Confluence of Burns Run | *696 |
| | | | Approximately .4 mile upstream of most upstream Access Road. | *751 |
| | | Pond Creek | Confluence with Ohio River | *599 |
| | | | County Route 25 | *599 |
| | | | Upstream of County Route 25 (upstream crossing) | *608 |
| | | | Confluence of Pennike Run | *628 |
| | | | Approximately .7 mile upstream of County Route 25/8 at County Route 23 extended. | *654 |
| | | Worthington Creek | Confluence with Little Kanawha River | *610 |
| | | | Upstream of Interstate Route 77 | *610 |
| | | | Upstream of Mustang Drive | *618 |
| | | | Upstream of second upstream access road | *637 |
| | | | Upstream of County Route 3/13 | *672 |
| | | | Upstream of Access Road located near Doyle Tributary. | *707 |
| | | | Approximately .5 mile upstream of Access Road near Doyle Tributary. | *717 |
| | | Big Run | Confluence with Ohio River | *615 |
| | | | County Route 3/1 | *615 |
| | | | Approximately .23 mile downstream of Interstate Route 77. | *621 |
| | | North Fork Lee Creek | Approximately .6 mile downstream of most downstream Access Road. | *662 |
| | | | Upstream of County Route 15 | *680 |
| | | | Upstream of County Route 46/2 | *693 |
| | | | Upstream of County Route 46/4 | *733 |
| | | | Approximately 1 mile upstream of County Route 46/4 | *758 |
| | | Little Tygart Creek | At confluence with Tygart Creek | *610 |
| | | | Upstream of County Route 21 (second crossing) | *610 |
| | | | Upstream of County Route 20/21 | *616 |
| | | | Approximately .5 mile upstream of County Route 20/21. | *616 |
| | | Sams Creek | Confluence with Tygart Creek | *610 |
| | | | Approximately 1.5 miles upstream of confluence with Tygart Creek. | *610 |
| | | | Approximately 2.67 miles upstream of confluence with Tygart Creek. | *630 |
| | | Neal Run | At confluence with Little Kanawha River | *610 |
| | | | At Gihor Road | *610 |
| | | | Upstream of County Route 3/9 (Lark Mead Road) | *616 |
| | | | Downstream of State Route 95 culvert | *626 |
| | | Plum Run | At confluence with Big Run | *615 |
| | | | Upstream of Interstate Route 77 | *634 |
| | | | Approximately .33 mile upstream of Interstate Route 77. | *646 |
| | | Pennike Run | At confluence with Pond Creek | *628 |
| | | | Approximately 1.02 miles upstream of confluence with Pond Creek. | *676 |
| | | Bear Run | Confluence with Pond Creek | *639 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|---|---|---|
| | | | Approximately .49 mile upstream of confluence with Pond Creek. | *656 |
| | | Burns Run | Confluence with Tygart Creek | *696 |
| | | | Approximately .5 mile upstream of confluence with Tygart Creek. | *748 |
| | | Tributary A | Confluence with Ohio River | *613 |
| | | | At county boundary | *613 |
| | | Williams Creek | Confluence with Big Run | *615 |
| | | | At county boundary | *615 |
| | | Pond Run Upper Reach | At confluence with Ohio River | *612 |
| | | | Approximately .61 mile upstream of confluence with Ohio River. | *612 |
| | | Pond Run Lower Reach | At most downstream county boundary | *600 |
| | | | At most upstream county boundary just downstream of levee. | *601 |
| | | Wards Run | At confluence with Little Kanawha River | *610 |
| | | | County boundary at Camden Avenue | *610 |

Maps available for inspection at the Probate Office, Wood County Courthouse, Parkersburg, West Virginia.

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

Issued: November 15, 1984.

Jeffrey S. Bragg,

*Federal Insurance Administrator, Federal Insurance Administration.*

[FR Doc. 84–31254 Filed 11–30–84; 8:45 am]

BILLING CODE 6718–03–M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 61

[CC Docket No. 81–893; FCC 84–511]

## Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry)

**AGENCY:** Federal Communications Commission.

**ACTION:** Fourth report and order.

**SUMMARY:** This order establishes the requirements regarding the detariffing of embedded customer premises equipment (CPE) owned by Western Union and the International Record Carriers. The Order continues the process of removing CPE from regulated operations based on the Commission's finding that the competitive provision of CPE is in the public interest. The Order requires that record carrier CPE be detariffed no later than December 31, 1985.

**EFFECTIVE DATE:** The Effective date of this Order is December 3, 1984.

**FOR FURTHER INFORMATION CONTACT:** Mary Brown, Policy and Program Planning Division, Common Carrier Bureau (202) 632–9342.

### Fourth Report and Order

In the matter of procedures for implementing the detariffing of customer premises equipment and enhanced services (second computer inquiry) (CC Docket No. 81–893).

Adopted: October 26, 1984.
Released: November 5, 1984.

By the Commission.

### I. Background

1. This Report and Order continues the process of implementing the Commission's decision in the *Second Computer Inquiry* [1] to detariff customer premises equipment (CPE) [2] provided by Western Union and the international record carriers (hereinafter collectively referred to as the record carriers). Prior orders in this docket have addressed the implementation of detariffing of AT&T's embedded CPE, CPE used in the provision of mobile services, and CPE provided by the independent telephone companies.[3] In the *Notice of Proposed Rulemaking* in this docket,[4] the Commission proposed to detariff any record carrier CPE not already detariffed by December 31, 1987. To accomplish detariffing, the Commission proposed to allow the record carriers to submit detariffing plans demonstrating that the carriers would adhere to the general principles developed in the *AT&T Order*, as well as the Commission's accounting rules.[5] We sought comment on whether our proposals equitably balanced the interests of ratepayers, users, and the record carriers. We also sought comment concerning the treatment of CPE already removed from regulated service. This Order generally adopts the proposals as set forth in the *Notice*, with the modifications noted below.

2. Subsequent to the *Final Decision* in *Computer II*, the Commission, as part of a proceeding to unbundle record carrier CPE from the provision of service, ordered that the international record carriers detariff telex equipment. *Interface of the International Telex Service with the Domestic Telex and TWX Service*, Docket No. 21005, 86 FCC 2d 411 (1981) (*IRC Telex Detariffing Order*) *aff'd sub nom. Western Union*

[1] *Amendment of § 69.702 of the Commission's Rules and Regulations (Second Computer Inquiry)*, 77 FCC 2d 384 *(Final Decision), reconsideration, 84 FCC 2d 50 (1980), further reconsideration*, 88 FCC 2d 512 (1981). *Aff'd sub nom. Computer & Communications Industry Ass'n* v. *FCC*, 693 F.2d 198 (D.C.Cir. 1982), *cert. denied sub nom. Louisiana Pub. Serv. Comm'n* v. *FCC*, 103 S. Ct. 2109 (1983) (hereinafter collectively referred to as *Computer II*).

[2] Customer premises equipment includes any equipment provided by a common carrier and located on the premises of a customer, except overvoltage protection equipment, simple inside wiring, intrasystem wiring, or multiplexing equipment used for the delivery of multiple channels to a customer.

[3] *See* CC Docket No. 81–893, Report and Order, 95 FCC 2d 1276 (1983) (AT&T Order); CC Docket No. 81–893, Second Report and Order, FCC 87–269, released June 29, 1984 (Mobile Services Order); and CC Docket No. 81–893, Third Report and Order, FCC 84–483, released October 26,1 984 (Independents' CPE Order).

[4] 94 FCC 2d 76 (1983) (hereinafter *Notice*).

[5] *Id.* at 110–11.

*Telegraph Co.* v. *FCC*, 674 F.2d 160 (D.C. Cir. 1982). The order did not apply to Western Union Telegraph Company (Western Union),[6] and did not implement the detariffing of any non-telex CPE owned by these carriers. By August 1981, the international record carriers had removed their telex equipment from tariff. In 1982 and 1983, these carriers also removed some non-telex CPE from tariff.[7] Some of the carriers detariffed all of their CPE by transferring it to a separate subsidiary, while others detariffed selected non-telex CPE. Thus, only Western Union's embedded CPE, along with some of the embedded non-telex CPE provided by the other record carriers, remains under tariff.[8]

3. Two carriers submitted comments in response to our *Notice* concerning the detariffing of record carrier CPE. TRT Telecommunications Corporation (TRT) argues that it has already complied with the goals of the *Notice* by transferring all of its CPE to a separate, but commonly-controlled, company. Western Union submitted substantive comments, objecting to the application of the general principles developed in the *AT&T Order* to the record carriers. Western Union specifically objects to the use of net book value as the transfer value for the CPE, and the requirement that this equipment be offered for sale at net book value during a "price predictability" period.

## II. Discussion

### *A. Determination of Applicable Principles*

4. In the *Notice*, we proposed to allow each record carrier to submit a CPE detariffing plan which would explain the detariffing principles and procedures which the carrier proposed to follow. In the *AT&T Order*, we stated that the record carriers could look to the principles developed in the AT&T case to determine how detariffing should proceed. *AT&T Order*, 95 FCC 2d at 1377–78. Western Union complains that it is unable to discern which principles should apply, and argues that if the AT&T procedure is adopted in its entirety, the record carriers will suffer serious competitive disadvantages.[9] In addition, Western Union argues that § 35.1–7(b) of the Commission's Rules governs the removal of assets from the rate base, and that the Commission should consider how this section relates to the principles developed in the AT&T case.

5. Although our original proposal, as discussed in the *Notice*, would provide maximum flexibility to the record carriers in detariffing CPE, we believe that considerations of consistency, fairness, and administrative convenience require that we specify the legal and accounting principles pertinent to this proceeding. Resolution of the issues raised by Western Union will enable the record carriers to detariff CPE in a manner consistent with the requirements which we view as necessary to accommodate the public interest. Furthermore, by alleviating uncertainty to the maximum extent possible, we can expedite the detariffing process. For reasons discussed *infra* at para. 11, however, we decline to impose one methodology to accomplish detariffing. Although we will elucidate the principles which will apply to the removal of CPE from the rate base, the carriers are free to fashion any detariffing mechanism consistent with the policies explained here.

### *B. Relevant Accounting Rules*

6. Western Union argues that we should not require the record carriers to submit detariffing plans until we have explained how the relevant accounting rules affect the detariffing process. Western Union argues that § 35.1–7(b) of the Commission's Rules should govern the accounting methodology associated with this process.

7. Sections 34.1–7(b) and 35.1–7(b) of the Rules establish the accounting procedures to be followed in transferring record carrier assets from regulated accounts to non-regulated accounts. Section 34.1–7(b) applies to most of the international record carriers, while § 35.1–7(b) applies to Western Union and the remaining record carriers. The provisions and effect of the two sections are identical. Pursuant to these rule sections, the transfer is accounted for by crediting the appropriate plant accounts and charging the depreciation reserve account by the amount credited. The depreciation reserve account is then credited, and the non-regulated account charged, with the "estimated fair value" of the assets transferred. Any loss or gain on the transaction is therefore reflected in the depreciation reserve account, which raises or lowers the value of the rate base. The only open issue with regard to the detariffing of record carrier CPE is the determination of what constitutes "estimated fair value." *See Amendment of Parts 34 and 35*, CC Docket No. 83–678, FCC 83–398, released Sept. 1, 1983, at para. 34.

8. Sections 34.1–7(b) and 35.1–7(b), therefore, do not determine what constitutes "estimated fair value." The Commission must determine the valuation issue consistent with the principles established in *Democratic Central Committee* v. *Washington Metropolitan Area Transit Commission*, 485 F.2d 786 (D.C. Cir. 1973) and related cases, *cert. denied sub nom. D.C. Transit System* v. *Democratic Central Committee*, 415 U.S. 935 (1974). The *Democratic Central Committee* case requires that a gain or loss on the transfer of regulated assets be charged to the group—*i.e.*, ratepayers or shareholders—who bore the risk of loss when the assets were regulated. 485 F.2d 807–08. Record carrier ratepayers have generally borne the risk of loss on record carrier CPE.[10] Thus, while § 34.1-

[6] At the time the Commission issued the order, Western Union was restricted to the provision of domestic record carrier services, while the international record carriers were restricted to providing record carrier services from certain "gateway" cities to international locations. The record carriers now compete for domestic and international traffic, as a result of recent amendments to the Communications Act, and the Commission has authorized Western Union to provide international service. Record Carrier Competition Act of 1981, Pub. L. 97–130, 95 Stat. 1687, Dec. 29, 1981, 47 U.S.C. 222 (1983); Western Union Telegraph Co., 94 FCC 2d 472 (1983).

[7] As authority for detariffing non-telex CPE, the IRCs' relied upon the *IRC Telex Detariffing Order* and the *Computer II* decisions. While the Common Carrier Bureau permitted these carriers to detariff the specified non-telex CPE, the carriers were required to maintain separate books of account in the event a different valuation standard for embedded CPE was required as a result of Commission action in this docket. *See e.g. TRT Telecommunications Corp.*, Mimeo No. 6293, released September 14, 1982 (authorizing TRT to detariff its leased channel terminal equipment). International record carrier CPE which remains under tariff, and which will be detariffed pursuant to this Order, includes: RCA Global, Tariff No. 79, handset equipment for Datel; RCA Global, Tariff No. 80, station equipment for Press Bulletin service; RCA Global, Tariff No. 75, station equipment for Overseas Stock Ticker service; RCA Global, Tariff No. 98, teleprinter equipment for Sports Bulletin service; Western Union International, Tariff No. 11, handset equipment for Datel; Western Union International, station equipment for Press Bulletin service; FTC, Tariff No. 13, handset or teleprinter equipment for Datel; ITT Worldcom, Tariff No. 47, station equipment for Press Bulletin service; ITT Worldcom, Tariff No. 42, station equipment for Overseas Exchange Ticker service; ITT Worldcom, Tariff No. 44, teleprinter equipment for International Sports Events Reporting Service; TRT, Tariff No. 16, equipment for Telegram-Mexico (this appears to be the only equipment not transferred by TRT).

[8] Pursuant to the *Computer II* decisions, any CPE which was tariffed or otherwise subject to the separations process as of January 1, 1983, is considered embedded. CPE which enters a carrier's inventory on or after that date must be offered on a non-regulated basis. Further Reconsideration, 88 FCC 2d at 526.

[9] Western Union's specific allegations regarding competitive disadvantages are discussed *infra*, para. 10.

[10] Western Union argues that, pursuant to § 35.1-6(j) of the Commission's Rules, the shareholders bear the risk of loss when CPE is sold out of the rate

Continued

7(b) and 35.1–7(b) specify the accounting procedures used to transfer regulated assets to non-regulated accounts, they do not address valuation to be assigned to the embedded CPE.

*C. Valuation*

9. The *Notice*, in proposing to detariff record carrier CPE, did not specifically suggest that the Commission establish the "estimated fair value" of the CPE to be transferred. The *Notice* instead proposed to accomplish detariffing by reference to the general principles used in detariffing AT&T's embedded CPE. The *AT&T Order* adopted economic value as the valuation standard to be used in detariffing, and defined economic value as the price a carrier would be willing to pay for its CPE if, instead of owning it, the carrier had the opportunity to purchase it. *AT&T Order*, 95 FCC 2d at 1306. But we determined that measuring the economic value of AT&T's embedded base was impractical. As a result, we adopted net book value as a surrogate for economic value.[11] *Id.* at 1306–07.

10. Western Union argues that the use of net book as a surrogate for economic value is unnecessary and undesirable in the case of the record carriers. Western Union asserts that the use of net book, in combination with the post-transfer control requirements imposed on AT&T, would have negative effects on the market for record carrier CPE because net book value exceeds the market value of the equipment. Thus, a requirement that the record carriers offer their in-place equipment at net book to customers would bring sales of in-place CPE to a halt. Western Union argues that economic value can be measured by reference to recent sales of equipment.

11. The decision of how to measure the economic value of record carrier CPE has been complicated by deregulatory events which have occurred since our adoption of *Computer II* and by the regulatory history of these carriers. In some cases, the record carriers have already transferred their equipment at net book value to separate subsidiaries. In TRT's case, the transfer was made to an affiliated non-carrier company which is commonly controlled by TRT.[12] While these events would not render our adoption of an alternate valuation measurements standard impossible, we hesitate to impose a measurement which, for example, would require these carriers to attempt to appraise their CPE as it existed at the time of the transfer.[13] The practical problems of measuring the value of CPE which has long since been removed from the rate base seem to require that a surrogate value, such as net book be employed. The use of net book value, however, presents equally difficult problems with respect to other carriers. Some of the record carriers have had their depreciation rates prescribed by Commission order.[14] Others have been free to alter their depreciation rates without obtaining Commission approval. Thus, some of the carriers have been able to adjust depreciation rates to changes in the CPE marketplace, as that marketplace is affected by economic, technological, and regulatory factors. These differences in the regulatory environment may affect the degree to which a carrier should be required to protect the interests of ratepayers in transferring the equipment to non-carrier accounts. Therefore, even if we were to require that the CPE be transferred at net book, it would be difficult to determine on the basis of our record here what, if any, additional requirements would be necessary pursuant to our obligations under *Democratic Central Committee*.

12. Rather than impose one methodology for measuring economic value, we will allow the record carriers to determine independently the "fair value" of their CPE for the purpose of making the necessary accounting entries prescribed in §§ 34.1–7(b) and 35.1–7(b). In all cases, the methodology employed should be consistent with the principles enunciated in *Democratic Central Committee* and applied in the *AT&T Order*. *See id.* at 1312–19. If, for example, a carrier seeks to transfer its equipment at net book value, it should consider whether the risk of loss or gain on the transfer remains with the group which carried the risk of loss or gain when the CPE was regulated. The record carriers should further consider whether post-transfer controls similar to those imposed on AT&T would be necessary under the circumstances, especially where the equipment is transferred at net book value. The same is true if the carrier seeks to establish economic value by reference to appraisals or some other valuation methodology.

13. Adoption of a flexible, individual method of valuing CPE has the advantage of avoiding across-the-board requirements which could prove difficult or impossible to implement with the carriers as a group. We are not unaware, however, of the fact that this approach creates the potential problem that a carrier may determine, "fair value," in a manner which is at odds with *Democratic Central Committee*.[15] For example, the carrier could grossly undervaluate its CPE, only to allow its shareholders to receive the actual gains on the CPE as it is sold out of a nonregulated account. We conclude, however, that the likelihood that a carrier would manipulate transfer value in this manner appears minimal and our review of the plans will focus on this issue. In addition, as a result of various deregulatory activities in recent years, the marketplaces for record carrier services and CPE have become increasingly competitive.[16] All the

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base. We conclude, however, that, not withstanding Western Union's assertion, ratepayers are entitled to the gains, if any, on the transfer of equipment to non-regulated accounts. In reaching this conclusion, we first note that, under *Democratic Central Committee*, "our task . . . is properly to balance the investor and ratepayer interests so as to apportion gains and losses in the most equitable manner." *American Tel. & Tel. Co., Charges for Interstate Telephone Service*, Docket No. 19129, Phase II, 64 FCC 2d 1, 66 (1977), *quoted in AT&T Order*, 95 FCC 2d at 1314. Our conclusion here that ratepayers are entitled to any gains represents an equitable apportionment for the following reasons. First, under our ratemaking policies, ratepayers have borne the risk of loss due to obsolescense or casualty loss for the assets involved during the period of their use in regulated service. Second, investors have had an opportunity to earn a fair rate of return on their investment in these assets throughout such period of use in regulated service. *See e.g., International Carriers' Rates*, CC Docket No. 20778, 75 FCC 2d 726 (1980) (electing to maintain existing autl orized rate of return of 7.5 to 8.5 percent). Third, the combination of these first two factors has resulted in the insulation of investors from any losses affecting these assets during the period of regulated service. In other words, no investor risks have been associated with this investment. In these circumstances, investors have no claims to any gains upon the removal of these assets from regulated service. *See Democratic Central Committee*, 485 F.2d at 806 ["[A]n investor can hardly muster any equitable support for a claim to appreciation in asset value where he has been shielded against the risk of loss on his investment. . . ."].

[11] As used here, "net book value" is the original cost of an asset less the related depreciation reserve. *See AT&T Order*, 95 FCC 2d at 1306, n.40.

[12] *See* TRT Transmittal No. 973, May 22, 1981; TRT Transmittal No. 995, Dec. 4, 1981; and TRT Transmittal No. 1028, July 20, 1982.

[13] Even if we were to impose such a requirement, it is doubtful that these carriers could locate all of the CPE transferred. Some of the CPE has no doubt been sold or otherwise removed from the inventory of the subsidiary or non-carrier company.

[14] *See, e.g., ITT WorldCom*, FCC 74–1420, released Jan. 8, 1975, and *Western Union Telegraph Co.*, FCC 77–19, released Jan. 11, 1977.

[15] To ensure that the dangers of price manipulation will be minimized, we are requiring the carriers to report their detariffing plans to the Commission. *See infra* at para. 15.

[16] In the *Competitive Common Carrier* proceeding, the Commission found the record carrier industry was subject to sufficient competition to warrant forbearance treatment. *Competitive Common Carrier Services*, 95 FCC 2d 554, 571–2, 577 (1983) *aff'd* FCC 84–394, Mimeo No. 34934, released August 27, 1984. These carriers, however, will be regulated pursuant to streamlined regulatory procedures until December 31, 1984.

Continued

record carriers now compete for both domestic and international business. Customers no longer need separate terminals to communicate on each carrier's facilities. In addition, the carriers are prevented from cross-subsidizing services and CPE, by virtue of the Record Carrier Competition Act. As a result, numerous non-carrier suppliers of CPE have been able to compete with the carriers in the CPE marketplace. Moreover, the industry is under increasing competitive pressure from companies providing a range of substitutable services, particularly in the domestic market. Accordingly, attempts to manipulate the transfer or sale price will be frustrated by competition in the CPE and service markets, as well as by the accounting safeguards we outlined in *Computer II*. We further intend to safeguard against one-time or continuing cross subsidy by evaluating, as part of our review of the transfer, the carriers' proposed valuation standard in light of the prior depreciation history and the competitive environment.

*D. Related Issues*

14. In addition to the CPE to be transferred, the carriers may have supporting assets which will also have to be transferred to nonregulated accounts. Generally, supporting assets are shared between the provision of CPE and other tariffed services. Carriers should follow existing procedures we have established in accounting for these shared assets. Any segregated supporting assets should be transferred in a manner consistent with the policies adopted in the *AT&T Order*, where we also employed economic value as the valuation standard.[17] 95 FCC 2d at 1366–67. Land and buildings are to be appraised and transferred at appraised value. As in *AT&T*, we will not require appraisal of other types of segregated supporting assets. Carriers should determine which valuation methodology should be employed consistent with *Democratic Central Committee* principles.

*E. Procedural Matters*

15. In implementing *Computer II*, we must be concerned with ensuring that the record carriers comply with the principles developed in *Democratic Central Committee* and our relevant accounting rules. Accordingly, we will require that the record carriers submit reports to the Common Carrier Bureau detailing their plans for removing CPE from tariff, and explaining how the process they have elected fulfills the *Democratic Central Committee* requirements. For the purpose of this report, Western Union should include plans regarding all of its CPE. The other record carriers should include plans for any CPE not detariffed pursuant to our order in CC Docket No. 21005, *supra*, para. 2. Carriers such as TRT who have detariffed non-telex CPE based upon the general *Computer II* finding that CPE should be detariffed, shall be required to justify the valuation methodology employed in detariffing, and to adjust their books retroactively if changes are required. The *Notice* proposed to detariff record carrier CPE no later than December 31, 1987. There appears to be no reason to defer detariffing until that date. As part of our review of the carriers' detariffing plans, we will evaluate whether CPE customers will have sufficient opportunity to purchase in-place equipment, or to purchase or lease other equipment, in a manner consistent with the plan adopted for AT&T. Thus, a carrier may detariff its CPE earlier if it demonstrates that its CPE customers will have the opportunity to evaluate present arrangements and pursue alternatives. Proposals explaining how the carriers will execute this process are due no later than July 1, 1985. To allow CPE customers adequate time to make other CPE arrangements, detariffing should not occur earlier than six months from the date the plan is filed. In all cases we will require that record carrier CPE should be detariffed no later than December 31, 1987, pursuant to *Computer II*. Detariffing plans will be placed on public notice, and will be subject to modification pursuant to our obligations under *Democratic Central Committee*.

**III. Ordering Clauses**

16. Accordingly, it is ordered that, pursuant to section 4(i), 4(j), 201–205, 213, 218, 220, and 403 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201–205, 213, 218, 220, and 403, the policies, rules, and requirements set forth herein are adopted.

17. It is further ordered that Western Union and the international record carriers submit proposals regarding the detariffing of CPE to the Chief, Common Carrier Bureau, no later than July 1, 1985.

Federal Communications Commission.
**William J. Tricarico,**
*Secretary.*

[FR Doc. 84-31535 Filed 11-30-84; 8:45 am]
BILLING CODE 6712-01-M

when a portion of the Record Carrier Competition Act expires. *Id.* at 578; 47 U.S.C. 222(e). *See also Interconnection Arrangements*, 93 FCC 2d 159 (1983) (resolving issues related to the implementation of the Record Carrier Competition Act of 1981, Pub. L. 97-130, 95 Stat. 1687, 47 U.S.C. 222); *IRC Telex Detariffing Order*, *supra* para. 2 (detariffing the IRCs' telex CPE); *Gateways Order*, 76 FCC 2d 115 (1980) (opening up more "gateway," cities for the origination and termination of IRC traffic); *Unbundling Order*, 78 FCC 2d 61 (1980), *stay denied*, 77 FCC 2d 929 (1980) (unbundling the provision of services and CPE).

[17] We will take no action at this time regarding detariffing any inside or intrasystem wiring provided by the record carriers, because the record in this proceeding does not address the issue. Detariffing of embedded inside and intrasystem wiring will be addressed separately in due course.

## INTERSTATE COMMERCE COMMISSION

**49 CFR Part 1057**

**[Ex Parte No. MC-43 (Sub-No. 14)]**

## Lease and Interchange Regulations (Master Leases)

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final rules.

**SUMMARY:** The Commission adopts final rules modifying existing leasing regulations set forth at 49 CFR Part 1057. The new rules allow the use of master leases and will allow required receipts to be transmitted by mail, telegraph, or other similar means of communications. The existing regulations, which require preparation and execution of a lease at the transfer point and inclusion of specific information about the trip involved, often make it difficult to execute valid leases. While we acknowledge that the regulations may not solve every impediment involving trip leasing, particularly those involving State rules and regulations, we conclude that the regulations will be the most effective method to streamline the existing process of trip leasing.

**DATE:** This decision will be effective on January 2, 1985.

**FOR FURTHER INFORMATION CONTACT:**
Judy Ann Barnes (202) 275–7962
or
Mary A. Kelly (202) 275–7292

**SUPPLEMENTARY INFORMATION:** Existing Commission regulations (49 CFR Part 1057) require that when a lessor transfers equipment to a lessee on a trip lease, the lessee must prepare and execute a receipt for the equipment at the transfer point. By notice of proposed rulemaking (49 FR 6522 (February 22, 1984)) we proposed to modify the existing leasing regulations as follows: (1) To allow the use of a master lease covering more than one unit of equipment; (2) to require that a copy of the master lease be carried in the

equipment; and (3) to allow required receipts to be transmitted by mail, telegraph, or other similar means of communication. The proposed additions to the lease and interchange regulations would authorize the use of a master lease in connection with trip-lease operations, and would allow carriers to issue the initiating receipt other than in person. The proposed rulemaking was instituted at the request of the Common Carrier Conference—Irregular Route (CCC–IR).

Additional information is contained in the Commission's decision which is available for public inspection and copying at the Office of the Secretary, Interstate Commerce Commission. To purchase a copy of the full decision, write T.S. Infosystems, Inc., Room 2227, Interstate Commerce Commission Building, 12th and Constitution Ave., NW., Washington, DC 20423, or call 289–4357 in the DC Metropolitan area or toll free (800) 424–5403.

**Regulatory Flexibility Analysis**

In our prior decision we certified that this action would not have a significant economic impact on a substantial number of small entities. We reaffirm that finding here.

**Energy and Environmental Considerations**

This action will not have any significant adverse impact upon the quality of the human environment or conservation of energy resources.

**List of Subjects in 49 CFR Part 1057**

Motor carriers, Lease and interchange regulations.

**Adoption of Rules**

We adopt the revisions to Title 49, Part 1057, of the Code of Federal Regulations described in the appendix to this decision.

These rules are issued under the authority contained in 49 U.S.C. 10321 and 11107, and at 5 U.S.C. 553.

Decided: November 21, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley and Strenio. Commissioner Gradison commented with a separate expression.

James H. Bayne,

*Secretary.*

Appendix

## PART 1057—LEASE AND INTERCHANGE OF VEHICLES

Title 49 CFR Part 1057 is amended as follows:

**§ 1057.11 [Amended]**

1. Section 1057.11 is amended by adding sentences to the end of paragraphs (b)(1) and (d)(1) to read as follows:

**§ 1057.11 General leasing requirements.**

* * * * *

(b) * * *

(1) * * * The receipt identified in this section may be transmitted by mail, telegraph, or other similar means of communication.

* * * * *

(d) * * *

(1) * * * This provision is complied with by having a copy of a master lease in the unit of equipment in question and where the balance of documentation called for by this paragraph is included in the freight documents prepared for the specific movement.

* * * * *

2. Section 1057.22 is amended by adding a new paragraph (c)(4) to read as follows:

**§ 1057.22 Exemption for private carrier trip leasing and trip leasing between authorized carriers.**

* * * * *

(c) * * *

(4) * * * Nothing in this section shall prohibit the use, by authorized carriers, private carriers, and all other entities conducting lease operations pursuant to this section, of a master lease if a copy of that master lease is carried in the equipment while it is in the possession of the lessee, and if the master lease complies with the provisions of this section and receipts are exchanged in accordance with § 1057.11(b), and if records of the equipment are prepared and maintained in accordance with § 1057.11(d).

[FR Doc. 84–31514 Filed 11–30–84; 8:45 am]

BILLING CODE 7035–01–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 655

**[Docket No. 31220–244]**

### Atlantic Mackerel, Squid, and Butterfish Fisheries

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

**ACTION:** Notice of squid specifications increase.

**SUMMARY:** NOAA issues this notice increasing the annual squid specifications to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries. Regulations governing the squid fisheries require publication of any specification adjustments, with reasons for such adjustments. This action is intended to foster the FMP's goal of creating benefits for the United States fishjng industry.

**DATE:** November 30, 1984, with a 15-day public comment period, ending December 17, 1984.

**ADDRESS:** Send comments to Salvatore A. Testaverde, Northeast Regional Office, NMFS, State Fish Pier, Gloucester, MA 01930–3097. Mark on the outside of the envelope, "Comments on Notice of Squid Specifications".

**FOR FURTHER INFORMATION CONTACT:** Salvatore A. Testaverde, 617–281–3600, extension 273.

**SUPPLEMENTARY INFORMATION:** Section 655.21(b)(1)(v) of the implementing regulations states that initial optimum yield (IOY) squid specifications will be determined annually by the Regional Director, NMFS, Northeast Region, in consultation with the Mid-Atlantic Fishery Management Council under § 655.22 (a) and (b) (49 FR 402, January 4, 1984). Section 655.22(f) states that any adjustments to the IOY will be published in the **Federal Register**, with the reason for such adjustments. This action provides increased *Loligo* squid specifications which are effective immediately. The adjustments are necessary because the representatives of Italian vessels which fish in the Northwest Atlantic requested from both the Mid-Atlantic and the New England Fishery Management Councils, at their October 1984 meetings, an additional *Loligo* TALFF allocation of 3,800 metric tons (mt). This additional amount would bring the 1984–1985 fishing year, which ends March 31, 1985, total amount of *Loligo* TALFF for Italy to 5,000 mt.

In exchange for the amount requested, the Italian vessel owners, through their U.S. representative, would commit to guaranteed purchases totaling no less than 300 mt of squid and, under any circumstances, not less than $250,000 worth of squid. In addition, arrangements would be made by the U.S. representative to accommodate U.S. fishing vessels that may want to enter into joint ventures with Italian vessels during the period under consideration. Other specifications are adjusted accordingly as specified at § 655.21(b)(1)(v).

The Secretary finds it necessary to apportion additional amounts without affording a prior opportunity for public comment, in order to prevent the

premature closure of the *Loligo* squid fishery for Italy. This would impair the ability of domestic processors and fishermen to utilize a continuing fishery. However, public comments will be invited for a period of fifteen (15) days after the effective date of the apportionment. The Secretary of Commerce will consider all timely comments in deciding whether to continue, modify, or cancel an apportionment that has previously been made and will publish responses to those comments in the **Federal Register** as soon as practicable.

The following table lists the adjustments to the *Loligo* squid specifications in metric tons for the maximum optimum yield (Max OY), allowable biological catch (ABC), initial optimum yield (IOY), domestic annual harvest (DAH), domestic annual procesing (DAP), joint venture processing (JVP), Reserve, and total allowable level of foreign fishing (TALFF).

SQUID SPECIFICATIONS FOR FISHING YEAR 1984–85

[In metric tons (mt)]

| *Loligo* squid | Initial annual specifications | Adjusted annual specifications |
|---|---|---|
| Max OY[a] | 44,000 | 44,000 |
| ABC | 44,000 | 44,000 |
| IOY | 21,125 | [b] 24,925 |
| DAH | 17,875 | 17,875 |
| DAP | 13,000 | 13,000 |
| JVP | 4,875 | 4,875 |
| Reserve | 0 | 0 |
| TALFF | 3,250 | [c] 7,050 |

[a] This is the maximum OY (as stated in the FMP) to which the IOY may rise.
[b] This is the adjusted IOY, and includes the 3,800 mt increase.
[c] This is the adjusted TALFF, and includes the 3,800 mt increase.

## Other Matters

This action is authorized by 50 CFR Part 655, and complies with E.O. 12291.

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

Dated: November 28, 1984.

**Carmen J. Blondin,**

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

[FR Doc. 84-31540 Filed 11-30-84; 8:45 am]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register
Vol. 49, No. 233
Monday, December 3, 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

### Agricultural Marketing Service

### 7 CFR Ch. IX

[Docket No. AO-84-1]

### Sweet Peppers Grown in Florida; Decision To Terminate Proceedings on Proposed Marketing Agreement and Order

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

**ACTION:** Termination of proposed rule.

**SUMMARY:** This document terminates proceedings without prejudice on a proposed marketing agreement and order for sweet peppers grown in Florida. The proposal would have provided authority for the establishment of grade, size, quality and container standards and also for production and marketing research. Because of apparent insufficient support among a number of growers, further development of the program is terminated at this time.

**DATE:** Termination on proposed marketing agreement and order on December 28, 1984.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Matthews, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250, (202) 447-5464.

**SUPPLEMENTARY INFORMATION:** Prior documents in these proceedings: Notice of Hearing—Issued June 1, 1984, and published June 5, 1984 (49 FR 23186). Notice of Recommended Decision to Terminate Proceedings—Issued September 18, 1984, and published September 25, 1984 (49 FR 37599).

A public hearing was held in Belle Grade, Florida, on June 20, 1984, on a proposed marketing agreement and order for sweet peppers grown in Florida. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.) and the applicable rules of practice (7 CFR Part 900). At the conclusion of the hearing the Presiding Officer set July 20, 1984, as the deadline for filing briefs. Briefs were submitted by Valjean Haley, John L. Whitworth, E. Wayne Dubois and Theorore W. Winsberg, Chairman, Sweet Pepper Steering Committee, regarding the proposal. The briefs indicated that the sweet pepper industry currently lacks a unified base to support efforts to develop and administer a marketing order program. They recommended that in view of this, these proceedings should be indefinitely suspended. However, the rules of practice do not provide for long suspensions of rulemaking proceedings. Because the hearing record will become stale with the passage of time, a new or reopened hearing would be necessary even if the proceedings were "suspended" as opposed to "terminated." Also, the Department representatives are prohibited from making off the record or ex parte contact with interested persons during the pendency of a rulemaking proceeding and would continue to be so prohibited during a period of suspension, or until termination. This is not a desirable situation under the current circumstances in the sweet peppers industry. For the foregoing reasons, and in view of the hearing evidence and positions expressed in briefs filed by interested parties, these proceedings shall be terminated without prejudice.

Notice of Recommened Decision was published in the September 25, 1984, Federal Register (49 FR 37599) giving interested persons until October 25, 1984, to file written comments. None was filed.

#### Findings and Conclusions

It is concluded, therefore, that further promulgation of this proposed marketing agreement and order should not be undertaken at this time. Hence, since proceedings will be terminated without prejudice, there is no need for findings or conclusions on issues which relate to particular terms or provisions of the proposed program. It is understood, however, that if the industry later develops a greater degree of support for a proposed marketing order, new proceedings should be instituted without prejudice.

Signed at Washington, D.C., on November 26, 1984.

**John Ford,**

*Deputy Assistant Secretary, Marketing and Inspection Services.*

[FR Doc. 84-31367 Filed 11-30-84; 8:45 am]

BILLING CODE 3410-02-M

## FEDERAL HOME LOAN BANK BOARD

### 12 CFR Part 563b

[No. 84-655]

### Modified Conversions

Dated: November 16, 1984.

**AGENCY:** Federal Home Loan Bank Board.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Home Loan Bank Board is proposing to amend its regulations governing modified conversions of mutual insured institutions to stock form. The amendments would facilitate the modified conversion procedure and enhance its use as a capitalization vehicle.

**DATE:** Comments must be received by December 31, 1984.

**ADDRESS:** Send comments to Director, Public Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C., 20552. Comments will be available for public inspection at the above address.

**FOR FURTHER INFORMATION CONTACT:** James C. Stewart, Senior Attorney, Corporate and Securities Division (202-377-6457), J. Larry Fleck, Deputy Director, Corporate and Securities Division (202-377-6413), or Julie L. Williams, Director, Corporate and Securities Division (202-377-6459), Office of the General Counsel, at the above address.

**SUPPLEMENTARY INFORMATION:** By Resolution No. 83-149, dated February 17, 1983, the Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), promulgated Subpart D of the Conversion Regulations, 12 CFR Part 563b (1984), which provides guidelines for modified conversions of insured institutions from the mutual to the stock form of organization. 12 CFR 563b.34

through 563b.38 (1984); *Conversions from Mutual to Stock Form*, 48 FR 15591 (April 12, 1983). In modified conversions, the substantive and procedural rights granted to members in converting mutual associations by the Board's standard conversion rules may be restricted. 48 FR at 15599. The authority for modified conversions derives from section 121 of the Garn-St Germain Depository Institutions Act of 1982 which allows the Board to approve conversions notwithstanding other provisions of state or federal law when it is determined that the converting institution faces severe financial conditions that threaten its stability, and conversion is likely to improve the institution's condition. 12 U.S.C. 1464(p) (1982).

In its standard conversion regulations, contained in Subpart A of the Conversion Regulations, the Board has given extensive recognition to the rights and interests of the account holders and other members who are the legal owners of the mutual institution. Accordingly, Subpart A has required the informed approval of members to effect a conversion and has given them preemptive subscription rights in the stock issued by the converting institution. The standard conversion regulations additionally seek to ensure that a fair price is paid by the subsequent stockholders for their ownership of the institution by mandating that the total price of the stock sold equals the institution's appraised *pro forma* market value. Subpart A contains further safeguards, such as the establishment of a liquidation account for the benefit of the account holders, which represents the net worth of the institution at the time of conversion, to sustain their liquidation interests. Maximum purchase limits and the requirement of widespread stock distribution also are safeguards to prevent parties from using the conversion to acquire control of the institution and the conversion proceeds to the detriment of account holders and other stockholders.

The conversion approval authority contained in section 121 enables the Board to modify the conversion process to meet the needs of institutions whose financial condition has so deteriorated that standard conversions are not feasible. In order to encourage the development of innovative proposals, the Board declined to promulgate detailed regulations on either the procedural or structural aspects of modified conversions. Subpart D primarily lists quantitative criteria for satisfying the statutory requirement of severe financial conditions and provides minimal guidelines regarding the structure of modified conversions. The substantive guidelines in 12 CFR 563b.37 generally apply the provisions of Subpart A unless clearly inapplicable, and specifically affirm the preemptive rights of members to purchase all the stock offered in the conversion. Section 563b.37, however, does indicate that modified conversions may be effected without the approval of members and may involve sales of conversion stock at an aggregate price not equal to the *pro forma* market value of the institution as determined by an independent appraiser. Under the current rules, however, modified conversion stock sales must infuse enough capital to bring the institution into net-worth compliance on the basis of Generally Accepted Accounting Principles ("GAAP").

Although very few modified conversions have been completed to date, the Board and its staff have received many inquiries regarding Subpart D and have reviewed a number of proposals on an informal basis. These discussions have indicated that, in their current form, the Subpart D substantive guidelines may have inhibited the development of the modified conversion program. Difficulties have primarily arisen in respect to the preemptive rights of members to the entire stock offering and the requirement of a capital infusion sufficient to bring the institution into net-worth compliance on a GAAP basis.

Following the suggestion of the Board in the preamble to the modified conversion regulations, 48 FR at 15600, institutions have sought to fashion modified conversions in which standby investors would purchase any stock remaining after the exercise of preemptive rights by members. Potential investors, however, may be unwilling to commit to such an arrangement unless they can be assured of some level of control after the conversion. At the same time, the requirement of GAAP net worth has intensified the need of the converting institution for the capital investors can supply. The requirement can prove particularly difficult for institutions that have adapted their asset/liability mix to regulatory accounting principles.

Upon review of the matter, the Board has determined that modification of the Subpart D substantive guidelines is within its section 121 authority. The GAAP net-worth requirement was adopted to provide quantitative assurance that the modified conversion is "likely to improve the financial condition of the institution" within the meaning of section 121, 12 U.S.C. 1464(p)(2) (1982). The use of GAAP as a measure was also consistent with the use of GAAP for determining eligibility for modified conversion. *See* 12 CFR 563b.36(b) (1984). The Board, however, never rejected the use of regulatory accounting principles as an indicator of financial condition. Moreover, the adequacy of the capital infusion is substantiated by the financial opinion submitted by the converting association pursuant to § 563b.37(f). Accordingly, the Board is prosing to amend the substantive guidelines for modified conversions to no longer require a capital infusion sufficient to bring the association into regulatory net-worth compliance on a GAAP basis. Instead, the post-conversion adequacy of the stock sale would be determined according to regulatory net-worth principles.

The question of members' preemptive rights in the entire issue of conversion stock presents the Board with a difficult issue. The preemptive rights of members have been an essential element in the Board's Conversion Regulations since their introduction. The only exception to this requirement has occurred in supervisory conversions where the absence of liquidation value in the institution has made it unnecessary to recognize this equity interest of members. 48 FR 15598 (April 12, 1983). Modified conversions may also involve institutions in which there is negligible or no realizable liquidation value, and in such cases it would not be inappropriate to suspend members' preemptive rights. As the liquidation value increases, the value of members' equity interest gains substance. The Board has therefore determined that, consistent with section 121, it may restrict members' preemptive rights to a portion of the total offering without undermining the practical equity interests of the mutual members. At one extreme, preemptive rights may be disregarded when the converting institution has little or no realizable equity value upon liquidation. Conversely, members would be entitled to preemptive rights in the entire conversion issue whenever the institution could undertake a Subpart A conversion by virtue of its net worth or other intrinsic value. Within these boundaries, preemptive rights could be limited to a portion of the total modified conversion stock offering. The Board is proposing to amend § 563b.37(g) to reflect this determination and to provide related guidelines to institutions considering modified conversion. The Board may allow further limitation on

subscription rights when compelling circumstances are present.

The Board emphasizes that its authority to restrict members' preemptive rights in this manner arises only when the conversion can be approved under section 121 and has no bearing on Subpart A conversions. Among the criteria for section 121 treatment is that there is not a reasonable likelihood that the converting institution could market its stock in a standard conversion. 12 CFR 563b.36(b)(3)(iii) (1984). Accordingly, unless it is determined that it would not be feasible for the institution to accomplish a conversion under Subpart A, the institution will be required to proceed under Subpart A and afford its eligible account holders and other members full subscription rights.

The Board additionally believes that the modified conversion process can be improved by adopting less rigid guidelines for qualifying for modified conversion. As noted previously, the Board's authority to approve modified conversions arises when severe financial conditions exist which threaten the stability of the insured institution and the conversion to stock form is likely to improve the financial condition of the institution. 12 CFR 563b.36(a)(2) (1984). In paragraph (b) of § 563b.36, the modified conversion regulations set forth criteria by which the requirement of severe financial conditions may be demonstrated. These criteria include failure to meet regulatory net-worth requirements, impracticality or infeasibility of a standard conversion, and a history of recent losses. Under the current regulation, the requisite recent-loss history is determined on a sliding scale with three consecutive quarterly losses required if the institution has more than two-percent net worth and one loss in the last three quarters when the institution has less than one-percent net worth. Losses are calculated on the basis of GAAP.

Although the recent-loss guidelines were intended to provide only quantitative guidance to institutions, the Board is concerned that the guidelines may be deterring qualified associations from applying for modified conversion and conversely may encourage non-qualified institutions to undertake modified conversion. For example, an institution with low net worth and recent losses may satisfy the § 563b.36(b)(2) guidelines even though it has successfully restructured its loan portfolio and is well-positioned for future profitability. Such an institution could quite likely complete a standard conversion and should convert under Subpart A rather than under procedures intended for institutions in financial difficulty. Conversely, the § 563.36(b)(2) guidelines might not be satisfied by an institution that has avoided losses through salary forbearances or by adopting other unusual economy measures. Accordingly, the Board is proposing to amend § 563b.36(b)(2) to delete the current quantitative-loss guidelines in favor of a more broadly-worded criterion. Under the proposed rule, an institution not meeting its net-worth requirement and unable to conduct a standard conversion would qualify for modified conversion if it could show that its recent and projected income from operations would not enable it to achieve and maintain the regulatorily-required level of net worth without a substantial capital infusion. It is anticipated that the restated loss criteria would encourage the use of Subpart D by institutions whose long-term viability is threatened by structural imbalances.

Questions have also arisen with respect to the application of the guideline specifying that a modified conversion applicant not meet its regulatory net-worth requirement. It has been noted that the guidelines for supervisory conversions allow an applicant to disregard appraised equity capital that may be treated as net worth under Insurance Regulation § 563.13(c), 12 CFR 563.13(c) (1984). *See* 12 CFR 563b.32 (1984). Similarly, it has been observed that, pursuant to Insurance Regulation § 563c.14, an insured institution could elect to recognize loan losses that had previously been deferred for regulatory accounting purposes and thus lower its regulatory net worth. *See* 12 CFR 563c.14(a) (1984). Accordingly, various prospective applicants have requested permission to disregard the effect of these techniques on their net worth in determining their eligibility for modified conversion.

In the Board's view, the statutory conditions for modified conversion may be satisfied by an institution that is meeting its regulatory net-worth requirement solely by virtue of deffered loan losses or appraised equity capital. The exclusion of appraised equity capital is consistent with the Board's position in supervisory conversions and the Board proposes to amend the modified conversion guidelines to provide for such an exclusion in similar circumstances. The treatment of deferred loan losses allowed under Insurance Regulations §§ 563.13(e) and 563c.14(a) reflects the Board's determination that sales of loans and mortgage-related securities should not be constrained when the sale proceeds are used to improve the asset/liability mix of the institution. *See Treatment of Gains and Losses on the Sale or Other Disposition of Mortgage Assets, Mortgage-Related Securities and Debt Securities*, Resolution No. 81-581, 46 FR 50048-49 (October 9, 1981). Even under this regulatory accounting treatment, however, the loss on the loan sale is eventually recognized as the deferred-loan-loss account is amortized. Moreover, disclosure of the amount of the loss which would be required to be recognized under GAAP may prevent the institution from converting under Subpart A. Accordingly, the Board proposes to amend the modified conversion guidelines to allow insured institutions to assume recognition of such loan losses notwithstanding a prior deferral election under § 563c.14(a) and the exemption contained in § 563.13(e).

The Board is also using this opportunity to produce several other modifications to Subpart D in order to facilitate the modified conversion process. Section 563b.38 is proposed to be amended to clarify what materials must be submitted in order to receive approval to file a modified conversion application. These materials would include an outline of the plan of conversion and the amount of the capital infusion anticipated.

The Board has determined that a 30-day public comment period is appropriate because prompt action is in the public interest. Since the statutory authority for modified conversions is currently scheduled to expire on October 15, 1985, 12 U.S.C. 1464 note (1982), expeditious consideration by the Board of these proposed amendments is necessary to ensure effective utilization of the procedure. In view of the time required for structuring a modified conversion and preparation and review of the application, observance of a 60-day notice-and-comment procedure might delay implementation beyond the point where the amendments would be of benefit to insured institutions.

**Initial Regulatory Flexibility Analysis**

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980), the Board is providing the following initial regulatory flexibility analysis:

1. *Reasons, objectives, and legal abases underlying the proposed rules.* These elements have been discussed elsewhere in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rules would apply.* The rules would apply to all insured institutions.

3. *Impact of the proposed rules on small institutions.* To the extent that the rules would affect small institutions, this has been discussed elsewhere in the proposal.

4. *Overlapping of conflicting federal rules.* There are no federal rules which duplicate, overlap, or conflict with the proposed rules.

5. *Alternatives to the proposed rule.* Other alternatives, such as the present rules, may tend to limit the utility of the modified conversion procedure. More liberal provisions may raise questions of statutory authority.

**List of Subjects in 12 CFR Part 563b**

Savings and loan associations, Securities.

Accordingly, the Board hereby proposes to amend Part 563b of subchapter D, Chapter V, Title 12 of the *Code of Federal Regulations*, as set forth below.

## PART 563b—CONVERSION FROM MUTUAL TO STOCK FORM

### Subpart D—Guidelines for Modified Conversions

1. Revise § 563b.36(b) (1) and (2) as follows:

**§ 563b.36 Guidelines for qualification.**

* * * * *

(b) * * *

(1) The insured institution does not meet its regulatory net-worth requirement *except* that for purposes of determining compliance the institution may: (i) Disregard the effect of appraised equity capital by following the procedures of § 563b.32 of Subpart C; and (ii) recognize losses on any sale or other disposition of mortgage loans, redeemable ground-rent leases or other securities specified in § 563c.14 notwithstanding a prior election under paragraph (a) of that section or the exemption under § 563.13(e);

(2) Current and projected income from operations is not sufficient to restore and maintain the institution's regulatorily required net worth;

* * * * *

**§ 563b.37 [Amended]**

2. Amend § 563b.37 by removing the phrase "on the basis of generally accepted accounting principles" at the end of paragraph (f) and substituting therefor the phrase "excluding from net-worth items disregarded pursuant to § 563b.36(b)(1)", and inserting before the period at the end of paragraph (g) the following: "*Except* that such subscription rights may be eliminated or reduced as follows: (1) If the regulatory net worth of the institution is 1 percent or less of an institution's liabilities, subscription rights may be reduced to an amount between 0 percent and 20 percent of the total stock offered, such percentage between 0 percent and 20 percent to be determined on a sliding scale on the basis of the institution's regulatory net worth between 0 percent and 1 percent; (2) if the regulatory net worth of the institution is more than 1 percent but not in excess of 2 percent, subscription rights may be reduced to an amount between 20 percent and 50 percent of the total stock to be offered, such percentage between 20 percent and 50 percent to be determined on a sliding scale on the basis of the institution's regulatory net worth between 1 percent and 2 percent; and (3) if the regulatory net worth of the institution is more than 2 percent but not in excess of 3 percent, subscription rights may be reduced to an amount between 50 percent and 100 percent of the total stock offered, such percentage between 50 percent and 100 percent to be determined on a sliding scale on the basis of the institution's regulatory net worth between 2 percent and 3 percent.

**§ 563b.38 [Amended]**

3. Amend paragraph (a) of § 563b.38 by adding the following sentence at the end thereof: "Applications for test-case treatment shall be accompanied by a detailed discussion of the institution's qualification for modified conversion, an outline of the proposed plan of conversion, an estimate of the amount of capital expected to be raised, and a plan of operation of the institution following conversion."

(Home Owners' Loan Act section 5(p), 12 U.S.C. 1464(p) (1982))

By the Federal Home Loan Bank Board.

**John F. Ghizzoni,**

*Assistant Secretary.*

[FR Doc. 84-31500 Filed 11-30-84; 8:45 am]

BILLING CODE 6720-01-M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 240

**[Release No. 34-21498; File No. S7-37-84]**

### Unlisted Trading Privileges in Over-the-Counter Securities

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Solicitation of public comments; correction.

**SUMMARY:** In FR Doc. 84-30756, beginning on page 46156 in the issue of Friday, November 23, 1984 the **"DATE"** paragraph should have read "comments to be received January 15, 1985."

**ADDRESSES:** All comments should be submitted in triplicate and addressed to Shirley E. Hollis, Acting Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. All comments should refer to File No. S7-37-84, and will be available for public inspection at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** William W. Uchimoto, Esq., (202) 272-2409, Room 5193, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

**Shirley E. Hollis,**

*Acting Secretary.*

[FR Doc. 84-31517 Filed 11-30-84; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Parts 41 and 48

**[LR-31-83]**

### Heavy Vehicle Use Tax; Credits and Refunds of the Tax on Diesel Fuel

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Extension of time for submitting comments.

**SUMMARY:** This document provides notice of an extension of time for submitting comments concerning the notice of proposed rulemaking relating to the imposition of tax on the use of heavy vehicles and relating to credits and refunds of the tax imposed on the sale of diesel fuel. Some members of the public have requested that an extension on the deadline for filing comments on the notice of proposed rulemaking be established. Accordingly, the extended deadline for submission of comments is January 7, 1985. An exception to this provision applies to comments being submitted with respect to proposed regulations § 41.6001-2 relating to proof of payment for state registration purposes.

**DATE:** Written comments should be delivered or mailed by January 7, 1985.

**ADDRESS:** Send comments to the Commissioner of Internal Revenue, 1111 Constitution Avenue, NW., Attn:

CC:LR:T (LR–31–83), Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** B. Faye Easley of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attn: CC:LR:T, telephone 202–566–3935 (not a toll-free call).

**SUPPLEMENTARY INFORMATION:** By a notice of proposed rulemaking published in the **Federal Register** for Tuesday, November 6, 1984 (49 FR 44300), comments with respect to the proposed rules were to be delivered or mailed to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–31–83), Washington, D.C. 20224, by December 6, 1984. Some members of the public have requested that an extension on the deadline for filing comments on the notice of proposed rulemaking be established. The date by which comments must be delivered or mailed is hereby extended to January 7, 1985, except for comments concerning the proposed rules relating to proof of payment for state registration purposes.

This document in no way affects the details of the notice of public hearing on the proposed regulations appearing in the **Federal Register** for Tuesday, November 6, 1984 (49 FR 44310).

**George H. Jelly,**

*Director, Legislation and Regulations Division.*

[FR Doc. 84–31467 Filed 11–30–84; 8:45 am]

**BILLING CODE 4830–01–M**

## POSTAL SERVICE

## 39 CFR Part 10

## Proposed Express Mail International Service to Finland and Saudi Arabia

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to agreements with the postal administrations of Finland and Saudi Arabia, the Postal Service proposes to begin Express Mail International Service with Finland and Saudi Arabia at postage rates indicated in the tables below. The proposed service is scheduled to begin on February 1, 1985.

**DATE:** Comments must be received on or before January 2, 1985.

**FOR FURTHER INFORMATION CONTACT:** Leon W. Perlinn, (202) 245–4414.

**ADDRESS:** Written comments should be directed to the General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260–5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8620, 475 L'Enfant Plaza West, SW., Washington, DC 20260–5350.

**SUPPLEMENTARY INFORMATION:** The International Mail Manual is incorporated by reference in the **Federal Register**, 39 CFR 10.1. Additions to the manual concerning the proposed new service, including the rate tables reproduced below, will be made in due course. Accordingly, although 39 U.S.C. 407 does not require advance notice and the opportunity for submission of comments on international service, and the provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553) do not apply (39 U.S.C. 410(a)), the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed International Express Mail Service to Finland and Saudi Arabia at the rates indicated in the tables below.

### List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

FINLAND—INTERNATIONAL EXPRESS MAIL

| Custom Designed Service [1] [2] | | On Demand Service [3] | |
|---|---|---|---|
| Up to and including | | Up to and including | |
| Pounds | Rate | Pounds | Rate |
| 1 | $28.00 | 1 | $20.00 |
| 2 | 31.70 | 2 | 23.70 |
| 3 | 35.40 | 3 | 27.40 |
| 4 | 39.10 | 4 | 31.10 |
| 5 | 42.80 | 5 | 34.80 |
| 6 | 46.50 | 6 | 38.50 |
| 7 | 50.20 | 7 | 42.20 |
| 8 | 53.90 | 8 | 45.90 |
| 9 | 57.60 | 9 | 49.60 |
| 10 | 61.30 | 10 | 53.30 |
| 11 | 65.00 | 11 | 57.00 |
| 12 | 68.70 | 12 | 60.70 |
| 13 | 72.40 | 13 | 64.40 |
| 14 | 76.10 | 14 | 68.10 |
| 15 | 79.80 | 15 | 71.80 |
| 16 | 83.50 | 16 | 75.50 |
| 17 | 87.20 | 17 | 79.20 |
| 18 | 90.90 | 18 | 82.90 |
| 19 | 94.60 | 19 | 86.60 |
| 20 | 98.30 | 20 | 90.30 |
| 21 | 102.00 | 21 | 94.00 |
| 22 | 105.70 | 22 | 97.70 |
| 23 | 109.40 | 23 | 101.40 |
| 24 | 113.10 | 24 | 105.10 |
| 25 | 116.80 | 25 | 108.80 |
| 26 | 120.50 | 26 | 112.50 |
| 27 | 124.20 | 27 | 116.20 |
| 28 | 127.90 | 28 | 119.90 |
| 29 | 131.60 | 29 | 123.60 |
| 30 | 135.30 | 30 | 127.30 |
| 31 | 139.00 | 31 | 131.00 |
| 32 | 142.70 | 32 | 134.70 |
| 33 | 146.40 | 33 | 138.40 |
| 34 | 150.10 | 34 | 142.10 |
| 35 | 153.80 | 35 | 145.80 |
| 36 | 157.50 | 36 | 149.50 |
| 37 | 161.20 | 37 | 153.20 |
| 38 | 164.90 | 38 | 156.30 |
| 39 | 168.60 | 39 | 160.60 |
| 40 | 172.30 | 40 | 164.30 |
| 41 | 176.00 | 41 | 168.00 |
| 42 | 179.70 | 42 | 171.70 |
| 43 | 183.40 | 43 | 175.40 |

FINLAND—INTERNATIONAL EXPRESS MAIL—Continued

| Custom Designed Service [1] [2] | | On Demand Service [3] | |
|---|---|---|---|
| Up to and Including | | Up to and Including | |
| Pounds | Rate | Pounds | Rate |
| 44 | 187.10 | 44 | 179.10 |

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

SAUDI ARABIA—INTERNATIONAL EXPRESS MAIL

| Custom Designed Service [1] [2] | | On Demand Service [2] | |
|---|---|---|---|
| Up to and Including | | Up to and Including | |
| Pounds | Rate | Pounds | Rate |
| 1 | $28.00 | 1 | $20.00 |
| 2 | 31.70 | 2 | 23.70 |
| 3 | 35.40 | 3 | 27.40 |
| 4 | 39.10 | 4 | 31.10 |
| 5 | 42.80 | 5 | 34.80 |
| 6 | 46.50 | 6 | 38.50 |
| 7 | 50.20 | 7 | 42.20 |
| 8 | 53.90 | 8 | 45.90 |
| 9 | 57.60 | 9 | 49.60 |
| 10 | 61.30 | 10 | 53.30 |
| 11 | 65.00 | 11 | 57.00 |
| 12 | 68.70 | 12 | 60.70 |
| 13 | 72.40 | 13 | 64.40 |
| 14 | 76.10 | 14 | 68.10 |
| 15 | 79.80 | 15 | 71.80 |
| 16 | 83.50 | 16 | 75.50 |
| 17 | 87.20 | 17 | 79.20 |
| 18 | 90.90 | 18 | 82.90 |
| 19 | 94.60 | 19 | 86.60 |
| 20 | 98.30 | 20 | 90.30 |
| 21 | 102.00 | 21 | 94.00 |
| 22 | 105.70 | 22 | 97.70 |

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

(39 U.S.C. 401, 404 407)

**W. Allen Sanders,**

*Associate General Counsel, Office of General Law and Administration.*

[FR Doc. 31559 Filed 11–30–84; 8:45]

**BILLING CODE 7710–12–M**

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Ch. I

**[CC Docket No. 84–800]**

## Authorized Rates of Return for the Interstate Services of AT&T Communications and Exchange Telephone Carriers; Order Extending Time for Filing Reply Comments

**AGENCY:** Federal Communication Commissions.

**ACTION:** Proposed rule; extension of reply comment period.

**SUMMARY:** This action extends the period for filing Reply Comments in the Matter of Authorized Rates of Return for the Interstate Services of AT&T Communications and Exchange Telephone Carriers, CC Docket No. 84–800. This action is taken in response to a petition filed by Ameritech.

**DATES:** Reply comments are now due by January 22, 1985.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Steve Goodman, Common Carrier Bureau, (202) 632–0745.

**SUPPLEMENTARY INFORMATION:** The Proposed Rule was published on August 17, 1984 (49 FR 32871).

In the Matter of Authorized Rates of Return for the Interstate Services of AT&T Communications and Exchange Telephone Carriers; CC Docket No. 84–800.

Adopted: November 26, 1984.
Released: November 28, 1984.

By the Chief, Common Carrier Bureau.

1. In a Notice of Proposed Rulemaking, we invited interested parties to file comments on factors for our examination of authorized rates of return for AT&T and exchange telephone carriers. FCC 84–395, released August 13, 1984. After an extension of the filing dates, comments were filed on November 9. On November 20, the Ameritech Operating Companies (Ameritech) filed a motion to extend the time for filing reply comments from December 10, 1984, to February 4, 1985.

2. Ameritech bases its request for an extension of time on the tremendous volume of comments as well as the complex nature of the proceeding. According to Ameritech, over 6000 pages of comments and appendices were filed on November 9. In order to respond properly, it states that it will be necessary to coordinate and consult with expert witnesses, and to collect relevant data and information. Ameritech claims that two months is the minimum additional time needed to file reply comments. Moreover, Ameritech asserts that the far-reaching and permanent changes potentially resulting from this proceeding preclude an urgent need to rush to a decision.

3. We agree that the public interest would be served by allowing additional time for preparing reply comments. We are mindful of both the approaching holiday season as well as the complex and important nature of the proceeding. We are not convinced, however, that an extension of two months is fully warranted. Accordingly, the date for filing reply comments in this proceeding is extended until January 22, 1985.

4. So ordered.

Federal Communications Commission.

**Kenneth A. Levy,**

*Deputy Chief, Common Carrier Bureau.*

[FR Doc. 84–31537 Filed 11–30–84; 8:45 am]

BILLING CODE 6712–01–M

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### 49 CFR Part 571

### Federal Motor Vehicle Safety Standards; Door Locks and Door Retention Components

**AGENCY:** National Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Denial of petition for rulemaking.

**SUMMARY:** This notice denies a petition for rulemaking, submitted by Mr. William Poehl, to amend Federal Motor Vehicle Safety Standard No. 206, *Door Locks and Door Retention Components*, to require an inside trunk lock release lever on all new automobiles. In his petition, Mr. Poehl listed various possible circumstances in which people could be trapped inside the trunk of an automobile and requested the standard to require an operable lever or handle inside of the trunk. After reviewing the petition along with previous actions in this area, the agency has concluded that the likelihood of an internal hood latch lever being utilized is remote. The agency will, however, continue to gather data in this subject area and will institute rulemaking action at some future date, if appropriate.

**FOR FURTHER INFORMATION CONTACT:** Mr. William Smith, Office of Rulemaking, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. (202–426–2242).

**SUPPLEMENTARY INFORMATION:** In May 1984, Mr. William Poehl submitted a petition to the NHTSA concerning Standard No. 206, *Door Locks and Door Retention Components*. Mr. Poehl's petition requested that every new car be equipped with a trunk release lever that can be easily operated from inside a vehicle's trunk. The petition listed various possible circumstances of accidental and intentional entrapment in the trunk of a vehicle. Mr. Poehl believed that persons such as alarm and stereo installers, mechanics, playful children, pranksters, and crime victims may be trapped in the trunk. The petitioner also believed that an elderly person might fall into the trunk and thereby become entrapped. He petitioned the agency to require an inside trunk release on all new cars in order to ensure the release of these victims.

After reviewing the petition and previous actions in this area, the agency has concluded that the likelihood of an internal trunk release lever ever being utilized is remote. The agency is not aware of any accident data indicating that there is much likelihood of occurence of accidental entrapment in a vehicle's trunk. Trunk lids are spring-loaded in the open position and, therefore, not likely to close by themselves with someone inside. Because the lids are spring loaded, it is difficult to close the trunk from any position except standing behind the vehicle and pushing down on the outer surface of the trunk lid. From that position, a person has a full view of the trunk interior. It would be extremely unlikely that that person would accidently close the lid with someone inside. Concerning an elderly person falling into the trunk, Mr. Poehl suggested that entrapment could occur if snow on the trunk closed the lid when the person fell. It is unclear to the agency how the trunk would entrap the person in this circumstance, since it is unlikely that the individual would fall in such a way that more than his or her upper torso is inside the trunk. Again, in this situation, an internal trunk release lever would not likely need to be utilized.

The agency is aware that victims of crime or pranks are, on occasion, purposely locked in the trunk of a vehicle. However, the petitioner did not provide any data supporting the benefits of an internal release mechanism in these circumstances. The agency does not know, for example, how often a victim of a crime or prank who is purposely locked in a vehicle's trunk might also be secured so that an internal release mechanism could not be operated.

Although at this time NHTSA has concluded it would be inappropriate to require an internal trunk release mechanism for automobile trunks, the agency will continue to gather information in this subject area and will institute rulemaking action at a future date, if appropriate.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1410a); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on November 27, 1984.

Barry Felrice,

*Associate Administrator for Rulemaking.*

[FR Doc. 84-31553 Filed 11-30-84; 8:45 am]

BILLING CODE 4910-59-M

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Part 1063

[Ex Parte No. MC-95 (Sub-3)]

### Regulations Governing the Adequacy of Intercity Motor Common Carrier Passenger Service (Modification of Regulations)

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** The notice of proposed rulemaking in this proceeding [44 FR 53092 (1979)] proposed amending the Commission's rules at 49 CFR Part 1063 concerning the adequacy of service, equipment, and facilities provided by motor passenger carriers operating over regular routes. The Commission has considered the merits of the modifications to its regulations that were originally proposed in this proceeding and has concluded that some of the proposals should not be adopted, while others require further consideration in the light of the provisions of the Bus Regulatory Reform Act of 1982. Further comments are solicited with regard to the proposals concerning: (1) Notice of schedule changes, (2) temperature control equipment on buses providing commuter services, (3) transportation of handicapped passengers, and (4) expanding the current restroom exemption to cover somewhat larger vehicles.

**DATE:** Comments must be filed by January 2, 1985.

**ADDRESS:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403. Send comments to Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 12th and Constitution Ave., NW., Washington, D.C. 20423.

**FOR FURTHER INFORMATION CONTACT:**

James L. Brown, (202) 275-7698
Howell I. Sporn, (202) 275-7691

**SUPPLEMENTARY INFORMATION:**

**Energy and Environment**

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

**Regulatory Flexibility Statement**

This proceeding was instituted before we were required to consider specifically the impact of the proposals on small businesses. Nevertheless, we have considered this issue at this time and certify that the regulation changes under consideration in this proceeding will not have a significant economic impact on a substantial number of small entities because, if adopted, they would only change commuter practices in minor ways.

**List of Subjects in 49 CFR Part 1063**

Buses.

This decision is issued pursuant to 5 U.S.C. 553 and 559, and 49 U.S.C. 10102, 10321, 10703, 10762, 10730, 10922, 11145, and 11702.

Decided: November 16, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioner Gradison, joined by Vice Chairman Andre, dissented with a separate expression. Commissioner Lamboley did not participate.

James H. Bayne,

*Secretary.*

## PART 1063—[AMENDED]

**Appendix**

Further comments are solicited with regard to the following proposed amendments. Part 1063 of Title 49 of the Code of Federal Regulations would be amended as follows:

**§ 1063.6 [Amended]**

(1) In § 1063.6, paragraph (b) would be revised to read as follows:

**§ 1063.6 Service responsibility.**

* * * * *

(b) *Continuity of service.* Except as provided in 49 CFR 1042.2(c)(6), no carrier shall make any change in an existing regular-route schedule without first filing a written notice with the Regional Office of the Interstate Commerce Commission in all regions affected by the schedule change. A copy of the notice shall be displayed by the carrier continuously in a conspicuous place in each facility affected and on each bus providing the affected services. The notice shall be displayed for at least 15 days before it becomes effective, and shall contain the carrier's name, a description of the schedule change, the date the change will be effective, the reasons for the change, and the name and address of the responsible carrier official or representative to whom passengers may address comments and seek information. Unless the schedule change is due to the conversion to or from daylight savings time or otherwise reflects a normal, seasonal schedule change, the description of the change shall be specific and the notice shall also describe available alternate services.

* * * * *

**§ 1063.7 [Amended]**

(2) In § 1063.7, paragraphs (a) and (b) would be revised to read as follows:

**§ 1063.7 Equipment.**

(a) *Temperature control.* All buses shall be equipped with operable temperature control equipment capable of maintaining reasonable temperatures.

(b) *Restrooms.* Each bus used to provide service subject to this part with seating for more than 25 passengers (not including the driver), except those in commuter service, shall have a restroom. Such on-board restrooms shall be clean, sanitary, and free of offensive odor, and regularly maintained. A bus may be operated without a restroom if reasonable rest stops are made.

* * * * *

**§ 1063.8 [Amended]**

(3) In § 1063.8, paragraphs (a) and (b) would be revised to read as follows:

**§ 1063.8 Accommodations for handicapped, disabled, blind and elderly.**

(a) *Transportation.* No carrier shall deny transportation to any person on the basis of a handicap, physical disability, or blindness, or because that person cannot board a bus without assistance, except as provided in this section. A guide or a seeing-eye dog, hearing-guide dog, or other guide dog specially trained for that purpose shall be provided free passage when accompanied by a blind or deaf person.

(b) *Assistance.* All carriers shall, whenever possible, provide assistance to handicapped, disabled, blind, and elderly passengers, in boarding buses; such assistance when requested shall include advance boarding and seating. Carriers shall provide assistance to such passengers on request in the use of terminal accommodations and baggage service. At all terminals there shall be prominently displayed a notice stating where and from whom such assistance may be obtained. Handicapped persons who require the assistance of an attendant shall not be denied transportation so long as they are

accompanied by an attendant. Handicapped persons who require the service of an attendant, but who are unaccompanied, are not required to be transported by a carrier under this regulation. Handicapped persons requiring the assistance of an attendant are those who cannot take care of their fundamental personal needs.

* * * * *

[FR Doc. 84-31515 Filed 11-30-84; 8:45 am]
BILLING CODE 7035-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 652

### Atlantic Surf Clam and Ocean Quahog Fisheries

**AGENCY:** Notice of availability of an amendment and request for comments.

**SUMMARY:** NOAA issues this notice that the Mid-Atlantic Fishery Management Council has submitted an amendment to the fishery management plan (FMP) for the Atlantic Surf Clam and Ocean Quahog Fisheries for review by the Secretary of Commerce. Comments are invited from the public on the amendment and any other documents made available.

**DATE:** Comments will be accepted until February 8, 1985.

**ADDRESSES:** Send comments to Richard Schaefer, Acting Regional Director, National Marine Fisheries Service, Northeast Regional Office, 14 Elm Street, Gloucester, MA 01930. Copies of the amendment; the environmental assessment, and draft regulatory impact review/initial regulatory flexibility analysis are available upon request from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 South New Street, Dover, DE 19901.

**FOR FURTHER INFORMATION CONTACT:** Richard Seamans, Jr., 617-281-3600, ext. 262.

**SUPPLEMENTARY INFORMATION:** This FMP was prepared under the provisions of the Magnuson Fishery Conservation and Management Act.

Amendment 5 proposes measures for managing the Atlantic surf clam and ocean quahog fisheries in the fishery conservation zone (FCZ). The rule provides a mechanism for adjustments to the minimum size limit for surf clams and revises the method of inspecting surf clams for compliance. The rule also adds a requirement that surf clams cages be tagged and adds a presumption that surf clams landed on an authorized fishing day were caught in the FCZ and are subject to the Federal minimum size limit. The receipt date for this amendment is November 26, 1984. Proposed regulations for this amendment will be published within 30 days.

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

Dated: November 28, 1984.

**Carmen J. Blondin,**

*Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.*

[FR Doc. 84-31539 Filed 11-28-84; 3:47 pm]
BILLING CODE 3510-22-M

# Notices

Federal Register
Vol. 49, No. 233
Monday, December 3, 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

### Farmers Home Administration

### Natural Resource Management Guide; Meeting

**AGENCY:** Farmers Home Administration, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Farmers Home Administration (FmHA) State Office located in Harrisburg, Pennsylvania, is announcing a public information meeting to discuss its draft Natural Resource Management Guide.

**DATES:** Meeting on January 9, 1985, 10:00 a.m. to 12:30 p.m. Comments must be received no later than February 8, 1985.

**ADDRESSES:** Meeting location at Room 202, Federal Building, 3rd and Walnut Street, Harrisburg, Pennsylvania.

Written Comments and Further Information will be addressed to: D. Elmer Hawbaker, State Director, FmHA, Post Office Box 905, Harrisburg, Pennsylvania 17108 (717–782–4477).

All written comments will be available for public inspection during regular work hours at the above address.

**SUPPLEMENTARY INFORMATION:** FmHA's Pennsylvania State Office has prepared a draft Natural Resource Management Guide. The Guide is a brief document describing the major environmental standards and review requirements that have been promulgated at the Federal and State levels and that affect the financing of FmHA activities in Pennsylvania. The purpose of the meeting is to discuss the Guide as well as to consider comments and questions from interested parties. Copies of the Guide can be obtained by writing or telephoning the above contact.

Any person or organization desiring to present formal comments or remarks during the meeting should contact FmHA in advance, if possible. It will also be possible at the start of the meeting to make arrangements to speak. Time will be available during the meeting to informally present brief, general remarks or pose questions. Additionally, a 30-day period for the submission of written comments will follow the meeting.

Dated: November 26, 1984.

**David J. Howe,**

*Director, Program Support Staff.*

[FR Doc. 84–31546 Filed 11–30–84; 8:45 am]

BILLING CODE 3410–07–M

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Order No. 282]

### Resolution and Order Approving the Request of the City of San Jose, CA, for Time Extension on Temporary Site

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

### Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the request by the City of San Jose, California, grantee of Foreign-Trade Zone 18, filed with the Foreign-Trade Zones Board (the Board) on October 5, 1984, requesting a seven-month extension of zone status for the Metal Processing Industries, Inc. (MPI) site in San Jose that was approved by the Board on October 13, 1983 (Board Order 228) for a period of one year, the Board, finding that the requirements of the Foreign-Trade Zones Act and Regulations are satisfied, and that the proposal is in the public interest, approves the request and extends zone status at the MPI site until May 13, 1985.

Signed at Washington, D.C., this 26th day of November 1984.

This approval is retroactive to October 13, 1984.

**William T. Archey,**

*Acting Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.*

Attest:

**John J. Da Ponte, Jr.,**

*Executive Secretary.*

[FR Doc. 84–31555 Filed 11–30–84; 8:45 am]

BILLING CODE 3510–DS–M

### International Trade Administration

[C–791–005]

### Deformed Steel Bars for Concrete Reinforcement From South Africa; Final Results of Administrative Review of Countervailing Duty Order

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

**ACTION:** Notice of final results of Administrative review of countervailing duty order.

**SUMMARY:** On October 11, 1984, the Department of Commerce published the preliminary results of its administrative reveiw of the countervailing duty order on deformed steel bars for concrete reinforcement from South Africa. The review covers the period January 1, 1983, through June 30, 1983.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results.

**EFFECTIVE DATE:** December 3, 1984.

**FOR FURTHER INFORMATION CONTACT:** Barbara Williams or Philip Otterness, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

**SUPPLEMENTARY INFORMATION:**

### Background

On October 11, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 39888) the preliminary results of its administrative review of the

countervailing duty order on deformed steel bars for concrete reinforcement ("rebars") from South Africa (47 FR 47900, October 28, 1982). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

**Scope of the Review**

Imports covered by the review are shipments of South African rebars. Such merchandise is currently classifiable under items 606.7900 and 606.8100 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1983, through June 30, 1983 and two programs: (1) Preferential rail rates, and (2) Export Incentive Program—Categories A, B, and D.

**Final Results of the Review**

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results. We determine the total bounty or grant to be zero percent for the period January 1, 1983, through June 30, 1983. The Department will instruct the Customs Service to liquidate entries of this merchandise exported on or after January 1, 1983, and on or before June 30, 1983 without regard to countervailing duties.

The Department will instruct the Customs Service not to collect a cash deposit of estimated countervailing duties, as provided for in section 751(a)(1) of the Tariff Act, on any shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirements shall remain in effect until publication of the final results of the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the requested information.

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 § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: November 27, 1984.

**Alan F. Holmer,**

*Deputy Assistant Secretary, Import Administration.*

[FR Doc. 84-31527 Filed 11-30-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-223-401]

## Suspension of Countervailing Duty Investigation; Portland Hydraulic Cement From Costa Rica

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

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce has decided to suspend the countervailing duty investigation involving portland hydraulic cement from Costa Rica. The basis for the suspension is an agreement to renounce completely all benefits provided by the government of Costa Rica which we find to constitute bounties or grants on portland hydraulic cement exported to the United States.

**EFFECTIVE DATE:** December 3, 1984.

**FOR FURTHER INFORMATION CONTACT:** Steven Morrison or Stuart Keitz, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-3003 or 377-1769.

**SUPPLEMENTARY INFORMATION:**

**Case History**

On June 21, 1984, we received a petition in proper form from the Puerto Rican Cement Co., Inc. and the San Juan Cement Co., Inc. on behalf of the U.S. industry producing portland hydraulic cement. Petitioners alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended ("the Act"), are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Costa Rica of portland hydraulic cement exported to the United States.

Costa Rica is not a "country under the Agreement" within the meaning of section 701(b) of the Act, therefore, section 303 of the Act applies to this investigation. The merchandise being investigated is nondutiable, but there is no "international obligation" within the meaning of section 303(a)(2) of the Act (which requires an injury determination for nondutiable merchandise). Therefore, the domestic industry is not required to allege that, and the United States International Trade Commission is not required to determine whether, imports of this product cause or threaten to cause material injury to a U.S. industry. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on July 11, 1984, we initiated an investigation (49 FR 29117).

On July 23, 1984, we presented a questionnaire concerning the allegations to the government of Costa Rica in Washington, D.C. On August 23, 1984, we received the response to the questionnaire.

We issued an affirmative preliminary determination on September 14, 1984 (published on September 21, 49 FR 37134). We preliminarily determined that there was reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of the Act were being provided to Industria Nacional de Cementos, S.A. ("INCSA"), the only cement manufacturer to export cement to the United States from Costa Rica. We prelimarily determined the net bounty or grant was 15 percent *ad valorem*. The program preliminarily determined to bestow countervailable benefits was the Tax Credit Certificates (Certificados de Abono Tributario, or "CAT").

We directed the U.S. Customs Service to suspend liquidation of all entries of the product under investigation which were entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or the posting of a bond on this product in an amount equal to the estimated net bounties or grants. The only U.S. destination for Costa Rican cement was Puerto Rico.

We verified information provided by the government in Costa Rica during the week of October 15-18, 1984.

Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. On October 12, 1984 a public hearing was held at the request of the Government of Costa Rica and of the petitioners.

On October 29, 1984, we initialed a proposed suspension agreement pursuant to section 704 of the Act. Petitioners were provided an opportunity to submit comments regarding the proposed suspension agreement. We have taken such comments into consideration.

**Scope of the Investigation**

The product covered by this investigation is portland hydraulic cement. The merchandise is currently classifiable under item number 511.1440 of the *Tariff Schedules of the United States, Annotated (TSUSA).*

Only one company was identified by the government of Costa Rica as being a manufacturer and exporter of the product under investigation. It is Industria Nacional de Cementos, S.A. (INCSA).

The period for which we are measuring bounties or grants is October

1, 1982 through September 30, 1983. This was the last complete fiscal year for INCSA at the time the Department of Commerce's questionnaire was sent out.

**Petitioners' Comments**

Petitioners made the following comments concerning the suspension agreement which we initiated on October 29, 1984.

*Comment 1.* Petitioners request that clauses be added to the suspension agreement requiring bank certification that INCSA has turned in all its CATs and expressly requiring that INCSA can not receive benefits for certificates turned in after initialing the suspension agreement.

*DOC Position.* Since the suspension agreement is only between the Department of Commerce and INCSA, we cannot request third parties, such as the Banco Central de Costa Rica, to certify that INCSA has turned in all of its CAT Certificates.

Commerce cannot retroactively prohibit INCSA from selling its CAT certificates at a discount in the market prior to the effective date in the final agreement. However, we concur with petitioner, that the final agreement should ensure that no benefit is obtained on return of the CAT certificates to the Central Bank and we have amended the provisions of the agreement accordingly.

*Comment 2.* INCSA's representation that it will not apply for or receive any countervailable bounties or grants should be amended to expressly exclude programs Costa Rica is currently developing.

*Doc Position.* Paragraph B.1.b. of the Agreement contains INCSA's representations that it will not apply for or receive *any* counteravailable bounties or grants in the future.

*Comment 3.* Monitoring provisions should be made more effective by committing the Department of Commerce to explicitly agree to annual verifications. INCSA should be required to make the same reporting commitments to petitioners as to the Department of Commerce.

*DOC Position.* The agreement is between the Department of Commerce and the respondent, INCSA. It requires quarterly reporting of the value and volume of portland hydraulic cement exported from Costa Rica to the United States. Some of these data are confidential. The statute contemplates the Department's receipt and restriction of access to confidential information. The statute does not contemplate requiring INCSA to report to petitioners and we will not expand section 704 of the Trade Act to include reporting requirements to business competitors.

**Suspension of Investigation**

We consulted with the petitioners and considered the comments submitted with respect to the proposed agreement. We determined that the agreement: Will eliminate or offset completely the net bounty or grant with respect to the subject merchandise exported directly or indirectly to the United States; can be monitored effectively; and is the public interest. Therefore, we find that the criteria for suspending an investigation under section 704 of the Act have been met. The terms and conditions of the agreement, signed February 23, 1983, are set forth in Annex 1 to this notice.

Pursuant to section 704(f)(2)(A) of the Act, we hereby terminate the suspension of liquidation of all entries, entered or withdrawn from warehouse, for consumption of portland hydraulic cement from Costa Rica effective September 21, 1984, pursuant to our Preliminary Affirmative Countervailing Duty Determination; Portland Hydraulic Cement from Costa Rica (49 FR 37134). Any cash deposits on entries of portland hydraulic cement from Costa Rica pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

**Right to Request Continuation of Investigation**

Notwithstanding the agreement, we will continue the investigation if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published in pursuant to section 704(f)(1)(A) of the Act.

Dated: November 28, 1984.

**Alan F. Holmer,**

*Deputy Assistant Secretary for Import Administration.*

**Annex I**

*Suspension Agreement— Portland Hydraulic Cement From Costa Rica*

Pursuant to the provisions of section 704 of the Tariff Act of 1930 ("the Act"), and § 355.31 of the Commerce Regulations, the Department of Commerce ("the Department") and Industria Nacional de Cementos, S.A. ("INCSA"), Apdo. 4009–1000, San Jose, Costa Rica, enter into the following Suspension Agreement ("the Agreement") on the basis of which the Department shall suspend its countervailing duty investigation filed pursuant to section 303 of the Act, with respect to portland hydraulic cement from Costa Rica, subject to the terms and provisions set forth below.

A. *Scope of the Agreement.* The Agreement applies to portland hydraulic cement from Costa Rica other than white non-staining portland cement, which is manufactured or exported by INCSA and which is currently classifiable under item 511.1440 of the *Tariff Schedules of the United States Annotated* (TSUSA) (hereinafter, referred to as the "subject product").

B. *Basis for the Agreement.* 1. INCSA is a manufacturer of the subject product, accounting for more than 85 percent of the total imports of the subject product from Costa Rica into the United States. INCSA voluntarily agrees not to apply for or receive any countervailable benefits, for products that are produced in Costa Rica and exported directly or indirectly to the United States, from the Costa Rican government's Tax Credit Certificates (CAT's) program with respect to shipments of the subject product entered, or withdrawn from warehouse, for consumption in the United States, on or after the effective date of this Agreement. Furthermore:

a. Any unused and outstanding countervailable CAT certificates, that are in INCSA's possession, granted in connection with shipments of the subject product to the United States will be returned to the Banco Central de Costa Rica, without the benefit of compensation, on the effective date of this Agreement.

b. INCSA will not apply for or receive any bounties or grants which are countervailable under the Act. A bounty or grant which is "countervailable under the Act" is any bounty or grant which has been or might be found to be countervailable in any investigation or § 751 review under the Act.

c. INCSA shall notify the Department in writing, at least thirty days prior to knowingly applying for or accepting any new benefits on the subject products that it has a reasonable basis to believe may be countervailable under the Act.

d. Renunciation of the receipt of these benefits does not constitute an admission by INCSA that such benefits are bounties, grants or subsidies within the meaning of the U.S. countervailing duty law or any other U.S. law.

e. The initialing or signing of this Suspension Agreement by INCSA shall not be construed as constituting a waiver of the rights or entitlements of INCSA or the Goverment of Costa Rica to pursue or seek redress of their rights or entitlements under law or statute.

2. In accordance with the provisions of the Act and applicable regulations, this Agreement applies to the product

described in Paragraph A which is produced in Costa Rica and exported directly or indirectly to the United States.

3. The effective date of this Agreement is the date it is published in the **Federal Register.**

C. *Monitoring.* (1) INCSA will supply to the Department such information as the Department deems necessary to demonstrate that it is in full compliance with the terms of this Agreement.

(2) INCSA will notify the Department if it: (a) Transships the subject product through third countries, (b) alters its position with respect to any terms of the Agreement, (c) applies for or receives directly or indirectly the benefits of the programs described in Paragraph B for the manufacture of the subject products exported to the United States.

(3) Furthermore, INCSA agrees to undertake the obligation to report to the Department within 15 days after the beginning of each calendar quarter (April, July, October, January).all relevant information deemed by the Department to be necessary to maintain the Agreeement. The information shall include, but will not be limited to:

(a) The volume and value of all exports of the subject product that is produced in Costa Rica and exported directly or indirectly through intermediaries to the United States;

(b) A report of INCSA's participation, if any, in the CAT's program;

(c) A certification that INCSA continues to be in full compliance with this Agreement.

(4) INCSA agrees to permit such verification and data collection as deemed necessary by the Department in order to monitor this Agreement. The Department will request such information and may perform such verification periodically pursuant to administrative reviews conducted under section 751 of the Act.

D. *Violation of the Agreement.* If the Department determines that the Agreement is being or has been violated or no longer meets the requirements of section 704 (b) or (d) of the Act, then the provisions of section 704(i) shall apply.

Signed on this 27th day of November, 1984, for Industria Nacional de Cementos, S.A.

**Andrew Jaxa-Debicki,**

*Special Counsel, INCSA.*

I have determined that the provisions of Paragraph B completely eliminate the bounties or grants being provided in Costa Rica with respect to portland hydraulic cement exported directly or indirectly to the United States and that the provisions of Paragraph C ensure that this Agreement can be monitored effectively pursuant to section 704(d) of the Act. Furthermore, I have determined that this Agreement meets the requirements of section 704(b) of the Act and is in the public interest as required in section 704(d) of the Act.

Dated: November 28, 1984.

U.S. Department of Commerce.

**Alan F. Holmer,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 84-31528 Filed 11-30-84; 8:45 am]

BILLING CODE 3510-DS-M

## Applications for Duty-Free Entry of Scientific Instruments; National Institutes of Health, 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. 85-000. Applicant: National Institutes of Health, 9000 Rockville Pike, Building 3, Room B1-22, Bethesda, MD 20205. Instrument: Electron Microscope, Model EM 410LS with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: Studies of ameba, baker's yeast and isolated membranes and organelles from these two organisms. The experiments to be conducted will include: (1) Examination of chitin localization with chitin-specific labels in selected cells with mutations affecting chitin synthesis, (2) localization of specific membrane proteins in situ during endocytosis and examination of structural relationships between membrane systems and (3) filament formation in chemically modified myosin; interaction of myosin and actin under various experimental conditions. Application received by Commissioner of Customs: October 12, 1984.

Docket No. 85-001. Applicant: University of Washington, Seattle, WA 98195. Instrument: Electron Microscope, Model EM 410LS with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: Examination of biological specimens for the purposes of diagnosis and research related to diagnosis of disease. At times, the instrument may be used to instruct new residents and staff in its use for the purposes of using the instrument as described above. Application received by Commissioner of Customs: October 12, 1984.

Docket No. 85-002. Applicant: University of Kansas Medical Center, Rainbow Boulevard at 39th Street, Kansas City, KS 66103. Instrument: Electron Microscope, Model JEM-100CX with Accessories. Manufacturer: JEOL, Ltd., Japan. Intended use: Study of cells and tissues of the body in terms of elemental analysis and morphometry. This includes the structure of viruses, virus-induced products of infection and pathogenic organisms in studies on multiplication and distribution of these agents and their interactions and effects on cells and tissues of animals. Studies will also be done to correlate cell selection processes of normal cells with structural changes induced by viruses, chemicals or stress environments in cell and tissue culture. Application received by Commissioner of Customs: October 22, 1984.

Docket No. 85-006. Applicant: Stanford University, 851 Welch Road, Palo Alto, CA 94304. Instrument: Tritium Meter, Model WTM 5000. Manufacturer: Hughes Whitlock Ltd., United Kingdom. Intended use: The instrument will be used to conduct assays for radioactive contamination resulting from the use of radioactive biochemicals in research and teaching laboratories. The radioactivity will be primarily H-3, C-14, P-32, I-125 used in biological and medical research. Application received by Commissioner of Customs: October 22, 1984.

Docket No. 85-007. Applicant: University of Illinois, Urbana-Champaign Campus, 223 Administration Building, 506 S. Wright Street, Urbana, IL 61801. Instrument: Pyrolysis unit with flame ionization and thermal conductivity gas detectors, Model #29340. Manufacturer: Delsi Instruments, France. Intended use: Investigation which involves determining source rocks and studying the organic matter (bitumen and kerogen), contained in Illinois Basin deep rocks. The source rocks will be evaluated for past, present, or future hydrocarbon potential and the organic matter characteristics will be used to correlate source rocks with pooled hydrocarbons and with other source rocks. With data generated by the Rock Eval pyrolysis unit and total organic carbon data, geochemical logs will be plotted for a number of test wells and the potential source rocks in the basin determined and rapidly evaluated.

Application received by Commissioner of Customs: October 22, 1984.

Docket No. 85–008. Applicant: VCU/Medical College of Virginia, Department of Biochemistry, Box 614 MCV Station, Richmond, VA 23298. Instrument: Automatic Recording Spectropolarimeter, Model J–500C and Accessories. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use: Studies of enzymes, proteins and nucleic acid oligomers either naturally occurring or the product of semi-synthetic procedures. The experiments to be conducted are to obtain the circular dichroism spectra of the native, apo (metal-free) and proteolytically modified form of the bacterial·enzyme alkaline phosphatase, to utilize extant algorithms for the interpretation of these spectra in terms of the secondary structure composition of the protein and to obtain the temperature dependent alterations in these spectra as a means of assessing macromolecular stability. In addition, the instrument will be used for educational purposes in the courses Bic 602 Physical Properties of Macromolecules, Bic 604 Enzymology and Bic 605 Molecular Biology. The objectives of these courses are to describe macromolecular structures, the methods employed in obtaining the experimental evidence which gives rise to these structures and illustrating relationships between molecular structure and functional behavior. Application received by Commissioner of Customs: October 26, 1984.

Docket No. 85–009. University of Wyoming, Microbiology and Veterinary Medicine College of Agriculture, Box 3354 University Station, Laramie, WY 82071. Instrument: Electron Microscope, Model EM 410LS with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: Investigations of microbiology and diseases of livestock, wildlife and companion animals. These studies will include morphologic features of causative agents and fine structure changes in host tissues, cell cultures, and microbes. Major areas of emphasis will include current on-going and projected research involving the following agents: Bovine respiratory syncitial virus, bovine leukosis virus, *Anaplasma marginale*, chronic wasting disease of deer, and the common agents of respiratory and enteric diseases of livestock (e.g. IBR, BVD, VSV, bovine rotavirus etc.). Additional studies of fine structure characteristics will be conducted on bacterial plasmid preparations, thin section materials, and other submicroscopic cellular preparations from naturally and experimentally involved animal tissues and tissue culture cells during infection, immunologic disease, intoxications and molecular enginering. Science related educational purposes will include graduate studies in Microbiology and Veterinary Medicine. Application received by Commissioner of Customs: October 22, 1984.

Docket No. 85–010. Applicant: University of Rochester, Institute of Optics, Wilmot Building, Room 121, Rochester, NY 14627. Instrument: Carbon Dioxide Laser with Power Supply, Model GN–802–GP/GE. Manufacturer: MPB Technologies, Inc., Canada. Intended use: Analysis of the refractive profiles of infrared gradient materials in an interferometer. Application received by Commissioner of Customs: October 22, 1984.

Docket No. 85–012. Applicant: University of Kentucky, Department of Chemistry, Lexington, KY 40506–0055. Instrument: Fourier-Transform Infrared Spectrometer System, Model IZMO1 with Accessories. Manufacturer: Bomem, Inc., Canada. Intended use: Spectroscopic studies in the spectral range from far infared to ultraviolet/visible for the following types of chemical compounds: Boron hydride and halide derivatives; volatile small transient molecules such as HBO; boron-containing medicinals; macromolecular and polymeric boron compounds, pyrazaboles and borazines; dipyrazolylboryl polycations; transition metal complexes of Pt, Rh, Pd, Ni; metal carbonyls; and other compounds, particularly of biochemical catalytic and macromolecular nature related to research activities being conducted. The instrument will also be used for instruction of the principles, instrumentation, applications and techniques involved in IR (and other types of) spectroscopy. Application received by Commissioner of Customs: October 22, 1984.

Docket No. 85–013. Applicant: Montana State University, Department of Plant & Soil Science, Leon Johnson Hall, Bozeman, MT 59717–0002. Instrument: Electromagnetic Soil Conductivity Meter, Model EM 38. Manufacturer: Geonics Ltd., Canada. Intended use: Studies of saline soils and their deleterious effects on agricultural crop production. The objectives of the experiments to be conducted involve reducing the problem of saline seeps and accelerating saline seep inventories respectively. In addition, the instrument will be used for educational purposes in the courses: Introductory Soils, Field Soil Survey, Air-Photo Interpretation, Soil Chemistry and Soil Physics. Application received by Commissioner of Customs: October 22, 1984.

Docket No. 85–015. Applicant: The University of Michigan, Randall Laboratory, Ann Arbor, MI 48109. Instrument: Molecular Beam Epitaxy System, Model V80. Manufacturer: Vacuum Generators Ltd., United Kingdom. Intended use: The instrument will be used for the growth of research samples in the form of thin films of high purity metals which are stratified on atomic dimensions, i.e., synthetic crystals of alternating atomic layers of different metals. The materials studied have high melting points and low vapor pressures. Experiments will be conducted to characterize the synthetic thin films, such as X-ray structure, low-temperature conductivity studies, etc. The objectives of the investigations will be to better understand the fundamental behavior of thin films of solids, especially their electron properties. In addition the instrument will be used in the training of graduate students in Physics and Materials Science as part of their thesis work. Application received by Commissioner of Customs: October 4, 1984.

Docket No. 85–016. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Instrument: Ultra High Vacuum Chamber.

Manufacturer: Kratos Analytical Instruments, United Kingdom. Intended use: The instrument will be used as a sample preparation chamber in conjunction with an existing Molecular Beam Epitaxy System. The materials to be studied are layered superlattices utilizing a large range of different elements such as niobium, etc. Application received by Commissioner of Customs: October 22, 1984.

Docket No.: 85–017. Applicant: University of Miami, Department of Pharmacology, 1600 N.W. 10th Avenue, P.O. Box 016189, Miami, FL 33101. Instrument: Fluorescence Microscope. Manufacturer: Carl Zeiss, West Germany. Intended use: Studies of $Ca^{2+}$ regulation of muscle contraction during graduate research in Pharmacology. Application received by Commissioner of Customs: October 26, 1984.

Docket No.: 85–020. Applicant: Furman University, Department of Chemistry, Poinsett Highway, Greenville, SC 29613. Instrument: Excimer Laser, Model TE–861M–4 with Accessories. Manufacturer: Lumonics, Inc., Canada. Intended Use: Studies of small organic and inorganic compounds including methane, silver, and aluminum. The compounds to be studied

will be irradiated with high energy laser light to remove electrons and to form metal cluster radicals in the gas phase. These ionic and neutral species will be wrapped in neon matrices at liquid helium temperatures and studied by means of electron spin resonance techniques. Experiments will be conducted to obtain magnetic data on these new molecules and to compare this information with results obtained from ab initio and CI calculations for the same molecules. This will allow for better modeling of the electronic orbitals. The instrument will also be used for educational purposes in Experimental Techniques in Chemistry II a course to introduce the students to new and different techniques concerning physical chemistry; to encourage independent research; and to provide a means of learning to write journal-quality papers. Application received by Commissioner of Customs: October 26, 1984.

Docket No.: 85–021. Applicant: Research Medical Center, 2316 East Meyer Boulevard, Kansas City, MO 64132. Instrument: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: Examination of a variety of biological material from the human body including tissue, cytological specimens, body fluids and microorganisms (e.g., viruses, chlamydiae, bacteria, and fungi). Research studies will include the following:

(a) Study of kidney tissue to determine ultrastructural alterations in immune mechanisms of pathologenesis of glomerulonephritis and other renal diseases.

(b) Study of soft tissue tumors to determine specific ultrastructural characteristics that will permit delineation of cell of orgin.

(c) Study of lung tissue to determine specific ultrastructural markers of malignant tumors.

(d) Study of liver tissue to characterize role of viruses and viral particles in hepatitis and other inflammatory liver disease.

(e) Uterine cervical tissue to identify herpetic and papova viruses to establish their role as a factor in the etiology of tumors of the cervix.

(f) Study of culture negative granulomatous lesions to determine etiological agents.

(g) Identification and study of viruses that are not readily isolated by culture technique.

(h) Study of abnormal cilia morphology in specialized epithelial cells of the upper respiratory tract and its relationship to chronic pulmonary disease.

The instrument will also be used in the training of pathology residents and medical histotechnologists enrolled in training programs. Application received by Commissioner of Customs: October 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. 84–31525 Filed 11–30–84; 8:45 am]

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[C–580–403]

## Final Affirmative Countervailing Duty Determination; Cold-Rolled Carbon Steel Flat-Rolled Products From Korea; and Final Negative Countervailing Duty Determination; Carbon Steel Structural Shapes From Korea

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

**ACTION:** Notice.

**SUMMARY:** We determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Korea of cold-rolled carbon steel flat-rolled products. The net subsidy is 3.60 percent *ad valorem*. We also determine that no benefits which constitute subsidies within the meaning of the Act are being provided to manufacturers, producers, or exporters in Korea of carbon steel structural shapes. The net subsidy is *de minimis*, and therefore our final determination is negative. Accordingly, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of cold-rolled carbon steel flat-rolled products from Korea which are entered or withdrawn from warehouse, for consumption on or after September 18, 1984, and to require a cash deposit or bond on entries of cold-rolled carbon steel flat-rolled products in the amount equal to the net subsidy.

**EFFECTIVE DATE:** December 3, 1984.

**FOR FURTHER INFORMATION CONTACT:** Barbara Tillman, Rick Herring, or Tom Bombelles of the Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitutional Avenue, NW., Washington, DC 20230; telephone: (202) 377–1785; 377–0187; or 377–3174.

**SUPPLEMENTARY INFORMATION:**

### Final Determination

Based upon our investigation, we determine that the following programs confer subsidies on the products under investigation:

- Short-term Export Financing under the Export Financing Regulations.
- Tax Incentives for Exporters under Articles 22, 23 and 24 of the "Act Concerning the Regulation of Tax Reduction and Exemption."
- Special Depreciation under the "Act Concerning the Regulation of Tax Reduction and Exemption."
- Government Equity Infusions into POSCO.
- Reductions in Port Charges.
- Tariff Reductions on Plant and Equipment under Article 28 of the Customs Act of Korea.

The net subsidy for cold-rolled carbon steel flat-rolled products is 3.60 percent *ad valorem*. Therefore, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided to manufacturers, producers, or exporters in Korea of cold-rolled carbon steel flat-rolled products. The net subsidy for carbon steel structural shapes is 0.37 percent *ad valorem* which is *de minimis*. Therefore, with respect to carbon steel structural shapes, we determine that no benefits constituting subsidies within the Act are being provided to manufacturers, producers, or exporters of carbon steel structural shapes.

### Case History

On June 18, 1984, we received a petition from United States Steel Corporation on behalf of the carbon steel structural shapes and cold-rolled carbon steel flat-rolled products (shapes and sheet) industries. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petitioner alleged that manufacturers, producers, or exporters in Korea of shapes and sheet receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on July 3, 1984, we initiated investigations (49 FR 28294). We stated that we expected to issue preliminary determinations by September 11, 1984. On September 4, 1984, Chaparral Steel Company entered an appearance to become a party to the proceeding with

respect to carbon steel structural shapes.

Since Korea is a "country under the Agreement" within the meaning of section 701(b) of the Act, injury determinations are required for these investigations. On August 8, 1984, the U.S. International Trade Commission (ITC) determined that there is a reasonable indication that these imports materially injure, or threaten material injury to, a U.S. industry (49 FR 31781).

We presented questionnaires concerning the allegations to the government of Korea at its embassy in Washington, D.C., on July 13, and July 23, 1984. On August 17, August 20, and August 21, we received responses to these questionnaires. On August 20, we presented a second supplemental questionnaire to the government of Korea. We received a response to this questionnaire on August 31. We received another supplemental response on September 4. On July 19, August 31, and September 5, petitioner submitted additional information concerning the alleged subsidies and also alleged new subsidies. On September 18, 1984, we published our preliminary determinations that benefits constituting subsidies were being provided to manufacturers, producers, or exporters in Korea of cold-rolled carbon steel flat-rolled products, and that no benefits constituting subsidies are being provided to manufacturers, producers, and exporters of carbon steel structural shapes (49 FR 36538).

At the request of both petitioners and respondents, we held a hearing on October 31, 1984, to allow the parties an opportunity to address the issues arising in the investigations. Both petitioners, respondents, and other interested parties filed briefs before and after the hearing on these issues. They also filed briefs commenting on our verification.

In its pre-hearing brief filed on October 23, 1984, U.S. Steel made additional allegations of benefits received by manufactuerrs and exporters of shapes and sheet. These allegations were (1) Regional Tax Incentives, (2) Tax Incentives for Exporters, and (3) Special Foreign Exchange Loan System. In its post-hearing brief filed on November 14, 1984, U.S. Steel made another allegation with respect to cold-rolled carbon steel flat-rolled products. This allegation concerned government infrastructure aid to POSCO in the Pohang area. Since these allegations were made after our preliminary determinations and after the Commerce verification team returned from Korea, the allegations were made too late to be considered in these investigations. These additional allegations will be given consideration in the section 751 administrative review of the order on cold-rolled carbon steel flat-rolled products, if an order is issued.

**Scope of the Investigations**

The products covered by these investigations are carbon steel structural shapes and cold-rolled carbon steel flat-rolled products. The term "*carbon steel structural shapes*" covers hot-rolled, forged, extruded, or drawn, or cold-formed or cold-finished carbon steel angles, shapes, or sections, not drilled, not punched, and not otherwise advanced, and not conforming completely to the specifications given in the headnotes to Schedule 6, Part 2, Subpart B of the *Tariff Schedules of the United States, Annotated (TSUSA)*, from blooms, billets, slabs, wire rods, plates, sheets, strip, wire, rails, joint bars, tie plates, or any tubular products set forth in the TSUSA, having a maximum cross-sectional dimension of 3 inches or more, as currently provided for in items s 609.8005, 609.8015, 609.8035, 609.8041, or 609.8045 of the *TSUSA*. Such products are generally referred to as structural shapes.

The term "*cold-rolled carbon steel flat-rolled products*" covers the following cold-rolled carbon steel products: cold-rolled carbon steel flat-rolled products are flat-rolled carbon steel products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width, and 0.1875 inches or more in thickness; as currently provided for in item 607.8320 of the *TSUSA*; or over 12 inches in width and under 0.1875 inches in thickness whether or not in coil; as currently provided for in items 607.8350, 607.8355, or 607.8360 of the *TSUSA*.

There are three Korean producers of cold-rolled carbon steel flat-rolled products that exported to the United States during the period for which we are measuring subsidization: Pohang Iron and Steel Company (POSCO), Dongjin Steel Company (Dongjin), and Union Steel Manufacturing Company (Union). In addition, there are six trading companies that exported cold-rolled carbon steel flat-rolled products to the United States during the period for which we are measuring subsidization: Hyundai Corporation, Kukje-ICC Corporation, Sunkyong Limited, Samsung Co. Ltd., Daewoo Corporation and Hyosung Corporation. Inchon Iron & Steel Company (Inchon) is the only producer of carbon steel structural shapes that exported to the United States during the period for which we are measuring subsidization. Of the trading companies, only Hyundai Corporation exported carbon steel structural shapes to the United States during the period for which we are measuring subsidization.

**Analysis of Programs**

Throughout this notice, we refer to general principles applied to the facts of these investigations. These general principles are described in detail in the Subsidies Appendix to the "Final Affirmative Countervailing Duty Determination and Order: Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina," published in the April 26, 1984 issue of the **Federal Register** (49 FR 18006).

For purposes of these determinations, we are calculating a country-wide rate. The period for which we are measuring subsidization is the 1983 calendar year, which corresponds to the most recent fiscal year for each of the Korean producers and exporters.

Petitioner alleged that POSCO is both unequityworthy and uncreditworthy. Although we did not initiate on these specific allegations we did request information in our questionnaries i 1 order to review these allegations in accordance with the guidelines set out in the Subsidies Appendix. Even though government equity infusions into POSCO were found in the 1982 "Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Korea" (47 FR 57535) not to be on terms inconsistent with commercial considerations, our standards have been revised by the Subsidies Appendix, and, thus, we must reexamine these allegations in these investigations.

We have consistently held that government provision of equity does not *per se* confer a subsidy. Government equity purchases bestow countervailable benefits only when they occur on terms inconsistent with commercial considerations. When there is no market-determined price for equity, it is necessary to determine whether the company is a reasonable commercial investment. POSCO's shares are not publicly traded and there is no market-determined price for its shares; therefore, we must determine whether POSCO is equityworthy. To make this determination, we reviewed and assessed POSCO's financial statements from 1972 through 1983. We also examined studies submitted by the government of Korea. In analyzing the financial statements, we considered the information from the viewpoint of an investor. The Department, when

considering the accounting principles and practices, analyzed the impact of certain accounting practices on the company's overall financial results. Specifically, we restated the financial results in each of the relevant years in accordance with Korean generally accepted accounty principles. this restatement resulted in a significant impact on the amount of pofits, losses and net worth of the of the company. After taking into consideration the accounting practices and methods, we examined the following ratios:

- Rate of return on equity:
- Debt to tangible net worth:
- Percent of foreign-denominated debt:
- Cash flow to principal repayment; and
- Current ratio.

Based on our review of POSCO's financial statements and the responses from both POSCO and the government, our verification and comments by the parties to the proceeding, we determine that the government's equity infusions into POSCO were on terms inconsistent with commercial considerations from 1978 through 1980.

With respect to the allegation that POSCO is uncreditworty, we have determined that no long-term loans or loan guarantees are being provided to POSCO on terms that are inconsistent with commercial considerations. Thus, creditworthiness is only of secondary importance in this investigation. Because no long-term loan benchmarks are required, the creditworthiness determination only figures into the calculation of the discount rate for those subsidy programs used by POSCO in which the benefits are treated as grants.

To determine whether POSCO is creditworthy, we focused on the ability of the company to meet its interest obligations. In addition, an important measure of creditworthiness is whether foreign lenders are lending significant amounts of funds to the company. Accordingly, we also examined the percentage of POSCO's outstanding loans that are foreign loans. Our examination of these factors leads us to conclude that POSCO has been and continues to be creditworthy.

Based upon our analysis of the petition, the additional information filed by petitioner, the responses to our questionnaires, comments filed by the parties to the proceeding, and our verification, we determine the following:

*I. Programs Determined to Confer Subsidies*

We determine that subsidies are being provided to manufacturers, producers, or exporters in Korea of carbon steel structural shapes and cold-rolled carbon steel flat-rolled products under the following programs:

A. Short-term Export Financing Under the Export Financing Regulations

Petitioners alleged that the producers and exporters in Korea of shapes and sheet receive preferential short-term export financing under the following programs:

- Export Loans under the 1972 Regulations for Export Financing;
- Export loans provided under the Foreign Trade Act;
- Deferred Payment Export Loans; and
- Preferential Exchange Rates for Export Loans Based on Letter of Credit

Short-term export financing is authorized only through the 1972 Export Financing Regulations. Our determination with respect to the three other programs is discussed in the sections on "Programs Determined Not to Confer Subsidies" and "Programs Not in Existence."

Under the Export Financing Regulations, short-term export loans can be provided to the following:

- Exporters in receipt of letters of credit;
- Exporters concluding documents of acceptance or documents against payment contracts;
- Exporters purchasing local supplies;
- Exporters stockpiling raw materials;
- Exporters with certificates based on past export performance;
- Producers of raw materials for export; and
- Companies awarded domestic projects based on international public tender.

To determine whether a subsidy exists with respect to short-term export loans under the Export Financing Regulations, we must determine whether the export loan program is intended to, or operates to, stimulate export rather than domestic sales, or is contingent on export performance. If there is a preference in a program's operation for export over domestic sales, we then must find an appropriate way to measure that preference.

Prior to June 28, 1982, short-term export loans provided under the Export Financing Regulations were charged a lower interest rate than short-term domestic loans. On June 28, 1982, the Monetary Board established a uniform rate of 10 percent for both export and domestic short-term financing provided by commercial banks. The interest rate in effect during the period for which we are measuring subsidization was 10 percent for short-term export loans. We verified that domestic short-term financing through commercial banks is the predominant short-term debt instrument in Korea (see, for example, the Federation of Korean Industries surveys obtained during verification and the Korean Chamber of Commerce *Survey*, submitted as Exhibit 13 of the Government of Korea's response, August 17, 1984, as well as Bank of Korea *Monthly Statistical Bulletins*).

If all other terms and conditions, as well as the administration, of the domestic and export loan programs were identical, we could not find that an export subsidy is being conferred because export loans are not at an interest rate that is preferential compared to the interest rate on the most comparable, predominant short-term debt instrument. However, we have found that there is a difference in the administration of domestic and export short-term loans programs. The Bank of Korea (BOK) sets different rediscount ratios for export and domestic short-term loans. As specified in the BOK's *1983 Annual Report*, the rediscount ratio for export loans is 70 percent of the face value of the loan. The rediscount ratio on domestic commercial bills is 30 percent of the face value of the loan for large firms and the heavy and chemical industries. The rediscount ratio for small- and medium-sized firms is 70 percent. Small- and medium-sized firms are defined as companies with fewer than 300 employees. None of the steel companies producing the products under investigation is classified as a small- or medium-sized firm. The rediscount rate for both domestic and export short-term loans is 5 percent.

The higher rediscount ratio for export loans provides an incentive for banks to provide an export loan over a domestic loan when lending to a large company. Indeed, the banks' fee structure, which specifies lower fees on the letters of credit on which the short-term export loans are based, indicates that the banks encourage these borrowers to use export financing. Thus, we consider that the higher rediscount ratio for short-term export loans provides, in effect, a preference for export loans over domestic loans.

Because the most comparable, predominant short-term debt instrument (*i.e.*, the 10 percent rate on short-term domestic bank loans) cannot measure this preference, we must find an alternative method of quantifying it. We know from the surveys published by the Korean Chamber of Commerce and by the Federation of Korean Industries, and from the Bank of Korea *Monthly Statistical Bulletins*, that companies do

use sources of short-term financing in addition to bank loans. These sources include investment and finance companies, commercial paper and the curb market. Since the rediscount mechanism operates in such a way as to encourage banks to supply firms short-term export financing at the expense of domestic financing, we must conclude that short-term domestic financing comes from these other sources of financing as well as bank loans.

Therefore, the most appropriate way to measure the preference for export over domestic loans is to compare the 10 percent rate on short-term export credit with a weighted average of rates on short-term domestic credit. We have chosen this measure because it is the best approximation of what firms would pay for export financing if there were not a preference within the banking system for providing loans for export transactions.

The factors used to weight each of the four sources of short-term domestic credit were based on data from a number of sources, including the *Monthly Statistical Bulletins* of the Bank of Korea and the surveys published by the Federation of Korean Industries (FKI). The *Monthly Statistical Bulletins* provide the size of, and interest rates charged on, short-term financing by banks, investment and finance companies and commercial paper. The FKI surveys provide data on the proportion that curb market loans represent of total corporate borrowing for working capital. For the curb market interest rate, we have determined that the most appropriate rate to use is the average monthly rate for 1983 as published in the survey conducted by the Korean Chamber of Commerce, provided as Exhibit 13 to the response submitted by the Government of Korea. This rate is 2.6 percent, which, when compounded, yields an annualized rate of 36.1 percent. We are using the rate published by the Chamber of Commerce as the most appropriate measure of the average curb market rate in 1983, because it is the only independently-conducted study or survey of curb market rates that has been entered in the record of this investigation. We looked extensively for data on these rates at verification. We consider the Chamber survey to be the most accurate reflection of average curb market rates during the period for which we are measuring subsidization.

Using the data from all these sources, we calculated the weighted-average rate that we have determined is the most appropriate way to measure the preference for export over domestic loans. Comparing this weighted-average rate to the 10 percent rate on export loans, we calculate an export subsidy of 0.33 percent *ad valorem* for cold-rolled carbon steel flat-rolled products and 0.36 percent *ad valorem* for carbon steel structural shapes.

B. Tax Incentives for Exporters

Articles 22, 23, and 24 of the "Act Concerning the Regulation of Tax Reduction and Exemption" provide for the deduction from taxable income of a number of different reserves relating to export activities. These reserves cover export losses, overseas market development and price fluctuation losses. Under Article 22, a corporation may establish a reserve amounting to one percent of foreign exchange earnings, or 50 percent of net income in the applicable period, whichever is smaller. If certain export losses occur, they are offset from the reserve fund. If there are no offsets for export losses, the reserve is returned to the income account and taxed, after a one-year grace period, over a three-year period.

Under Article 23 governing overseas market development, a corporation may establish a reserve fund amounting to one percent of its foreign exchange earnings in the export business for the respective business year. Expenses incurred in developing overseas markets are offset from the reserve fund. Like the export loss reserve fund, if there are no offsets for expenses, the reserve is returned to the income account and taxed, after a one-year grace period, over a three-year period.

A price fluctuation reserve fund may be established under Article 24. Under this Article, a corporation may establish reserves equivalent to five percent of the book value of the products and works in progress which will be exported by the close of the business year. This reserve may be used to offset losses incurred from the fluctuation of prices for export goods. These losses may be offset by returning an amount equivalent to the losses to the income account. If not so utilized, the reserve is returned to the income account the following business year.

The balance in all three reserve funds is not subject to corporate tax, although all monies in the reserve funds are eventually reported as income and subject to corporate tax either when they offset export losses or when the one-year grace period expires. We determine that these export reserve programs confer benefits which constitute export subsidies because they provide a deferral of direct taxes specifically related to export performance. Only certain trading companies exporting cold-rolled carbon steel flat-rolled products used these programs during the period for which we are measuring subsidization.

Because these export reserve funds constitute a deferral of tax liabilities, we treat the tax savings on these funds as interest-free loans to the corporation. Accordingly, we have quantified the benefits from the reserve funds by calculating the amount of tax savings and then applying a rate of interest which the firm would have had to pay for a short-term loan. Using this methodology, we calculate a benefit of less than 0.005 percent *ad valorem* for cold-rolled carbon steel flat-rolled products.

C. *Special Depreciation Under the "Act Concerning the Regulation of Tax Reduction and Exemption*

In our questionnaire, we requested information on a program that permits accelerated depreciation under Article 25 of the Act Concerning the Regulation of Tax Reduction and Exemption." Article 25 permits a firm earning more than 50 percent of its total proceeds in a business year from foreign exchange to increase its normal depreciation by 30 percent. As discussed in the section "Programs Determined Not To Be Used," we verified that no producers or exporters of shapes and sheet claimed accelerated depreciation under Article 25. However, POSCO did claim "special" depreciation under Article 11 of the "The Act Concerning the Regulation of Tax Reduction and Exemption." This special depreciation is provided to "a domestic person carrying on an important industry." The "important" industries include:

- The naptha-cracking industry;
- The iron and steel industry producing pig iron;
- The machine industry;
- The electronics industry;
- The shipbuilding industry; and
- The aerial industry.

Our review, during verification, of the Enforcement Decree for Article 11, indicated that only those enterprises within a designated industry that produce designated goods, are eligible for this special depreciation. We asked the administering authority for clarification concerning whether all firms or just certain firms within an industry could claim this special depreciation. The government of Korea did not provide any further documentation clarifying the eligibility requirements. Thus, because we have no evidence in the record of these investigations that this special depreciation for "important" industries

is not limited to a group of enterprises, we determine that it consitutes a subsidy. POSCO is the only company producing either of the products under investigation that claimed this special depreciation.

To calculate the benefits from the special depreciation program for the period in which we are measuring subsidization (calendar year 1983), we determined the tax savings received in 1983 based on the special depreciation which had been deducted from the 1982 income taxes payable in 1983. The amount of tax savings received under this program was divided by the total value of all sales in 1983 to determine a subsidy of 2.41 percent *ad valorem* for cold-rolled carbon steel flat-rolled products.

D. Government Equity Infusions into POSCO

Petitioner alleged that equity infusions into POSCO by the government of Korea were on terms inconsistent with commercial considerations. As discussed in the "Analysis of Programs" section, we determine that POSCO was not a reasonable commercial investment (was unequityworthy) from 1978 through 1980, and thus the government equity infusions in each of those years were on terms inconsistent with commercial considerations. Therefore, we determine that these infusions confer benefits which constitute a subsidy. To calculate the benefit, we followed the rate of return shortfall methodology outlined in the Subsidies Appendix. The net subsidy if 0.71 percent *ad valorem* for cold-rolled carbon steel flat-rolled products.

E. Reductions in Port Charges

"Designated companies" under the Iron & Steel Industry Rehabilitation Order are eligible on a case-by-case basis to receive discounts from regular utility and port rates. In its response, the government stated that this program was never fully implemented and that only POSCO receives any benefits under it. We verified that POSCO receives a 50 percent reduction in port charges only. Because this reduction is limited to a specific enterprise, we determine that it constitutes a subsidy. Since the reduction is 50 percent of port charges, the amount of the benefit is equal to the amount of port charges paid and is treated as a grant. Under the grant methodology outlined in the Subsidies Appendix, we must compare the sum of all grants received in any given year with 0.5 percent of total sales. If the sum of all grants is less than 0.5 percent, then the grant is allocated to the year of receipt. If the sum of all grants is greater than 0.5 percent, then we allocate the benefit of those grants over 15 years, which is the average useful life of renewable physical assets in the steel industry. Because POSCO could only provide the port charges paid in 1981 through 1983, we used, as best information available for each of the previous years, an average of the port charge paid in 1981 through 1983. Using this methodology, we calculate a subsidy of 0.05 percent *ad valorem* for cold-rolled carbon steel flat-rolled products.

F. Tariff Reductions on Plant and Equipment

Under Article 28 (Duty Abatement for Important Industries) of the Customs Act. "Customs duty may be abated with respect to goods which are designated by the notice of the Ministry of Finance from among machinery equipment for the use of such industries as designated by an Ordinance of the Ministry of Finance from among those falling under any of the following subparagraphs * * * which cannot be properly manufactured domestically * * *." The industries listed in the subparagraphs include the chemical industry, primary metal manufacture, general machinery manufacture, manufacuture of electric instruments, manufacture of transportation machinery, manufacture of scientific instruments, manufacture of machine parts, and electric railroad transportation. In our preliminary determinations, we found these tariff reductions to be a subsidy because eligibility for the reduction required government designation and because we did not know whether all the industries listed in the Act had been designated by the Ministry of Finance.

During the government verification, we received a list of all industries designated by the Ministry from 1974 through 1983. While we were verifying this program at one of the companies, we found that the designated industries are subdivided into three categories: Class A, Class B and Class C.

Companies in Class A are eligible for a higher percentage of tariff reduction than those in Class B and Class C. The Class A category includes the following:

- Naptha-chemical industry;
- Steel producers with over 200,000 tons of capacity;
- Manufacturers of certain machinery such as steam turbines and hydrogenerators;
- Electric railway manufacturers; and
- Certain transportation and scientific equipment.

Based on our review of documentation entered in the record of these investigations, it appears that eligibility for Class A tariff reductions is limited to specific enterprises within designated industries, while eligibility for Class B and Class C tariff reductions are provided to all others in the designated industries. Thus, because no evidence has been submitted to the contrary, we determine that Class A tariff reductions are limited to a group of enterprises and, as such, constitute subsidies.

To determine the amount of the benefit from these tariff reductions, we must determine whether the Class B and Class C tariff reductions are limited to a specific enterprise or industry or group of enterprises or industries. In the 1974 Enforcement Decree, 14 separate industries were designated, including agriculture, mining, chemicals, basic metals, machinery, electric appliances, defense, air transportation and electric railways. All the firms in these industries are eligible for at least a Class C designation. Accordingly, given the number and diversity of those eligible, we do not consider that Class C tariff reductions are limited to a specific enterprise or industry or group of enterprises or industries.

Two companies producing the products under investigation, POSCO and Inchon, have received tariff reductions on plant and equipment. To calculate the benefit from Class A tariff reductions, we compared the amount of tariff reduction received under Class A and the amount of tariff reduction that the company would have received under Class C. We treated the difference as a grant. As explained in the section on "Reductions in Port Charges" above, we summed all the benefits being treated as grants in any given year (*i.e.*, the sum of the reduction in port charges plus tariff reductions on plant and equipment). When the sum of the grants was greater than 0.5 percent, we allocated the grants over 15 years. Using this methodology, we calculate a susidy of 0.10 percent *ad valorem* for cold-rolled carbon steel flat-rolled products and 0.01 percent *ad valorem* for carbon steel structural shapes.

*II. Programs Determined Not To Confer Subsidies*

We determine that benefits which constitute subsidies are not being provided to manufacturers, producers, or exporters in Korea of shapes and sheet, under the following programs:

A. Medium- and Long-Term Credit

Petitioner alleged that producers of shapes and sheet, as part of the Korean steel industry, have received medium- and long-term financing through

government direction of credit and programs designed to finance major or key industries, and that these loans are made on terms which are inconsistent with commercial considerations.

In order to investigate the first allegation, that credit is directed within the Korean economy, we have examined whether the Korean government mandates, explicitly or implicitly, that certain industries or exterprises receive credit at the expense of other borrowers. If there are explicit or implicit government mandates that certain industries or firms receive funds, then we would expect to find this reflected in the composition of the loan portfolios of all the lending institutions combined. Absent a finding that these key or major industries receive a disproportionate share of the medium- and long-term loans available in Korea, we cannot conclude that the Korean government is directing credit to the steel industry.

Medium- and long-term financing is provided through three types of financial organizations in Korea:

(1) Commercial banks;

(2) Specialized banks; and

(3) Development institutions (Korea Development Bank and the Export-Import Bank of Korea).

In addition, there are two government funds through which long-term financing is provided:

(1) The National Investment Fund; and

(2) The Fund for Expanding Export Facilities.

We have examined the three types of financial organizations and the two government funds that are the sources of medium- and long-term borrowing in Korea.

Viewing these institutions and funds in the aggregate, we determine that there is no government direction of medium- and long-term credit to the producers of shapes and sheet or to the broader steel sector. We have found that the lending institutions in Korea, when viewed as a whole, provide medium- and long-term loans to all sectors and all major industry groups, indeed to virtually all industries. Notwithstanding that certain of the sources have been created to provide credit to designated groups of recipients, these groups do not receive a disproportionate share of the total medium- and long-term credit available from all sources combined. Moreover, we determine that the steel industry does not receive a disproportionate share of funds from all these sources. Indeed, over the last 15 years, the steel industry has accounted for approximately 6 to 13 percent of GNP. During the same period the basic metals sector, which includes steel, has received 5 to 8 percent of medium- and long-term loans.

Although we have found that credit is not directed by the Korean government to producers of shapes and sheet or to the broader steel industry, we must still examine whether particular medium- and long-term loans from any of the individual institutions or funds confer benefits which constitute subsidies within the meaning of the countervailing duty law.

In order to determine that medium- and long-term loans are providing benefits which constitute domestic subsidies, we must find that the program is limited to a specific enterprise or industry or group of enterprises or industries, and that the loans are provided on terms inconsistent with commercial considerations. If either of these conditions is not met, then we cannot find that a domestic subsidy exists.

In making the determination on whether a program is limited to a specific enterprise or industry or group of enterprises or industries, we have consistently examined whether there is a *de facto*, as well as a *de jure*, limitation. In making the determination of whether a loan is inconsistent with commercial considerations, we examine whether the potentially countervailable loan offers more favorable terms than the firm would otherwise receive.

Based on our verification and information provided by the petitioners, the responses and the briefs submitted by parties to the proceeding, we have found the following with respect to each of the three types of financial organizations and the government funds:

1. *Commercial Banks.* Commercial banks, which until the early 1980's were either government-owned or government-controlled, consist of seven nationwide or "city" banks and 10 regional or "local" banks. The branches of 48 foreign banks are also included in the commercial bank category. The domestic commercial banks are authorized by the General Banking Act (G.B.A.) and provide the normal financial services that are usually offered by banks in all countries. There is no explicit listing in the G.B.A. that designates certain industries or sectors for receipt of commercial bank credit.

Bank of Korea statistics show the distribution of loans from the deposit money banks (DMB's). DMB's include both commercial and specialized banks. (Specialized banks are discussed in the following section.) Examination of the Bank of Korea statistics demonstrates that during both the 1970's and 1980's all sectors of the economy received loans through the DMB's and that steel did not receive a disproportionate share.

During verification, we obtained loan statistics directly form Hanil and Cho-Heung, two of the five largest commercial banks in Korea. The loan statistics are broken down by sector, major industry group and industry. The sectors are:

- Agriculture and forestry;
- Mining;
- Manufacturing;
- Electricity, gas and water;
- Construction;
- Wholsesalers;
- Transportation and warehousing; and
- Others (including social services).

Each of these sectors is then broken down by major industry group and by industry within each group. Steel production is included in the primary metals group within the manufacturing sector. This group includes, in addition to steel, categories for aluminum and others.

Our review of the loan statistics of these two banks for various years in the 1970's and 1980's shows that all sectors and major industry groups, indeed, virtually all industries, received loans. Furthermore, the statistics do not show that the steel industry received a disproportionate share of the loans.

2. *Specialized Banks.* There are seven specialized banks in Korea: Korea Exchange Bank, Medium Industry Bank, Citizens National Bank, Korea Housing Bank, National Agricultural Cooperatives Federation, National Federation of Fisheries Cooperatives and Members Cooperatives, and the National Livestock Cooperative Federation. Each of these banks is set up by its own Act, and, by their titles, these banks are explicitly chartered to service certain broad sectors of the Korean economy.

Like commercial banks, specialized banks are deposit money banks and, therefore, are included in Bank of Korea statistics on DMB loan distribution. As stated previously, the Bank of Korea statistics show that all sectors and industries have received loans through the DMB's and that steel has not received a disproportionate share of DMB loans. In addition, it is clear that the specialized banks have been set up to serve sectors of the economy besides steel. None has been set up specifically for the steel industry or even for the manufacturing sector or heavy industry or even for the manufacturing sector or heavy industry sector. We verified that the steel companies producing the products under investigation have only a few outstanding long-term loans from

specialized banks and that these loans do not represent a disproportinate share of the long-term loan funds from specialized banks.

3. *Development Institutions.*— a. *Korea Development Bank (KDB).* The KDB was established in 1954 to aid in the reconstruction of the country following the Korean War. Once reconstruction was completed, the bank shifted its resources to support the development of industries deeded important for long-term economic growth. The industries named in the KDB Enforcement Decree include electric power, coal mining, shipbuilding, iron and steel manufacturing, semiconductors and overseas marine and/or air transport. In addition to these industries, KDB also provides loans for agriculture, oil and gas, food and beverage, textiles, paper and paper products, chemicals, rubber and plastic products, non-metallic mineral products, fabricated metal products, machinery and equipment, construction, wholesale and retail trade, communications and financial services. Thus, while there is an explicit designation that the KDB will service certain industries, it also has provided loans to borrowers in numerous industries that were not designated.

During the 1970's and 1980's, the KDB accounted for approximately 45 percent of the medium- and long-term loans available. Prior to the June 1982 equalization of interest rates, these designated industries were charged a lower interest rate than KDB borrowers in other industries. The interest rates charged by KDB are set by the Ministry of Finance.

b. *Export-Import Bank of Korea.* Promulgated by Law No. 2122 in July 1969, the purpose of the Export-Import Bank of Korea (Eximbank) is "to promote the sound development of the national economy and economic cooperation with foreign countries by extending the financial aid required for export and import transactions, overseas investment and the development of natural resources abroad." The Enforcement Decree for the Act specifies the "major" raw materials that Eximbank should develop:

- Coal, iron ore, copper, petroleum, and other mined materials;
- Timber and other forest materials;
- Grains, cotton, sugar, rubber and other agricultural materials; and
- Other raw materials deemed necessary to secure stabilized long-term supply for the economy; however, this should be decided through a state meeting and announced through the Ministry of Finance

Thus, if there is any explicit designation of recipients of loans from the Eximbank, the designated group is raw material users.

During verification, we examined all export and overseas investment loans awarded from 1976 through 1982. During those seven years, only five loans were awarded to the steel industry; one in 1979, two in 1980 and two in 1982. None of these five loans was for the financing of exports of the products under investigation. Also, during each of these years, there were other projects financed in other industries. For example, in 1979, the other overseas investment loans went to a textile plant project, a manufacturing plant project, fishery development, a cement plant project, and vessel chartering. Thus, the Korea Eximbank finances projects in a wide number of industries. Moreover, the steel industry has not received a disproportionate share of Eximbank loan monies.

4. *The National Investment Fund.* On December 14, 1973, the government of Korea established the National Investment Fund (NIF) through Law No. 2635. The stated "purpose of this Act is to prescribe necessary matters for the establishment and effective management of the National Investment Fund on the bases of extensive nationwide savings efforts and participation, to secure and supply the investment and loan funds needed to promote the construction of major industries, including the heavy and chemical industries, as well as to help increase exports."

In the preliminary determinations, we determined that NIF loans were countervailable export subsidies because one of the express purposes stated in the Act was to help increase exports and because they were provided at preferential rates.

During verification, we found that there are two types of NIF loans, one to finance development and one to finance exports on a deferred payment basis. The NIF loans to finance exports on a deferred payment basis are managed by Eximbank. We verified that exports of the products under investigation are not eligible to receive NIF loans for exports on a deferred payment basis and that none of the companies producing shapes and sheet has financed exports of shapes and sheet through this program.

With respect to the other pool of NIF monies, our examination of loan files, as well as application and approval documents at the companies, did not reveal any export-related conditions on these NIF loans. Thus, we now conclude the NIF loans are not export subsidies.

Despite the fact that NIF loans would not be considered export subsidies, the law establishing the fund and the enforcement decree explicitly designate certain industries for receipt of these loans. In addition to "major industries, including the heavy and chemical industries," the enforcement decree names steel, nonferrous metals, shipbuilding, machinery, chemicals, electronics, food production, power, mining, cement, rural manufactured goods, projects to increase rural income, and fishing and Fisheries projects. NIF loans accounted for 25 to 30 percent of the medium- and long-term loans issued in the 1970's and 1980's.

5. *Fund for Expanding Export Facilities.* During verification at the companies we found several outstanding long-term loans received through the "Fund for Expanding Export Facilities." This fund was established in 1973 and abolished in 1982. Eligibility for these loans was limited to manufacturers building facilities for producing export goods or raw materials and purchasers of ocean-going vessels used for the fish export industry. Thus, this Act designates exporters as recipients.

Based on the findings reported above, we determine that because commercial banks and specialized banks provide medium- and long-term loans to all sectors and industries in the economy, and because the steel industry did not receive a disproportionate share, loans from these sources are not limited to a specific enterprise or industry or group of enterprises or industries and therefore do not provide benefits which constitute subsidies. Furthermore, based on our review of the Eximbank Act and the Enforcement Decree, and the distribution of the loans we find that there is no *de jure* or *de facto* limitation to an enterprise or industry or group of enterprises or industries. Accordingly, we determine that Eximbank loans do not provide benefits which constitute subsidies.

We also determine that loans provided to the shapes and sheet producers through the KDB and the NIF do not provide benefits which constitute subsidies, because the interest rates paid on these loans have been equal to the interest rate for all medium- and long-term loans in Korea since June 1982. Thus, these loans are not on terms inconsistent with commercial considerations.

To determine whether a loan is inconsistent with commercial considerations, we rely on the methodology in the Subsidies Appendix for long-term loans to companies

considered creditworthy. As stated in the Appendix, the benchmark for long-term loans is company-specific, unless the company lacks adequate comparable commercial experience. If the company lacks comparable commercial experience, we use a national average long-term loan interest rate.

After finding an appropriate benchmark loan, the next step in determining if a loan was given on terms inconsistent with commercial considerations is to calculate the payment differential between the benchmark loan and the loans at issue. Consistent with our methodology, when the long-term loans are at variabale interest rates, we calculate the benefit based on the differential between the interest rate for the loan at issue and the interest rate on the benchmark loans in the year for which we are measuring subsidization. As stated above, the rates on all medium- and long-term loans were equalized in 1982. Hence, for the year in which we are measuring subsidization, there is no interest differential between the loans at issue and the benchmark loans.

We note that using as the benchmark the 1983 interest rate on a variable rate long-term commercial loan is not a departure from prior practice. In our preliminary determinations we used a short-term interest rate as the benchmark for NIF loans. However, we stated that because we needed additional information in order to determine whether loans from commercial and specialized banks were subsidies, we could not use those variable rate long-term loans in establishing our benchmark. Thus, because we had no comparable commercial long-term loan experience with which to compare NIF loans, we used, as best information available, a short-term rate for purposes of measuring the benefit conferred by these loans.

Finally, we determine that loans received by the shapes and sheet producers under the Fund for Expanding Export Facilities do not confer benefits that constitute export subsidies. Assuming, as we do, that eligibility for these loans is contingent upon export performance, to quantify any benefit arising from these long-term export-related loans, we must compare the terms of these loans to the cost of comparable commercial domestic long-term loans.

We know that all loans from the Fund for Export Facilities that were still outstanding during the period for which we are measuring subsidization were charged 10 percent interest after the June 1982 equalization of interest rates. Thus, since June 1982 the cost to the borrower on these loans is the same as the cost of comparable domestic long-term loans. As a result, we find that no benefit is conferred by these long-term export-related loans.

B. Import Duty Deferrals

Article 36 of the Customs Act of Korea permits the Ministry of Finance to designate an industry as eligible to pay customs duties on an installment basis, rather than upon entry. In our preliminary determinations, we determined this program to confer a subsidy because the government of Korea did not provide us with any information demonstrating that during the period for which we are measuring subsidization this program was not limited to a specific enterprise or industry or group of enterprises or industries. A program may be available, in principle, to a wide group of industries, but when there appears to be some discretion on the part of the government in the granting of benefits under the program, we must determine whether that discreation effectively limts the program to specific enterprises or industries.

During verification, we found that twenty-four industries were eligible to receive duty deferrals including industries as disparate as mining, cement, fertilizers, chemicals, machine tools, steel works, and plywood. Once an industry is considered eligible, each company within that industry may request deferral status by submitting an application to the Tariff Administration Office of the Office of Customs Administration. We examined this program to determine if only certain companies within each of the twenty-four industries had their application for duty deferral status approved. We found that in practice there appears to be no limitation to the companies within the tweny-four industries which receive duty deferrals, and that any company which applies is granted that status. Therefore, we determine that this program is not limited to a specific enterprise or industry or group of enterprises or industries, and, therefore, does not constitute a subsidy.

C. Investment Tax Credit

Petitioner alleged that producers and exporters of shapes and sheet may receive preferential tax benefits under Article 72 of the "Act Concerning the Regulation of Tax Reduction and Exemption," which provides for a temporary investment tax credit when the government deems it necessary for adjustment of economic activities. During the period from January 1, 1982, through December 31, 1982, Article 57–2 was the enforcement decree for Article 72. Article 57–2 specifies that the investment tax credit was available for the acquisition of fixed assets used directly for the manufacturing or mining business. Consistent with past practice, programs available to all industries in the manufacturing and mining sectors are not limited to "a specific enterprise or industry, or group of enterprises or industries," and thus do not provide domestic subsidies. Since the tax credit is not contingent on export performance, it does not provide an export subsidy. Thus, we detemine that this program does not constitute a subsidy.

D. Equity Infusions Into DongJin

Petitioner alleged that POSCO equity infusions into DongJin were on terms inconsistent with commercial considerations. DongJin was established on October 27, 1982, by POSCO. At the time of DongJin's formation, POSCO invested funds in order to provide cash for the purchase of the assets of Ilssin Steel Company and working capital for DongJin's future operations. POSCO also guaranteed the notes of DongJin used for the purchase of Ilssin's assets.

Ilssin Steel Company was a bankrupt company, owned and operated by its two major creditors, Korea Exchange Bank (KEB) and Commercial Bank of Korea (CBK). In accordance with Korean law, at the time of bankruptcy the courts foreclosed upon Ilssin's assets and offered the assets for sale at public auction. Because there were no other bidders for the assets at the appraised value or above, the banks, which were the highest bidders, purchased the assets at auction. These assets were then sold to DongJin for cash and notes.

According to the banks: (1) The price offered by DongJin was the highest price which they could obtain. (2) the banks' operations of Ilssin were resulting in a cash drain on them, and (3) it was in the bank's interest to sell the assets as a package, so as not to significantly decrease the value of the total package. Because there were no bidders, at auction, which would have paid the appraised value of the assets, and because it was in the banks' interest to minimize their losses, the sale of Ilssin by the banks can be characterized as a distress sale.

Although the banks were eager to sell, the purchase of Ilssin's assets by DongJin presented certain advantages to POSCO. Ilssin had been a major supplier to POSCO. POSCO had knowledge and management expertise to operate Ilssin and under the

circumstances might negotiate terms which could make the venture economically attractive. The terms negotiated required a minimal amount of cash and notes, some of which were at zero interest rate.

To determine whether POSCO's equity infusion into DongJin was on terms inconsistent with commercial considerations, we analyzed the terms compared to ordinary commercial considerations. The Department did not find this transaction inconsistent with commercial considerations for the following reasons.

First, we found no evidence that the government directed the banks to sell the assets to DongJin on favorable terms. Second, the cash investment into a newly created subsidiary by a parent company, and the guaranteeing of subsidiary's notes, when the subsidiary is still a "shell" organization, are normal business practices. Third, because of the commercial advantages to both the seller and the purchaser in this transaction, and the apparent lack of interest by any other party to purchase Ilssin's assets, we determine that the transaction was not on terms inconsistent with commercial considerations. Moreover, we do not consider POSCO's guarantee of DongJin's notes payable to be a subsidy, because no evidence has been submitted that a parent company's guarantee of a wholly-owned subsidiary's loan is inconsistent with commercial considerations.

E. POSCO's Purchases of Domestic Iron Ore

In its July 9 submission, petitioners alleged that, under the Steel Industry Promotion Act (No. 2181 and Enforcement Decree No. 5366), suppliers of iron ore to a domestic steel mill are treated like exporters of the ore and thus are eligible for export financing. In addition, petitioner alleged that, since exports are exempt from the value-added tax (VAT), domestic iron ore sales are as well. We collected information on domestic iron ore sales during verification in conjunction with the allegation that steel companies receive financial and technical assistance in purchasing raw materials (see the section on "Programs Determined Not To Be Used").

At verification, we found that the government sets the prices on domestic iron ore, and that POSCO, the only fully integrated steel mill in Korea, buys virtually all domestic iron ore production. We verified that the price paid by POSCO to the domestic iron ore suppliers was higher than the price paid to numerous unrelated foreign suppliers, none of whom we have found to be subsidized. Consequently, we determine that no competitive benefit is received by POSCO on its purchases of iron ore. Section 613 of the Trade and Tariff Act of 1984, signed by the President on October 30, codifies the standards for determining upstream subsidies. This section generally codifies Department practice. Our investigation was consistent with both Department practice and the newly codified standards.

With respect to petitioner's allegation that POSCO receives an exemption from VAT on its domestic iron ore purchases, we did receive documents, at verification, which indicate that POSCO has been paying VAT on its domestic iron ore purchases. Because POSCO pays VAT on its domestic iron ore purchases and because no competitive benefit is being received by POSCO through its purchases of domestic iron ore, we determine that no countervailable benefits are being provided to POSCO on its purchases of domestic iron ore.

*III. Programs Determined Not To Be Used*

We have determined that manufacturers, producers, or exporters in Korea of shapes and sheet do not use the following programs that were identified in the notice of "Initiation of Countervailing Duty Investigations of Carbon Steel Structural Shapes and Cold-Rolled Carbon Steel Flat-Rolled Products from Korea":

A. Accelerated Depreciation Under Article 25 of the "Act Concerning the Regulations of Tax Reduction and Exemption"

Article 25 of the "Act Concerning the Regulation of Tax Reduction and Exemption" permits a firm earning more than 50 percent of its total proceeds in a business year from foreign exchange to increase its normal depreciation by 30 percent. If the corporation has received less than 50 percent of its total proceeds from foreign exchange, it can still claim some accelerated depreciation, determined by a formula based on the firm's foreign exchange earnings and total business earnings. We verified that none of the producers or exporters of shapes and sheet claimed accelerated depreciation under Article 25 during the period for which we are measuring subsidization.

B. Free Export Zone Program

Petitioner alleged that producers and exporters of shapes and sheet receive tax benefits based upon location in a free export zone. We verified that none of the producers or exporters of shapes and sheet is located in a Free Export Zone.

C. Foreign Capital Inducement Law

Petitioner alleged that producers and exporters of shapes and sheet may be receiving financial and tax benefits under the Foreign Capital Inducement Law. The producers and exporters of shapes and sheet are not eligible for any benefits under this program because they have no foreign ownership.

D. Export Credit Insurance

Petitioner alleged that the government of Korea provides annual contributions to an export insurance program. We verified that export credit insurance was not used to insure exports of shapes and sheet to the United States.

E. Training Aid

Petitioner alleged that the steel industry has received training aid from the government of Korea. We verified that the steel companies producing the products under investigation have not received training grants or other training funds from the government of Korea.

F. Financial and Technical Assistance for Raw Material Purchases

Under the Iron and Steel Promotion Act, financial and technical assistance to purchase raw materials is authorized. However, we found no evidence that steel companies producing the products under investigation receive assistance from the government in purchasing raw materials.

G. Preferential Utility Rates

Petitioner alleged that "designated companies" under the Iron and Steel Industry Rehabilitation Order are eligible on a case-by-case basis to receive discounts from regular utility charges. Under Article 7 of the Iron and Steel Industry Promotion Act reductions on utility charges are authorized. The steel industry make a request to the Korean Electric Company seeking reduced rates but the Electric Company turned down the request and the reductions were never granted. We also found no evidence that the steel companies producing the products under investigation received reductions or other assistance on any other utility rates.

H. Development of Kwangyang Bay Industrial Zone

Petitioner alleged that the government of Korea is constructing a port at Kwangyang Bay to facilitate the importation of coal and iron ore. It is

further alleged that POSCO will benefit from this port. POSCO is in the process of constructing a new steel mill at Kwangyang Bay. The mill is scheduled for completion in 1987.

In 1982, the government established an industrial zone at Kwangyang Bay under the authority of the Industrial Complex Development Act. The authorization for the Kwangyang Bay Industrial Zone states that the purpose of the zone is "to effectively and systematically construct an industrial zone in relation to the construction of Kwangyang steel mill and the major facilities of port, water, roads, railways, etc." According to government officials, the infrastructure is not being built for the exclusive use of POSCO although POSCO will be the first company to use it. In addition, POSCO is undertaking, at its own expense, the construction of several port facilities, such as a central terminal station for cargo and an import pier. There is a projection that 26 companies will locate in the zone upon completion of the infrastructure and POSCO's mill.

We verified that neither the port nor any other infrastructure in the zone has been used to produce or export the products under investigation. Accordingly, we determine that no countervailable benefits were bestowed upon the products under investigation during the period for which we are measuring subsidization.

**Programs Not in Existence**

We determine that the following programs are not in existence or have been abolished:

*A. Preferential Exchange Rates for Export Loans*

Petitioner alleged that producers and exporters of shapes and sheet receive preferential exchange rates for export loans based on letters of credit. Petitioner alleged that the exchange rate used for loans based on letters of credit was 10 percent more favorable to Korean exporters than the actual exchange rate. There is no preferential exchange rate used to convert export financing. For export loans granted under the Export Financing Regulations, a Won/U.S. dollar conversion factor which is lower than the official exchange rate is utilized when a loan is received against a letter of credit. Therefore, we determine that there is no program of preferential exchange rates for export loans that provides countervailable benefits to shapes and sheet producers and exporters.

*B. Export Financing under the Foreign Trade Transaction Act*

Petitioner alleged that the government of Korea provides the steel industry with preferential short-term export financing under the Foreign Trade Transaction Act. The Foreign Trade Transactions Act has been repealed and was not in effect during the period for which we are measuring subsidization.

*C. Steel Industry Development Scheme*

Petitioner alleged that the Korean Ministry of Trade and Industry is sponsoring a steel industry development scheme in which the government will spend 210 billion won on POSCO's plant expansion project. At verification we established that the Ministry of Trade and Industry is not sponsoring such a scheme.

*D. Wage Controls*

Petitioner alleged that the government of Korea controls wages for government-run firms such as POSCO, resulting in lower production costs for this segment of Korean industry. It was further alleged that DongJin may benefit from government wage controls by virtue of its status as a wholly-owned subsidiary of POSCO. The rates paid by POSCO and DongJin to their workers are comparable to the rates paid by other steel manufacturers. We also found no evidence that the government of Korea has a wage control system under which DongJin or POSCO must operate.

*E. Joint Facilities for Industrial Complexes Scheme*

Petitioners in the OCTG investigation alleged in their August 20 submission that the government of Korea was providing funding for joint facilities in industrial complexes, and that the steel industry was one of the industries targeted for such funding. In 1981 such a program was discussed between the Federation of Small and Medium Industry Cooperatives and the government of Korea. The project was to be located near Kimpo Airport in Seoul. However, in January 1982 the proposed project was cancelled due to lack of funding.

*F. Equipment Funds for Export Strategy Industries and Funding for Industrialization of New Technology*

The Ministry of Trade and Industry (MTI) is presently studying proposals concerning these two projects but there has been no final decision on whether to set them up. The Korea Development Bank has received a loan from the Asian Development Bank to fund one of the programs. However, we verified that the only industries eligible to receive loans from this fund are companies producing machines and machine parts.

*G. Assistance for Trading Companies*

Petitioners in the OCTG investigation alleged that the government of Korea provided benefits to trading companies by allowing them to increase their foreign exchange holdings and by allowing them to increase their reserve funds to cover export losses in foreign markets. With regard to the first allegation, trading companies are authorized to maintain foreign currency accounts of over $300,000. However, we found no evidence that other companies are limited in their foreign exchange holdings or any other evidence to suggest that this allowance for foreign exchange holding provides a countervailable benefit to trading companies. Regarding the allegation on export reserves, we verified at the trading companies that there are no special provisions allowing them to claim additional export loss reserves. Even if there were such provisions, we have verified all the outstanding export reserves held by the trading companies.

*H. Import Duty Reductions or Exemptions for Raw Materials*

Petitioner alleged that producers and exporters of shapes and sheet receive reductions or exemptions of import duties on iron ore and coking coal. The 1983 Tariff Schedules of Korea show that imports of iron ore and coking coal were not subject to any import duties. Therefore, we determine that there was no program providing a reduction or exemption of import duties on iron ore and coal that provides countervailable benefits to shapes and sheet producers or exporters during the period for which we are measuring subsidization.

**I. Coal Import Funds**

Petitioner alleged that the government of Korea subsidizes the importation of coal through a specific fund for that purpose. We found that there are no coal import funds or programs that relate to the importation of coking coal used to produce steel. Furthermore, respondents indicate that all imported coking coal is purchased on a commercial basis and that world market prices are paid. Therefore, we determine that there is no coal import fund or program that provides countervailable benefits to shapes and sheet producers.

**Petitioner's Comments**

*Comment 1*: Petitioner argues that the commercial bank interest rate, which was averaged with other rates to

compute the benchmark, is not a free market rate and, therefore, should not have been used in determining a benchmark. In support of this contention, petitioner cites Department practice as reflected in prior proceedings and in the Subsidies Appendix where "commercial" interest rates were used as benchmarks or where market-determined prices were sought.

*DOC Position*: Petitioner is reading our prior determinations and the Subsidies Appendix too narrowly. For example, in seeking a "commercial" benchmark interest rate, we are seeking the alternative financing that is available to the firm in the lending marketplace of that country. We are asking if the interest rate paid on the allegedly preferential loan is less than what the average firm in that country would otherwise be paying. Similarly, in looking to market prices, we are seeking the prices that exist in that country's marketplace.

Typically, the marketplace is not the perfectly competitive market envisaged by economists. Instead, it is the commercial environment facing the firm. The Commercial environment facing the firm. The commercial environment includes any distortions to relative prices that arise from government actions such as government regulation of the banking system, tax systems, customs duties or minimum wage laws. So long as profit-maximizing firms compete within that system, a marketplace exists and our benchmarks for identifying and valuing subsidies are prices in that marketplace.

*Comment 2*: Petitioner argues that the benchmark interest rate used in the Department's preliminary determination, a weighted average of the interest rates charged by all sources of short-term commercial financing in Korea, does not reflect what a company would pay a normal commercial lender and is thus inconsistent with the principles enunciated by the Department for quantifying subsidies. Petitioner further argues that it is the curb market's unregulated interest rate which reflects the real cost of credit in Korea, and thus, pursuant to the principles enunciated in the Department's Subsidies Appendix, the curb market interest rate should be used as the benchmark interest rate in this case.

*DOC Position*: The Department believes that the correct benchmark for short-term lending normally is the most comparable, predominant form of short-term financing in the country under investigation. However, as explained in the section of the notice on "Short-Term Export Financing Under the Export Financing Regulations", the Department has found an incentive for banks to lend for export transactions at the expense of domestic financing. Using best information available, the Department has measured this preference for export lending by comparing the cost of export loans with the weighted-average cost of all forms of short-term domestic financing.

In the case of long-term loans, the Department has followed its standard practice of comparing the terms of loans under examination with the terms of comparable commercial long-term loans (see the section of the notice on "Medium- and Long-Term Credit"). In reaching these determinations, we believe we have been faithful to the principles enunciated in our Subsidiaries Appendix.

*Comment 3*: Petitioner contends that, assuming *arguendo*, the weighted-average benchmark is the correct benchmark, the Department's weighted-average benchmark understates the proportional size of the curb market and overstates the proportional size of bank credit as sources of domestic credit.

*DOC Position*: As explained in the section of the notice on "Short-term Export Financing Under the Export Financing Regulations," we are using a weighted-average of short-term domestic financing costs in order to quantify the banking system's preference for export loans. This weighted-average credit pool comprises short-term domestic bank credit, investment and finance company credit, commercial paper, and the curb market. Our weights are based on the most reliable data entered in the record of this investigation, including the Bank of Korea's *Monthly Statistical Bulletin*, the Federation of Korean Industries' biannual surveys of corporate financing, and the Korea Chamber of Commerce's annual survey of the curb market.

*Comment 4*: Petitioner contends that exporters and/or steel producers of shapes and sheet benefit from a lower effective interest rate on domestic bank loans because they, unlike other borrowers, are not subject to compensating balance requirements.

*DOC Position*: Bank of Korea regulations specifically prohibit domestic banks from requiring compensating balances. During verification, we found no evidence that domestic banks require compensating balances or other borrowers, while not requiring them of exporters and/or steel producers.

*Comment 5:* Petitioner argues that the Korean government allocates the heavily subsidized credit of the "tightly government controlled-banking system" to select priority, export industries. All others must rely on the curb market for funds. Commercial bank loans have especially focused on the Korean steel industry, and loan decisions are based on political, not creditworthiness considerations. U.S. Steel contends that commercial bank loans were not generally available either prior to or during 1983–1984.

*DOC Position:* For an explanation of our treatment of medium- and long-term loans, see the section of this notice entitled "Medium- and Long-term Credit".

*Comment 6:* Petitioner contends that the National Investment Fund (NIF) provides preferential loans to producers of shapes and sheet.

*DOC Position:* We have found that NIF loans do not constitute subsidies during the period for which we are measuring subsidization (see the section of this notice entitled "Medium- and Long-Term Credit").

*Comment 7:* Petitioner contends that the NIF provided loans to producers of shapes and sheet at interest rates below those paid on NIF deposits. This differential in the cost of their funds and the return on their funds was assumed by the government, and constitutes an additional subsidy to producers of shapes and sheet.

*DOC Position:* During the period for which we are measuring subsidization, interest rates on long-term variable-rate NIF loans outstanding were not below interest rates on long-term variable-rate NIF deposits outstanding. Therefore, no government assumption of interest charges is indicated during the period for which we are measuring subsidization.

*Comment 8:* Petitioner argues that Korean Development Bank (KDB) loans are not generally available and should therefore be countervailed.

*DOC Position:* We have found that KDB loans do not constitute subsidies during the period for which we are measuring subsidization (see the section of this notice entitled "Medium- and Long-Term Credit").

*Comment 9:* Petitioner alleges that the Export-Import Bank of Korea (Eximbank) has provided loans for POSCO's coking coal development projects abroad—projects which provided the coking coal input for steel production. Given the "government compensation for interest losses" of the Eximbank, these loans are undoubtedly highly preferential.

*DOC Position:* We determine that Eximbank loans are not limited to a specific enterprise or industry or group of enterprises or industries. Because this

criterion for a domestic subsidy is not met, we determine that Eximbank loans do not confer benefits which constitute subsidies.

*Comment 10:* Petitioner argues that a 3.5 percent loan to POSCO, given by the Korean government with funds obtained from the Japanese government, is a countervailable subsidy.

*DOC Position:* We did not initiate an investigation of this loan. This loan was examined in the 1982 investigation of certain steel products from Korea (see "Final Affirmative Countervailing Duty Determinations: Certain Steel Products From the Republic of Korea," 47 FR 57535), and found not to be countervailable. After examining the information submitted by petitioner in these investigations, and the record of the 1982 case, we determined that no new information had been presented, merely a restatement of the existing evidence which we had used to determine that the 3.5 percent loan did not confer a subsidy upon POSCO.

*Comment 11:* Petitioner argues that the respondent's non-responsiveness to questions in the Department's questionnaire concerning both commercial banks and NIF dictates that the Department make all inferences against respondents.

*DOC Position:* We have found respondents responsive to our requests for information throughout this investigation considering the time constraints under which all parties were operating. Furthermore, we obtained information on the commercial banks and NIF during our verification and petitioner was given an opportunity to comment on the reports of our verification which discuss commercial banks and the NIF in detail.

*Comment 12:* Petitioner contends that Korean producers of shapes and sheet benefit from government loan guarantees. In particular, petitioner argues that industry-specific, government loan guarantees permitted POSCO to borrow funds in the European bond market at lower rates than would be possible without government guarantees.

*DOC Position:* In the course of our investigations, we determined that loan guarantees from both government-owned and privately-owned financial institutions are a standard commercial practice in Korea. The Bankers' Association sets the guarantee fees, and all Korean banking institutions charge those fees. The fee structure for loan guarantees does not differentiate by industry or class of transaction (*i.e.*, export or domestic). It does distinguish between won and foreign currency loans. As explained at verification by both foreign and Korean bankers, foreign banks, unlike Korean banks, cannot require collateral on their loans. Thus, foreign bankers generally require a loan guarantee. Korean banks usually require guarantees when a company has no unpledged collateral. We found that the steel companies producing the products under investigations paid the fees specified by the Bankers' Association for those guarantees that they had on their domestic and foreign currency loans. Thus, we do not consider that these guarantees are on terms inconsistent with commercial considerations.

*Comment 13:* Petitioner contends that the Department's verification reports indicate that preferential port charges for exports exist in Korea, based on the per ton differential in port charges for exporting, importing and domestic shipping.

*DOC Position:* The Korea Maritime and Port Administrative (KMPA) establishes the rates for port charges. Rates vary according to port and also to the type of port activity. Port charges are higher for importers than for exporters; however, the charges for domestic shipping are the lowest. For the port at Pusan the rate is 22 cents a ton for exporting, 37 cents a ton for importing, and 68 won a ton for shipping to another Korean port. The rate of 68 won for domestic shipping is much lower than the 22 cents a ton rate charged to exporters. Since an exporting activity is not favored over a domestic activity, we find no countervailable benefit being provided to producers or exporters of shapes and sheet.

*Comment 14:* Petitioner notes that the Department's verification report on DongJin indicates that opening charges on letters of credit for loans for purchasing foreign raw materials for domestic use are higher than for loans purchasing foreign raw materials for export use. They consider this to be an export subsidy.

*DOC Position:* As discussed in the section of the notice on "Short-term Export Financing Under the Export Financing Regulations," we consider that the fee structure, which specifies lower charges for opening those letters of credit used to purchase imports of raw materials used in export production, is a manifestation of the preference built into the government's rediscount mechanism on short-term export loans. We consider that we have captured any benefit from this fee structure in our comparison of the weighted-average interest rate on short-term domestic loans with the 10 percent interest rate on short-term export loans.

*Comment 15:* Petitioner contends that Pohang Iron and Steel Company's (POSCO) equity infusions into DongJin are a countervailable subsidy because no private investor would have been willing to invest in DongJin.

*DOC Position:* Our determination with respect to the formation of, and equity investment in, DongJin is set forth in the section entitled "Equity Infusions into DongJin."

*Comment 16:* Petitioner claims that suppliers of iron ore to domestic steel mills receive subsidies in the form of highly preferential export financing and exemption from value-added tax. Because these subsidies are available to every supplier of iron ore, economic forces cause the iron ore producers to pass subsidies through to the purchasers, (*i.e.* steel producers).

*DOC Position:* We have found that POSCO does not receive a competitive benefit from its purchases of domestic iron ore. Our determination is in accordance with section 613 of the Trade and Tariff Act of 1984. With respect to the exemption of VAT on its domestic iron ore purchases, the evidence on the record indicates that POSCO does pay VAT on its domestic iron ore purchases.

*Comment 17:* Petitioner argues that because tariff reductions on plant and equipment are treated as grants, the DOC should consider the extent to which producers of the products under investigation benefited from tariff reductions over the last 15 years.

*DOC Position:* We have employed our standard grant methodology with respect for both tariff reductions and port charges. In any given year when the sum of the grants received was greater than 0.5 percent of total sales, we allocated the grants over 15 years to determine the amount of the benefit accruing to the year for which we are measuring subsidization.

*Comment 18:* Petitioner argues that government equity infusions into POSCO between 1978 and 1980 as well as other equity infusions from 1973 to the present were inconsistent with commercial considerations. In support of this argument, petitioner cites the following factors: (1) Inadequate rate of return on equity, (2) unfavorable economic environment, and (3) lack of dividend payments by POSCO.

*DOC Position:* In order to determine whether government equity infusions are inconsistent with commercial considerations, we analyze the company's operations to determine the potential of the company to yield an adequate rate of return to an investor. Consistent with the Subsidies Appendix,

many factors are considered in this analysis, including those cited by the petitioner. However, other factors, such as management, market growth, availability of production inputs and critical financial indicators (*i.e.*, cash flow, return from operations) also are taken into consideration.

After considering all pertinent factors relevant to each year from 1969 through 1983, including rate of return on equity, economic environment, domestic and export markets and the ability to pay dividends, we concluded that the government's equity infusions into POSCO were inconsistent with commercial considerations from 1978 through 1980.

*Comment 19:* Petitioner states that it is their understanding that POSCO strongly objected to becoming a public corporation because it did not wish to pay dividends. Petitioner argues that POSCO's non-payment of dividends supports petitioner's position that POSCO is unequityworthy.

*DOC Position:* The Department's analysis indicated that, in most years, POSCO's cash position was sufficient to pay dividends. Since POSCO was not a public corporation attempting to attract equity funds in the public market, and therefore was not required to pay dividends, the use of internally generated funds by POSCO for expansion purposes was a business decision that can be considered a normal commercial practice.

*Comment 20:* Petitioner claims that studies conducted in 1969 and 1971 should not be used to determine the equityworthiness of POSCO in 1973 and 1974; rather, the most recent experience should be used for the determination.

*DOC Position:* We analyzed the most recent feasibility studies if available, as well as POSCO's financial position and other relevant factors in our determination of equityworthiness in 1973 and 1974. We agree that studies conducted in 1969 and 1971 would generally not include information pertinent to a 1973 and 1974 determination.

*Comment 21:* Petitioner claims that technological efficiency does not necessarily mean economic efficiency, and thus should not be a major factor in our equityworthiness determination.

*DOC Position:* While technological efficiency clearly has a bearing on the company's ability to produce, efficient production is not the only factor which influences the financial return to the investor.

*Comment 22:* As argued previously, petitioner claims that, before DOC can determine whether government equity infusions are counteravailable, it must subtract out other domestic government subsidies from the firm's reported profits (losses) to determine a firm's true profitability.

*DOC Position:* We have maintained consistently that the Department should use the same basis as a private investor to determine equityworthiness. When deciding to invest, a private investor will assess the financial position of the firm at that point in time (see the Subsidies Appendix, 49 FR 18006).

We use the actual experience of the company as presented by generally accepted accounting principles in the country in which the company is located for determining the equityworthiness of the company. This provides a consistent standard for comparison to other companies which are conducting business in that country.

We already account for subsidies, other than equity, which the company received from the government by using methodologies specifically designed by the Department to calculate the benefit from these subsidies. If we countervailed these subsidies again when measuring the benefits to the company from the equity investment by the government, we would be double counting.

*Comment 23:* The petitioner claims that the Department should amend its methodology for quantifying the subsidy from government equity infusions by considering the riskiness of the investment in POSCO and comparing its rate of return on equity to a similarly risky investment. Consequently, the comparison should not be made to the average rate of return on equity, but to a rate of return on equity which includes a risk premium.

*DOC Position:* A company is considered to be equityworthy when it indicates the ability to generate a reasonable rate of return within a reasonable time period. We define this rate as the national average rate of return on equity. If the Department decides that a company is unequityworthy (*i.e.*, not likely to yield this average rate), then we find the equity infusion to be inconsistent with commercial considerations. This is not equivalent to saying that the investment is risky. Nor would we have any reasonable basis for determining the degree of risk involved in an investment. Moreover, if we chose to view such an investment as a "risky investment", we would have to reformulate our equityworthiness analysis because investors willing to bear a higher risk would evaluate these financial criteria differently. Therefore, in valuing the benefit from equity infusions that are found to be inconsistent with commercial consideration, we compare the rate of return of the firm under investigation to the national average rate of return on equity, and do not add a risk premium.

**Respondents; Comments**

*Comment 1:* Responders argue that the Department was incorrect in not using the interest rate for short-term borrowings from commercial banks as the most appropriate national average commercial method of short-term financing. Bill discounts, overdrafts, and general term loans are the domestic equivalents of short-term export financing, and are the alternative financing to export loans. Department precedent has always been to select the most comparable and commonly used alternative source of financing in a given country.

*DOC Position:* We agree that the correct benchmark for short-term lending normally is the most comparable, predominant form of short-term financing in the country under investigation. However, as explained in the section of the notice on "Short-Term Export Financing Under the Export Financing Regulations", the Department has found an incentive for banks to lend for export transactions at the expense of domestic financing. Using best information available, the Department has measured this preference for export lending by comparing the cost of export loans with the weighted-average cost of all forms of short-term domestic financing.

*Comment 2:* Respondents contend that the Department was incorrect in determining that long-term loans provided by the National Investment Fund (NIF) constitute export subsidies. NIF loans are in no way contingent on export performance. Respondents further contend that NIF loans are also not domestic subsidies because they are generally available. In any case, given the Department's methodology for evaluating long-term variable rate loans, no new NIF loans or NIF loans outstanding have been at preferential interest rates since NIF rates were equalized with the commercial bill discount rate in late 1981.

*DOC Position:* We agree that NIF loans do not constitute an export subsidy. We have also found that they do not constitute a domestic subsidy because interest rates on NIF loans during the period under investigation were not on terms inconsistent with commercial considerations. The correct long-term benchmark rate, however, is not that which exists on short-term commercial bills; rather, it is the rate on

comparable commercial long-term borrowing. This is the benchmark we used in determining that NIF loans did not constitute subsidies.

*Comment 3:* Respondents note in their comments on the Government Verification Report that, in the Ministry of Trade and Industry's requirements submission for NIF loans, a number of different companies from industries other than steel are listed and that not only steel companies were specifically listed.

*DOC Position.* We agree that companies from other industries were listed in the submissions.

*Comment 4:* Respondents argue in their comments on the DongJin Verification Report that the sale of assets by the banks to POSCO was incorrectly characterized as a loan. They argue that the transaction between POSCO and the banks is a purchase contract between the owners of the assets (the banks) and the purchaser (POSCO).

*DOC Position.* Our determination with respect to this transaction is set forth in the section of the notice on "Equity Infusions in DongJin."

*Comment 5:* Respondents not in their comments on the DongJin Verification Report, that the charges paid for opening letters of credit are unrelated to the short-term loans themselves.

*DOC Position.* We believe that we have captured any benefit to short-term export loans provided by this fee structure in our calculation of the subsidy on the short-term export loans. For further discussion of this issue, see our response to petitioner's Comment 14.

*Comment 6:* Respondents argue in their comments on the Government Verification Report that the central bank rediscount mechanism was established to ensure that financing reached the productive sector of the economy by tying the financing to commodities and transactions, and the volume of domestic financing under this mechanism far exceeds export financing if overdrafts and general term loans are included. They also argue that because domestic commercial bills finance 100 percent of the bills, value, while export loans are eligible for only 80 percent, the rediscount mechanism does not alter the value of financing reaching the borrower.

*DOC Position:* We disagree. In 1983, the volume of short-term domestic financing eligible for rediscount at the Bank of Korea was less than the volume of short-term export financing eligible for rediscount at the Bank of Korea. We believe this is a manifestation of the preference for export financing over domestic financing. Although a large company's domestic transactions are eligible for financing equal to 100 percent of transaction value, the bank which provides this financing may only rediscount 30 percent of that 100 percent at the Bank of Korea. At the same time, although all firms, export transactions are only eligible for financing equal to 80 percent of transaction value, the bank which provides this financing can rediscount 70 percent of the 80 percent at the Bank of Korea. Thus, the Bank of Korea supplies credit which covers only 30 percent of the value of a domestic transaction as compared to 56 percent of the value of an export transaction.

This preference for export credit is a subsidy, and we have countervailed it (see the section of this notice entitled "Short-term Export Financing Under the Export Financing Regulations.")

*Comment 7:* Respondents contend that tariff reductions on plant and equipment are generally available. They claim that DOC has sufficient evidence, obtained at verification, to find that tariff reductions on imported equipment are available to a large number of industries and, thus, are generally available.

*DOC Position:* We determined that tariff reductions on plant and equipment, unlike import duty deferrals on plant and equipment, confer benefits which constitute subsidies because this program operates to provide higher tariff reductions to certain enterprises within the industries designated as eligible for tariff reductions. Thus, the benefit equals the differential between the higher tariff reductions for certain enterprises and the tariff reduction allowed for all the other designated industries.

*Comment 8:* Respondents argue that DOC should calculate company-specified rates for cold-rolled carbon steel flat-rolled products.

*DOC Position*: It is the Department's policy to issue country-wide rates unless separate enterprises have received significantly different benefits. In this case, although one producer under investigation receives benefits under all six programs found to confer subsidies, while the other producers and exporters receive benefits under only two of the programs, the level of benefits received is not significantly different. Thus, we do not believe that company-specific rates are appropriate.

*Comments 9*: Respondent claims that the Department erred in its preliminary determination by using U.S. "generally accepted accounting principles" instead of Korean "generally accepted accounting principles" to review the financial results of POSCO. Respondent contends that the Department must view the equityworthiness of the company in the country where it is located. Specifically, respondent claims that in conducting the equityworthiness analysis, the Department should apply Korean accounting principles pertaining to unrealized exchange gains and losses which permit amortization of such gains and losses over a five year period, and should not apply U.S. principles to exchange gains and losses.

*DOC Position*: We did not use U.S. accounting principles to restate POSCO's financial statements which were used as a basis for the preliminary determination. An investor would consider many factors when deciding to invest in a company. One of these factors is the impact of generally accepted accounting principles on the presentation of the firm's financial results. Thus, we also examined the effects of these accounting principles on POSCO's financial statements.

When analyzing the financial results of POSCO, we used the korean principles which permit a five-year period of amortization for unrealized exchange gains and losses. U.S. accounting principles would require all exchange losses to be expensed in the year in which such losses were incurred. However, a significant number of POSCO's exchange transactions had not been amortized over a five-year period in POSCO's financial statements. An investor reviewing the financial results of POSCO would have considered the impact from these exchange transactions which had not been amortized over five years. Thus, the Department also considered the impact to profits and to other financial aspects of the company from such transactions.

*Comment 10*: Respondent argues that the Department departed from its prior determinations which require the use of the accounting practices of the country of the company under investigation to determine the equityworthiness of a company.

*DOC Position*: We did not depart from our prior determinations. We used the Korean "generally accepted accounting principles" when reviewing the financial statements of POSCO, and we considered the impact to the financial results from the application of such principles.

*Comment 11*: Respondent claims that POSCO is a sound investment if viewed by any standard because of its efficient production operations and its ability to service it debt. Also, the feasibility studies presented to the banks for financing POSCO's expansions presented positive economic projections.

*DOC Position*: We analyzed many factors for the equityworthiness

determination, two of which were POSCO's production results and the effects of debt leverge on its operations. Additionally, the Department reviewed the feasibility studies and compared the projections in each feasibility study with the company's on-going financial results to determine the impact such studies may have had on an investment decision. This comparison revealed that the actual financial results were not commensurate with the financial projections and, therefore, such studies would have been used for only a short period of time as a basis for an investment decision. Furthermore, the fact that the company's performance failed to meet projections would have negatively influenced an investor.

*Comment by Chaparral Steel Company, a Party to the Proceeding*: In addition to endorsing the comments filed by petitioner in these proceedings, Chaparral Steel Company also filed a separate comment pertaining to the production of carbon steel structural shapes.

*Comment*: Chaparral Steel Company provided raw material, transportation, comparative labor cost data, and price information to suggest that, given the Koreans' cost disadvantages and lower selling prices for carbon steel structural shapes in the United States, Korean shapes producers must be subsidized.

*DOC Position*: Chaparral did not provide any detailed evidence or arguments that specific government programs exist which defray the Koreans' presumed cost disadvantage for steel production. At verification, we found that Inchon Iron and Steel Company, the only shapes producers in these investigations, paid all duties and shipping costs for the import of scrap iron and steel. We have also fully investigated all other programs alleged by petitioner to be subsidies. Absent specific charges that additional government subsidies exist to benefit Korean producers of shapes, we cannot determine that carbon steel structural shapes sold in the United States are subsidized to any degree greater than the *de minimis* level found in these determinations.

### Verification

In accordance with section 776(a) of the Act, we verified the information used in making our final determinations. Commerce officials spent from September 18 to October 17 verifying the information submitted by the government of Korea and by the companies under investigation, and gathering additional information to be used in our final determinations. During this verification we followed normal verification procedures including inspection of documents and ledgers, and tracing the information in the responses to source documents, accounting ledgers, and to financial statements.

### Suspension of Liquidation

In accordance with section 703(d) of the Act, on September 18, 1984 we instructed the U.S. Customs Service to suspend liquidation of all entries of cold-rolled carbon steel flat-rolled products from Korea (49 FR 36538). As of the date of publication of this notice in the **Federal Register**, the liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise will continue to be suspended and the Customs Service shall require a cash deposit or bond for each such entry of this merchandise in the amount of 3.60 percent *ad valorem*. This suspension will remain in effect until further notice. As stated above, our final determination with respect to carbon steel structural shapes is negative; therefore, we are not directing the U.S. Customs Service to suspend liquidation of entries of carbon steel structural shapes.

### ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to the investigation of cold-rolled carbon steel flat-rolled products. We will allow the ITC accesss to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determination whether imports of cold-rolled carbon steel flat-rolled products materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury or the threat of material injury does not exist with respect to cold-rolled carbon steel flat-rolled products, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing the Customs Service to assess countervailing duties on all entries of cold-rolled carbon steel flat-rolled products from Korea entered, or withdrawn from warehouse, for consumption on or after the suspension of liquidation date, equal to the net subsidy amount indicated in the "Suspension of Liquidation" section of this notice.

This notice is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

**William T. Archey,**

*Acting Assistant Secretary for Trade Administration.*

November 26, 1984.

[FR Doc. 84-31524 Filed 11-30-84; 8:45 am]

BILLING CODE 3510-DS-M

## National Oceanic and Atmospheric Administration

### Receipt of Permit Applications

This document publishes for public review a summary of applications received by the Secretary of State for foreign vessels to fish in the fishery conservation zone under the Magnuson Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 et seq.).

Send comments on applications to:

Fees, Permits, and Regulations Division (F/M12), National Marine Fisheries Service, Department of Commerce, Washington DC 20235

or, send comments to the Fishery Management Council(s) which review the application(s), as specified below:

Douglas, G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus MA 01906, 617-231-0422

David H.G. Gould, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suit 306, 1 South Park Circle, Charleston, SC 29407, 803-571-4366

Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Banco De Ponce Building, Suite 1108, Hato Rey, PR 00918, 809-753-6910

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Blvd., Tampa, FL 33609, 813-228-2815

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR 97201, 503-221-6352

Jim H. Branson, Executive Director, North Pacific Fishery Management Council, 411 W. Fourth Avenue, Suit 2D, Anchorage, AK 99510, 907-271-4064

Kitty M. Simonds, Executive Director Western Pacific Fishery Management Council 1164 Bishop Street, Room 1608 Honolulu, Hawaii 98613, 808–523–1368

For further information contract Shirley Whitted or John D. Kelly (Fees, Permits, and Regulations Division), 202–634–7432. The Magnuson Act also requires the Secretary of State to publish a notice of receipt of all applications for such permits summarizing the contents of the applications in the **Federal Register.** The National Marine Fisheries Service under the authority granted in a memorandum of understanding with the Department of State effective November 29, 1983 issues the notice on behalf of the Secretary of State.

Individual vessel applications for fishing in 1985 have been received between October 10, 1984 and November 29, 1984 from the Government(s) shown below.

Dated: November 11, 1984.

**Roland Finch,**

*Director, Office of Fisheries Management, National Marine Fisheries service.*

BILLING CODE 3510-22-M a022

Fishery codes and designation of Regional Fishery Management councils which review applications for individual fisheries are as follows:

| CODE | FISHERY | REGIONAL FISHERY MANAGEMENT COUNCIL |
|---|---|---|
| ABS | ATLANTIC BILLFISHES AND SHARKS | NEW ENGLAND, MID-ATLANTIC, SOUTH ATLANTIC, GULF OF MEXICO, CARIBBEAN |
| BSA | BERING SEA AND ALEUTIAN ISLANDS GROUNDFISH | NORTH PACIFIC |
| GOA | GULF OF ALASKA | NORTH PACIFIC |
| NWA | NORTHWEST ATLANTIC OCEAN | NEW ENGLAND, MID-ATLANTIC SOUTH ATLANTIC, GULF OF MEXICO, CARIBBEAN |
| SMT | SEAMOUNT GROUNDFISH (PACIFIC OCEAN), | WESTERN PACIFIC |
| SNA | SNAILS (BERING SEA), | NORTH PACIFIC |
| WOC | PACIFIC GROUNDFISH (WASHINGTON, OREGON, AND CALIFORNIA), | PACIFIC |
| PBS | PACIFIC BILLFISHES AND SHARKS | WESTERN PACIFIC |

Activity codes which specify categories of fishing operations applied for are as follows:

| ACTIVITY CODE | FISHING OPERATIONS |
|---|---|
| 1 | .....CATCHING, PROCESSING, AND OTHER SUPPORT. |
| 2 | .....PROCESSING AND OTHER SUPPORT, ONLY. |
| 3 | .....OTHER SUPPORT ONLY. |
| 4 | .....°JOINT VENTURE° IN SUPPORT OF U.S. VESSELS. |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| ***GOVERNMENT OF THE GERMAN DEMOCRATIC REPUBLIC | | | |
| BODO UHSE<br>LARGE STERN TRAWLER | GC-85-0040 | NWA | 1 |
| EHM WELK<br>LARGE STERN TRAWLER | GC-85-0041 | NWA | 1 |
| HANS MARCHWITZA<br>LARGE STERN TRAWLER | GC-85-0052 | NWA | 1 |
| LUTTEN KLEIN<br>CARGO/TRANSPORT VESSEL | GC-85-0026 | NWA | 3 |
| STUBNITZ<br>FACTORY SHIP | GC-85-0047 | NWA | 2 |
| ***GOVERNMENT OF ITALY | | | |
| ANTONIETTA MADRE<br>MEDIUM STERN TRAWLER | IT-85-0013 | NWA | 1 |
| CARLO DI FAZIO<br>MEDIUM STERN TRAWLER | IT-85-0015 | NWA | 1 |
| CORRADO SECONDO<br>LARGE STERN TRAWLER | IT-85-0012 | NWA | 1 |
| DE GIOSA GIUSEPPE<br>MEDIUM STERN TRAWLER | IT-85-0016 | NWA | 1 |
| DE GIOSA L.<br>MEDIUM STERN TRAWLER | IT-85-0023 | NWA | 1 |
| DE GIOSA T.<br>MEDIUM STERN TRAWLER | IT-85-0004 | NWA | 1 |
| GABRIELLA C.<br>MEDIUM STERN TRAWLER | IT-85-0010 | NWA | 1 |
| MARIA C.<br>MEDIUM STERN TRAWLER | IT-85-0021 | NWA | 1 |
| MARIA MICHELA<br>MEDIUM STERN TRAWLER | IT-85-0024 | NWA | 1 |
| TONTINI PESCA QUARTO<br>LARGE STERN TRAWLER | IT-85-0003 | NWA | 1 |
| TONTINI PESCA TERZO<br>MEDIUM STERN TRAWLER | IT-85-0002 | NWA | 1 |
| ***GOVERNMENT OF JAPAN | | | |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| AKASHI MARU NO. 18<br>PAIR TRAWLER | JA-85-0178 | BSA | 1 |
| AKASHI MARU NO. 19<br>PAIR TRAWLER | JA-85-1136 | BSA | 1 |
| AKASHI MARU NO. 51<br>PAIR TRAWLER | JA-85-0162 | BSA | 1 |
| AKASHI MARU NO. 52<br>PAIR TRAWLER | JA-85-0163 | BSA | 1 |
| AKASHI MARU NO. 58<br>PAIR TRAWLER | JA-85-0164 | BSA | 1 |
| AKASHI MARU NO. 59<br>PAIR TRAWLER | JA-85-0165 | BSA | 1 |
| AKASHI MARU NO. 63<br>PAIR TRAWLER | JA-85-0166 | BSA | 1 |
| AKASHI MARU NO. 65<br>PAIR TRAWLER | JA-85-0167 | BSA | 1 |
| AKASHI MARU NO. 66<br>PAIR TRAWLER | JA-85-0168 | BSA | 1 |
| AKASHI MARU NO. 67<br>PAIR TRAWLER | JA-85-0169 | BSA | 1 |
| AKASHI MARU NO. 68<br>PAIR TRAWLER | JA-85-0170 | BSA | 1 |
| AKASHI MARU NO. 69<br>PAIR TRAWLER | JA-85-0171 | BSA | 1 |
| AKASHI MARU NO. 71<br>PAIR TRAWLER | JA-85-0172 | BSA | 1 |
| AKASHI MARU NO. 72<br>PAIR TRAWLER | JA-85-0173 | BSA | 1 |
| AKASHI MARU NO. 73<br>PAIR TRAWLER | JA-85-0174 | BSA | 1 |
| AKASHI MARU NO. 75<br>PAIR TRAWLER | JA-85-0175 | BSA | 1 |
| AKASHI MARU NO. 76<br>PAIR TRAWLER | JA-85-0176 | BSA | 1 |
| AKASHI MARU NO. 77 | JA-85-0177 | BSA | 1 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| PAIR TRAWLER | | | |
| AKASHIA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1156 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| AKEBONO MARU NO. 15<br>MEDIUM STERN TRAWLER | JA-85-0312 | BSA | 1 |
| AKEBONO MARU NO. 18<br>MEDIUM STERN TRAWLER | JA-85-0315 | BSA | 1 |
| AKEBONO MARU NO. 2<br>MEDIUM STERN TRAWLER | JA-85-1154 | BSA,GOA,SMT | 1 |
| AKEBONO MARU NO. 21<br>MEDIUM STERN TRAWLER | JA-85-0316 | BSA | 1 |
| AKEBONO MARU NO. 22<br>MEDIUM STERN TRAWLER | JA-85-0317 | BSA,GOA,SMT | 1 |
| AKEBONO MARU NO. 27<br>MEDIUM STERN TRAWLER | JA-85-0308 | BSA,GOA,SMT | 1 |
| AKEBONO MARU NO. 31<br>MEDIUM STERN TRAWLER | JA-85-0306 | BSA,GOA,SMT | 1 |
| AKEBONO MARU NO. 32<br>MEDIUM STERN TRAWLER | JA-85-0307 | BSA,GOA,SMT | 1 |
| AKEBONO MARU NO. 72<br>LARGE STERN TRAWLER | JA-85-0338 | BSA,GOA,SMT | 1 |
| AKEBONO MARU NO.1<br>MEDIUM STERN TRAWLER | JA-85-1153 | BSA,GOA,SMT | 1 |
| AKEBONO MARU NO.3<br>MEDIUM STERN TRAWLER | JA-85-0105 | BSA,GOA,SMT | 1 |
| AKEBONO REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-0911 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| AKIHO MARU<br>PAIR TRAWLER | JA-85-0061 | BSA | 1 |
| AKIZUKI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-2023 | BSA,GOA,NWA,<br>SMT | 3 |
| ALBATROSS<br>CARGO/TRANSPORT VESSEL | JA-85-0081 | BSA,GOA,NWA,<br>SMT | 3 |
| ANYO MARU NO. 11<br>MEDIUM STERN TRAWLER | JA-85-0541 | BSA | 1 |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| ANYO MARU NO. 12<br>MEDIUM STERN TRAWLER | JA-85-0500 | BSA | 1 |
| ANYO MARU NO. 15<br>MEDIUM STERN TRAWLER | JA-85-0104 | BSA | 1 |
| ANYO MARU NO. 18<br>MEDIUM STERN TRAWLER | JA-85-1175 | BSA,GOA | 1 |
| ANYO MARU NO. 21<br>LONGLINER/GILLNET | JA-85-0621 | BSA,GOA | 1 |
| ANYO MARU NO. 22<br>LONGLINER/GILLNET | JA-85-0622 | BSA,GOA | 1 |
| AOBA MARU<br>PAIR TRAWLER | JA-85-0116 | BSA | 1 |
| AOYAGI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0026 | BSA,GOA,NWA,<br>SMT | 3 |
| ASUKA REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-0045 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| BANSHU MARU NO. 6<br>LARGE STERN TRAWLER | JA-85-0373 | NWA | 1 |
| BANSHU MARU NO. 7<br>LARGE STERN TRAWLER | JA-85-0374 | NWA | 1 |
| BERING MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1159 | BSA,GOA,NWA,<br>SMT | 3 |
| BIYO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0598 | BSA,GOA,NWA,<br>SMT | 3 |
| BIZEN REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-0037 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| BUNGO REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-0038 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| CAMBRIDGE REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-0036 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| CHIKUBU MARU<br>LARGE STERN TRAWLER | JA-85-0336 | BSA,GOA | 1 |
| CHITOSE MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0180 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| CHOSEI MARU NO. 78<br>POT FISHING VESSEL | JA-85-0838 | SNA | 1 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| CHOUN MARU NO. 21<br>MEDIUM STERN TRAWLER | JA-85-0519 | BSA | 1 |
| CHOYO MARU NO. 81<br>LONGLINER/GILLNET | JA-85-0615 | BSA,GOA | 1 |
| CHOYOH MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0574 | BSA,GOA,NWA,<br>SMT | 3 |
| CHUYO MARU NO. 22<br>MEDIUM STERN TRAWLER | JA-85-0419 | BSA | 1 |
| DAIAN MARU NO. 188<br>MEDIUM STERN TRAWLER | JA-85-0553 | BSA | 1 |
| DAIEI MARU NO. 2<br>MEDIUM STERN TRAWLER | JA-85-0544 | BSA | 1 |
| DAIGEN MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1147 | BSA,GOA,NWA,<br>SMT | 3 |
| DAIKAN MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0033 | BSA,GOA,NWA,<br>SMT | 3 |
| DAIKICHI MARU NO. 32<br>MEDIUM STERN TRAWLER | JA-85-0554 | BSA | 1 |
| DAIKICHI MARU NO. 37<br>MEDIUM STERN TRAWLER | JA-85-0483 | BSA | 1 |
| DAIKICHI MARU NO. 51<br>MEDIUM STERN TRAWLER | JA-85-0484 | BSA | 1 |
| DAIKICHI MARU NO.1<br>SMALL STERN TRAWLER | JA-85-1198 | BSA | 1 |
| DAIKOH MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0021 | BSA,GOA,NWA,<br>SMT | 3 |
| DAINICHI MARU NO. 31<br>MEDIUM STERN TRAWLER | JA-85-0514 | BSA | 1 |
| DAIRIN MARU NO. 28<br>MEDIUM STERN TRAWLER | JA-85-0524 | BSA | 1 |
| DAIRYO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1002 | BSA,GOA,NWA,<br>SMT | 3 |
| DAISHIN MARU NO. 16<br>LARGE STERN TRAWLER | JA-85-0376 | NWA | 1 |
| DAISHIN MARU NO. 22 | JA-85-0286 | BSA,GOA,SMT | 1 |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| LARGE STERN TRAWLER | | | |
| DAISHIN MARU NO. 28<br>LARGE STERN TRAWLER | JA-85-0569 | BSA,GOA,SMT | 1 |
| DAISHO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0035 | BSA,GOA,NWA,<br>SMT | 3 |
| DAITO MARU NO. 58<br>MEDIUM STERN TRAWLER | JA-85-1176 | BSA | 1 |
| DAITO MARU NO. 68<br>MEDIUM STERN TRAWLER | JA-85-1565 | BSA | 1 |
| DAITOKU MARU NO. 31<br>MEDIUM STERN TRAWLER | JA-85-0516 | BSA | 1 |
| DEJIMA MARU<br>PAIR TRAWLER | JA-85-1179 | BSA | 1 |
| DOUGLAS<br>CARGO/TRANSPORT VESSEL | JA-85-2028 | BSA,GOA,NWA,<br>SMT | 3 |
| EASTERN REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-0600 | BSA,GOA,NWA,<br>SMT | 3 |
| EBISU FONTAINE<br>CARGO/TRANSPORT VESSEL | JA-85-0589 | BSA,GOA,NWA,<br>SMT | 3 |
| EBISU MARU NO. 11<br>DANISH SEINER | JA-85-0042 | BSA | 1 |
| EBISU MARU NO.5<br>DANISH SEINER | JA-85-1183 | BSA | 1 |
| EHIKO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0107 | BSA,GOA,SNA | 3 |
| EIHO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1062 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| EIKYU MARU NO. 11<br>MEDIUM STERN TRAWLER | JA-85-0300 | BSA | 1 |
| EIKYU MARU NO. 12<br>LONGLINER/GILLNET | JA-85-0124 | BSA,GOA | 1 |
| EIKYU MARU NO. 2<br>MEDIUM STERN TRAWLER | JA-85-0299 | BSA | 1 |
| EIKYU MARU NO. 3<br>MEDIUM STERN TRAWLER | JA-85-1174 | BSA | 1 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| EIKYU MARU NO. 35<br>MEDIUM STERN TRAWLER | JA-85-0511 | BSA | 1 |
| EIKYU MARU NO. 81<br>MEDIUM STERN TRAWLER | JA-85-0082 | BSA | 1 |
| EIKYU MARU NO. 86<br>SMALL STERN TRAWLER | JA-85-1186 | BSA | 1 |
| EITOKU MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1094 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| EIWA MARU NO. 28<br>POT FISHING VESSEL | JA-85-0820 | SNA | 1 |
| EIYO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0109 | BSA,GOA,NWA,<br>SMT | 3 |
| EIYO MARU<br>PAIR TRAWLER | JA-85-0111 | BSA | 1 |
| ENA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0577 | BSA,GOA,NWA | 3 |
| ENYOH MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0086 | BSA,GOA,NWA,<br>SMT | 3 |
| FALCON<br>CARGO/TRANSPORT VESSEL | JA-85-0918 | BSA,GOA,NWA,<br>SMT | 3 |
| FUJI MARU NO. 1<br>MEDIUM STERN TRAWLER | JA-85-0255 | BSA | 1 |
| FUJI REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-0908 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| FUJISHIO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0594 | BSA,GOA,NWA,<br>SMT | 3 |
| FUKUCHO MARU NO. 23<br>MEDIUM STERN TRAWLER | JA-85-0495 | BSA | 1 |
| FUKUI MARU NO. 18<br>MEDIUM STERN TRAWLER | JA-85-1173 | BSA | 1 |
| FUKUSHIN MARU NO. 5<br>MEDIUM STERN TRAWLER | JA-85-0531 | BSA | 1 |
| FUKUYO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1025 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| FUKUYOSHI MARU NO. 28<br>MEDIUM STERN TRAWLER | JA-85-0472 | BSA | 1 |

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| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| FUKUYOSHI MARU NO. 38<br>MEDIUM STERN TRAWLER | JA-85-0304 | BSA,GOA | 1 |
| FUKUYOSHI MARU NO. 8<br>LONGLINER/GILLNET | JA-85-0624 | BSA,GOA | 1 |
| FUKUYOSHI MARU NO. 85<br>LONGLINER/GILLNET | JA-85-0603 | BSA,GOA | 1 |
| FUYO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0925 | BSA,GOA,NWA,<br>SMT | 3 |
| GINRYU MARU NO. 5<br>MEDIUM STERN TRAWLER | JA-85-1171 | BSA | 1 |
| HAKKO ARROW<br>CARGO/TRANSPORT VESSEL | JA-85-0880 | BSA,GOA,NWA,<br>SMT | 3 |
| HAKKO BOMMERANG<br>CARGO/TRANSPORT VESSEL | JA-85-0881 | BSA,GOA,NWA,<br>SMT | 3 |
| HAKKO CARDIOID<br>CARGO/TRANSPORT VESSEL | JA-85-0882 | BSA,GOA,NWA,<br>SMT | 3 |
| HAKKO FONTAINE<br>CARGO/TRANSPORT VESSEL | JA-85-0587 | BSA,GOA,NWA,<br>SMT | 3 |
| HAKUBASAN MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1027 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| HAKUREI MARU<br>PAIR TRAWLER | JA-85-0013 | BSA | 1 |
| HAKURYU MARU NO. 72<br>MEDIUM STERN TRAWLER | JA-85-1178 | BSA | 1 |
| HAKUYO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0570 | BSA,GOA,NWA,<br>SMT | 3 |
| HAMANASU MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0883 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| HAMAYOSHI MARU NO. 63<br>MEDIUM STERN TRAWLER | JA-85-1187 | BSA | 1 |
| HARUNA MARU<br>LARGE STERN TRAWLER | JA-85-0350 | BSA,GOA | 1 |
| HARUSHIO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0582 | BSA,GOA,NWA,<br>SMT | 3 |
| HATSUE MARU NO. 38 | JA-85-0605 | BSA,GOA | 1 |

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| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| LONGLINER/GILLNET | | | |
| HATSUE MARU NO. 62<br>MEDIUM STERN TRAWLER | JA-85-0403 | BSA | 1 |
| HATSUE MARU NO. 68<br>LONGLINER/GILLNET | JA-85-0562 | BSA,GOA | 1 |
| HAYASHIKANE MARU NO. 1<br>CARGO/TRANSPORT VESSEL | JA-85-1102 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| HAYATSUKI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1037 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| HEIKYU MARU NO. 35<br>DANISH SEINER (STERN CHUTE) | JA-85-0567 | BSA | 1 |
| HIDESHIMA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0048 | BSA,GOA,NWA,<br>SMT | 3 |
| HIROTSUKI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1146 | BSA,GOA,NWA,<br>SMT | 3 |
| HIYO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-2025 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| HOKEN MARU NO. 38<br>MEDIUM STERN TRAWLER | JA-85-1164 | BSA | 1 |
| HOKEN MARU NO. 8<br>MEDIUM STERN TRAWLER | JA-85-0425 | BSA | 1 |
| HOKKAI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0922 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| HOKKAI MARU<br>PAIR TRAWLER | JA-85-0012 | BSA | 1 |
| HOKKO MARU NO. 137<br>SMALL STERN TRAWLER | JA-85-1199 | BSA | 1 |
| HOKKO MARU NO. 17<br>DANISH SEINER | JA-85-0050 | BSA | 1 |
| HOKO MARU NO. 31<br>CARGO/TRANSPORT VESSEL | JA-85-1083 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| HOKUO MARU NO. 25<br>MEDIUM STERN TRAWLER | JA-85-0457 | BSA | 1 |
| HOKUSEI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-004 | BSA,GOA,NWA,<br>SMT | 3 |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| HOKUSHIN MARU<br>PAIR TRAWLER | JA-85-0014 | BSA | 1 |
| HOKUTO MARU<br>PAIR TRAWLER | JA-85-0015 | BSA | 1 |
| HOKUYU MARU NO. 68<br>MEDIUM STERN TRAWLER | JA-85-1177 | BSA | 1 |
| HOYO MARU<br>FACTORY SHIP | JA-85-0190 | BSA | 2 |
| HOYO MARU NO. 63<br>POT FISHING VESSEL | JA-85-0862 | SNA | 1 |
| ICELAND REX<br>CARGO/TRANSPORT VESSEL | JA-85-0072 | BSA,GOA,NWA,<br>SMT | 3 |
| ISHIKARI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0595 | BSA,GOA,NWA,<br>SMT | 3 |
| ISOKAZE MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1038 | BSA,GOA,NWA,<br>SMT | 3 |
| IZUMO REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-0053 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| JAMES<br>CARGO/TRANSPORT VESSEL | JA-85-0584 | BSA,GOA,NWA,<br>SMT | 3 |
| JIN PO MARU NO.3<br>CARGO/TRANSPORT VESSEL | JA-85-3825 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| JINYO-MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1132 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| JUKYU MARU NO. 18<br>MEDIUM STERN TRAWLER | JA-85-0402 | BSA | 1 |
| JUNYO MARU<br>PAIR TRAWLER | JA-85-0065 | BSA | 1 |
| JUYO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1068 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| KAIKO MARU NO. 3<br>MEDIUM STERN TRAWLER | JA-85-0258 | BSA | 1 |
| KAIKO MARU NO. 8<br>DANISH SEINER (STERN CHUTE) | JA-85-1560 | BSA | 1 |
| KAIUN MARU NO. 38<br>MEDIUM STERN TRAWLER | JA-85-0533 | BSA | 1 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| KAIUN MARU NO. 62<br>DANISH SEINER | JA-85-1482 | BSA | 1 |
| KAIUN MARU NO. 65<br>MEDIUM STERN TRAWLER | JA-85-2010 | BSA | 1 |
| KAIUN MARU NO. 78<br>DANISH SEINER | JA-85-0092 | BSA | 1 |
| KAIYO MARU NO. 11<br>MEDIUM STERN TRAWLER | JA-85-0313 | BSA | 1 |
| KAIYO MARU NO. 53<br>MEDIUM STERN TRAWLER | JA-85-0464 | BSA | 1 |
| KAIYO MARU NO. 7<br>MEDIUM STERN TRAWLER | JA-85-0431 | BSA | 1 |
| KAIYO MARU NO. 8<br>MEDIUM STERN TRAWLER | JA-85-0432 | BSA | 1 |
| KAIYO MARU NO. 8<br>POT FISHING VESSEL | JA-85-1137 | SNA | 1 |
| KAKUDAI MARU NO. 25<br>MEDIUM STERN TRAWLER | JA-85-0254 | BSA | 1 |
| KAKUYO MARU NO. 1<br>PAIR TRAWLER | JA-85-0210 | BSA | 1 |
| KAKUYO MARU NO. 11<br>PAIR TRAWLER | JA-85-2008 | BSA | 1 |
| KAKUYO MARU NO. 12<br>PAIR TRAWLER | JA-85-2009 | BSA | 1 |
| KAKUYO MARU NO. 2<br>PAIR TRAWLER | JA-85-0211 | BSA | 1 |
| KAKUYO MARU NO. 3<br>PAIR TRAWLER | JA-85-0212 | BSA | 1 |
| KAKUYO MARU NO. 5<br>PAIR TRAWLER | JA-85-0213 | BSA | 1 |
| KAKUYO MARU NO. 7<br>PAIR TRAWLER | JA-85-0214 | BSA | 1 |
| KAKUYO MARU NO. 8<br>PAIR TRAWLER | JA-85-0215 | BSA | 1 |
| KASHIMA MARU | JA-85-0001 | BSA,GOA,NWA, | 2 |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| FACTORY SHIP | | SNA | |
| KASHIMA MARU NO. 23<br>MEDIUM STERN TRAWLER | JA-85-0508 | BSA | 1 |
| KASHIMA REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-0054 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| KASHIWAGI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0019 | BSA,GOA,NWA,<br>SMT | 3 |
| KASHIWAHANA MARU NO. 1<br>CARGO/TRANSPORT VESSEL | JA-85-0884 | BSA,GOA,SMT | 3 |
| KASUGA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0181 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| KASUGA REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-0055 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| KATABAMI MARU<br>TANKER FUEL/WATER | JA-85-0597 | BSA,GOA | 3 |
| KATORI MARU<br>PAIR TRAWLER | JA-85-0114 | BSA | 1 |
| KATSUKI MARU<br>PAIR TRAWLER | JA-85-0115 | BSA | 1 |
| KATSUYAMA MARU<br>PAIR TRAWLER | JA-85-0833 | BSA | 1 |
| KEIFU MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0572 | BSA,GOA,NWA,<br>SMT | 3 |
| KEIYO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0102 | BSA,GOA,NWA,<br>SMT | 3 |
| KENDRICK<br>CARGO/TRANSPORT VESSEL | JA-85-0912 | BSA,GOA,NWA,<br>SMT | 3 |
| KHALIJ FREEZER<br>CARGO/TRANSPORT VESSEL | JA-85-0058 | BSA,GOA,NWA,<br>SMT | 3 |
| KHALIJ FROST<br>CARGO/TRANSPORT VESSEL | JA-85-0068 | BSA,GOA,NWA,<br>SMT | 3 |
| KHALIJ REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-0059 | BSA,GOA,NWA,<br>SMT | 3 |
| KINYO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0103 | BSA,GOA,NWA,<br>SMT | 3 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| KISARAGI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0929 | BSA,GOA,NWA,<br>SMT | 3 |
| KISHIN MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1165 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| KIYO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1026 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| KIYO MARU NO. 55<br>LONGLINER/GILLNET | JA-85-0602 | BSA,GOA | 1 |
| KOEI MARU NO. 15<br>MEDIUM STERN TRAWLER | JA-85-1396 | BSA | 1 |
| KOEI MARU NO. 35<br>MEDIUM STERN TRAWLER | JA-85-0489 | BSA | 1 |
| KOEI MARU NO. 51<br>MEDIUM STERN TRAWLER | JA-85-0488 | BSA | 1 |
| KOHOKU MARU NO. 17<br>MEDIUM STERN TRAWLER | JA-85-0443 | BSA | 1 |
| KOHOKU MARU NO. 18<br>POT FISHING VESSEL | JA-85-0839 | BSA,GOA,SNA | 1 |
| KOHOKU MARU NO.7<br>SMALL STERN TRAWLER | JA-85-1191 | BSA | 1 |
| KOHSHO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0579 | BSA,GOA,NWA,<br>SMT | 3 |
| KOMESHIMA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-2021 | BSA,GOA,NWA,<br>SMT | 3 |
| KONGO MARU<br>LARGE STERN TRAWLER | JA-85-0341 | BSA,GOA | 1 |
| KORYO MARU NO. 108<br>MEDIUM STERN TRAWLER | JA-85-0421 | BSA | 1 |
| KORYO MARU NO. 6<br>LONGLINE FISHING VESSEL | JA-85-1241 | ABS | 1 |
| KORYO MARU NO.23<br>MEDIUM STERN TRAWLER | JA-85-0423 | BSA | 1 |
| KOSHIN MARU NO. 11<br>MEDIUM STERN TRAWLER | JA-85-0303 | BSA,GOA | 1 |
| KOSHIN MARU NO. 21<br>SMALL STERN TRAWLER | JA-85-1503 | BSA | 1 |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| KOTOBUKI MARU NO. 25<br>MEDIUM STERN TRAWLER | JA-85-0502 | BSA | 1 |
| KOTOKU MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1035 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| KOYO MARU<br>LARGE STERN TRAWLER | JA-85-0365 | NWA | 1 |
| KOYO MARU<br>PAIR TRAWLER | JA-84-0112 | BSA | 1 |
| KOYO MARU NO. 2<br>LARGE STERN TRAWLER | JA-85-0297 | BSA,GOA | 1 |
| KOYO MARU NO. 3<br>LARGE STERN TRAWLER | JA-85-0343 | BSA,GOA | 1 |
| KUMANO MARU NO. 15<br>MEDIUM STERN TRAWLER | JA-85-0534 | BSA | 1 |
| KUNASHIRI<br>CARGO/TRANSPORT VESSEL | JA-85-1151 | BSA,GOA | 3 |
| KUNISAKI<br>CARGO/TRANSPORT VESSEL | JA-85-0899 | BSA,GOA,NWA | 3 |
| KURASHIMA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-2027 | BSA,GOA,NWA,<br>SMT | 3 |
| KYOHO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1034 | BSA,GOA | 3 |
| KYOKUSHIN MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1161 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| KYOWA MARU NO. 15<br>MEDIUM STERN TRAWLER | JA-85-0305 | BSA | 1 |
| KYOYO MARU NO. 8<br>SMALL STERN TRAWLER | JA-85-0635 | BSA | 1 |
| LONGLINER/GILLNET<br>LONGLINE FISHING VESSEL | JA-85-0118 | BSA,GOA | 1 |
| LONGLINER/GILLNET<br>LONGLINE FISHING VESSEL | JA-85-0119 | BSA,GOA | 1 |
| MABAH<br>CARGO/TRANSPORT VESSEL | JA-85-0108 | BSA,GOA,NWA,<br>SMT | 3 |
| MANRYO MARU NO. 31<br>MEDIUM STERN TRAWLER | JA-85-0445 | BSA | 1 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| MANRYO MARU NO. 52<br>SMALL STERN TRAWLER | JA-85-1189 | BSA | 1 |
| MARINE ACE<br>CARGO/TRANSPORT VESSEL | JA-85-0002 | BSA,GOA,NWA,<br>SMT | 3 |
| MARINE FELLOW<br>CARGO/TRANSPORT VESSEL | JA-85-0003 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| MATSUEI MARU NO. 88<br>LONGLINER/GILLNET | JA-85-0609 | BSA,GOA | 1 |
| MATSUKAZE MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1045 | BSA,GOA,NWA,<br>SMT | 3 |
| MATSUSHIMA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0920 | BSA,GOA,NWA,<br>SMT | 3 |
| MATSUYAMA MARU<br>PAIR TRAWLER | JA-85-1157 | BSA | 1 |
| MEISHO MARU NO. 35<br>MEDIUM STERN TRAWLER | JA-85-0522 | BSA | 1 |
| MEIYO-MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1133 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| MIHO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1069 | BSA,GOA,NWA,<br>SMT | 3 |
| MIKAMI MARU<br>LARGE STERN TRAWLER | JA-85-0368 | NWA | 1 |
| MINESHIMA MARU<br>FACTORY SHIP | JA-85-0080 | BSA | 2 |
| MITO MARU NO. 82<br>LONGLINER/GILLNET | JA-85-0611 | BSA,GOA | 1 |
| MITSU MARU NO. 51<br>DANISH SEINER (STERN CHUTE) | JA-85-1559 | BSA | 1 |
| MIYASHIMA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0919 | BSA,GOA,NWA,<br>SMT | 3 |
| MIYOSHIMA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0025 | BSA,GOA,NWA,<br>SMT | 3 |
| MIZUHO MARU<br>PAIR TRAWLER | JA-85-0060 | BSA | 1 |

| NATION VESSEL NAME VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| MIZUHO REEFER CARGO/TRANSPORT VESSEL | JA-85-0016 | BSA,GOA,NWA, SNA | 3 |
| MUTSU MARU NO. 52 MEDIUM STERN TRAWLER | JA-85-0251 | BSA | 1 |
| NANIWA MARU NO. 36 TANKER FUEL/WATER | JA-85-0596 | BSA,GOA | 3 |
| NANSHIN MARU CARGO/TRANSPORT VESSEL | JA-85-0057 | BSA,GOA,NWA, SMT,SNA | 3 |
| NARITA MARU NO. 35 MEDIUM STERN TRAWLER | JA-85-0456 | BSA | 1 |
| NICHIYO MARU CARGO/TRANSPORT VESSEL | JA-85-1167 | BSA,GOA,NWA, SMT | 3 |
| NIHONKAI MARU MEDIUM STERN TRAWLER | JA-85-0369 | NWA | 1 |
| NIITAKA MARU LARGE STERN TRAWLER | JA-85-0289 | BSA,GOA,SMT | 1 |
| NIKKA MARU CARGO/TRANSPORT VESSEL | JA-85-0927 | BSA,GOA | 3 |
| NIKKO MARU CARGO/TRANSPORT VESSEL | JA-85-1077 | BSA,GOA,NWA, SMT,SNA | 3 |
| NIPPONHAM MARU NO. 1 CARGO/TRANSPORT VESSEL | JA-85-1082 | BSA,GOA,NWA, SMT,SNA | 3 |
| NISHIYAMA MARU PAIR TRAWLER | JA-85-0836 | BSA | 1 |
| NISSEI MARU CARGO/TRANSPORT VESSEL | JA-85-0914 | BSA,GOA,NWA, SMT,SNA | 3 |
| NISSHIN MARU NO. 2 FACTORY SHIP | JA-85-0140 | BSA | 1 |
| NISSHIN MARU NO. 51 MEDIUM STERN TRAWLER | JA-85-1188 | BSA | 1 |
| NITTO MARU 70 DANISH SEINER (STERN CHUTE) | JA-85-1362 | BSA | 1 |
| NITTO MARU NO. 35 PAIR TRAWLER | JA-85-0220 | BSA | 1 |
| NITTO MARU NO. 36 PAIR TRAWLER | JA-85-0221 | BSA | 1 |



| NATION VESSEL NAME VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| NOJIMA MARU CARGO/TRANSPORT VESSEL | JA-85-1096 | BSA,GOA,NWA, SMT | 3 |
| OHTORI MARU LARGE STERN TRAWLER | JA-85-0342 | BSA,GOA | 1 |
| OKUSHIRI CARGO/TRANSPORT VESSEL | JA-85-0580 | BSA,GOA,NWA, SMT | 3 |
| ORIENT MARU NO. 3 MEDIUM STERN TRAWLER | JA-85-0551 | BSA | 1 |
| ORION CARGO/TRANSPORT VESSEL | JA-85-0591 | BSA,GOA,NWA, SMT | 3 |
| OSAKA REEFER CARGO/TRANSPORT VESSEL | JA-85-2011 | BSA,GOA,NWA, SMT,SNA | 3 |
| OTOHA MARU PAIR TRAWLER | JA-85-0010 | BSA | 1 |
| PALOMA CARGO/TRANSPORT VESSEL | JA-85-0098 | BSA,GOA,NWA, SMT | 3 |
| PHOENIX CARGO/TRANSPORT VESSEL | JA-85-0917 | BSA,GOA,NWA, SMT | 3 |
| RAKUYO MARU PAIR TRAWLER | JA-85-0063 | BSA | 1 |
| REIYO MARU CARGO/TRANSPORT VESSEL | JA-85-1067 | BSA,GOA,NWA, SMT,SNA | 3 |
| RIKUZEN MARU LARGE STERN TRAWLER | JA-85-0340 | BSA,GOA | 1 |
| RISHIRI CARGO/TRANSPORT VESSEL | JA-85-0027 | BSA,GOA,NWA, SMT | 3 |
| RYOAN MARU NO. 28 MEDIUM STERN TRAWLER | JA-85-0426 | BSA | 1 |
| RYOAN MARU NO. 31 MEDIUM STERN TRAWLER | JA-85-0459 | BSA | 1 |
| RYOAN MARU NO. 35 SMALL STERN TRAWLER | JA-85-1195 | BSA | 1 |
| RYOEI MARU NO. 38 SMALL STERN TRAWLER | JA-85-0634 | BSA | 1 |
| RYOUN MARU NO. 2 | JA-85-0877 | SNA | 1 |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| POT FISHING VESSEL | | | |
| RYOYO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1024 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| RYUHO MARU NO 38<br>LONGLINER/GILLNET | JA-85-0557 | BSA,GOA | 1 |
| RYUHO MARU NO. 31<br>MEDIUM STERN TRAWLER | JA-85-0506 | BSA | 1 |
| RYUHO MARU NO. 37<br>MEDIUM STERN TRAWLER | JA-85-0480 | BSA | 1 |
| RYUJIN MARU NO. 11<br>MEDIUM STERN TRAWLER | JA-85-1172 | BSA | 1 |
| RYUJIN MARU NO. 52<br>MEDIUM STERN TRAWLER | JA-85-0548 | BSA | 1 |
| RYUJIN MARU NO. 8<br>MEDIUM STERN TRAWLER | JA-85-0486 | BSA | 1 |
| RYUSEI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0083 | BSA,GOA,NWA,<br>SMT | 3 |
| RYUSEI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0626 | BSA,GOA,NWA,<br>SMT | 3 |
| RYUSHO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0627 | BSA,GOA,NWA,<br>SMT | 3 |
| RYUSHO MARU NO. 15<br>LONGLINER/GILLNET | JA-85-0619 | BSA,GOA | 1 |
| RYUSHO MARU NO. 18<br>LONGLINER/GILLNET | JA-85-0620 | BSA,GOA | 1 |
| RYUYO MARU<br>LARGE STERN TRAWLER | JA-85-0280 | BSA,GOA,SMT | 1 |
| SACHI MARU NO. 22<br>MEDIUM STERN TRAWLER | JA-85-0477 | BSA | 1 |
| SACHIKAZE MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1057 | BSA,GOA,SMT | 3 |
| SACHISHIO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0097 | BSA,GOA,NWA,<br>SMT | 3 |
| SAKURA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1001 | BSA,GOA,NWA,<br>SMT | 3 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| SAKURA REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-0909 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| SANKICHI MARU NO. 23<br>POT FISHING VESSEL | JA-85-0848 | SNA | 1 |
| SANUKI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0915 | BSA,GOA,NWA,<br>SMT | 3 |
| SANWA FONTAINE<br>CARGO/TRANSPORT VESSEL | JA-85-0590 | BSA,GOA,NWA,<br>SMT | 3 |
| SANYO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0924 | BSA,GOA,NWA,<br>SMT | 3 |
| SEAGULL<br>CARGO/TRANSPORT VESSEL | JA-85-0034 | BSA,GOA,NWA,<br>SMT | 3 |
| SEIHO MARU NO. 15<br>DANISH SEINER | JA-85-0043 | BSA | 1 |
| SEIJU MARU NO. 28<br>MEDIUM STERN TRAWLER | JA-85-0465 | BSA | 1 |
| SEITOKU MARU NO. 105<br>MEDIUM STERN TRAWLER | JA-85-0447 | BSA | 1 |
| SEIYOH MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0583 | BSA,GOA,NWA,<br>SMT | 3 |
| SEKI REX<br>CARGO/TRANSPORT VESSEL | JA-85-1148 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| SHIDAKA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0179 | BSA,GOA,NWA,<br>SMT | 3 |
| SHIGA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1012 | BSA,GOA,NWA<br>WOC | 3 |
| SHIKISHIMA MARU<br>FACTORY SHIP | JA-85-0030 | BSA | 1 |
| SHIKISHIMA REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-0869 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| SHINASAHI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0578 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| SHINBUNGO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0047 | BSA,GOA,NWA,<br>SMT | 3 |
| SHINEI MARU NO. 21<br>MEDIUM STERN TRAWLER | JA-85-0537 | BSA | 1 |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| SHINEI MARU NO. 63<br>SMALL STERN TRAWLER | JA-85-1196 | BSA | 1 |
| SHINMEI MARU NO. 18<br>LONGLINE FISHING VESSEL | JA-85-1481 | ABS | 1 |
| SHINNICHI MARU NO. 38<br>MEDIUM STERN TRAWLER | JA-85-0563 | BSA | 1 |
| SHINRYU MARU NO. 18<br>CARGO/TRANSPORT VESSEL | JA-85-0906 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| SHINRYU MARU NO. 38<br>CARGO/TRANSPORT VESSEL | JA-85-0905 | BSA,GOA,NWA,<br>SMT | 3 |
| SHINSEI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0890 | BSA,GOA,NWA | 3 |
| SHINSHO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0640 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| SHINTAKARA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0046 | BSA,GOA,NWA,<br>SMT | 3 |
| SHINTOKU MARU NO. 25<br>LONGLINER/GILLNET | JA-85-0613 | BSA,GOA | 1 |
| SHINWA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0904 | BSA,GOA,NWA,<br>SMT | 3 |
| SHIRANE MARU<br>LARGE STERN TRAWLER | JA-85-0362 | NWA | 1 |
| SHIZUOKA MARU<br>MEDIUM STERN TRAWLER | JA-85-0318 | BSA,GOA,SMT | 1 |
| SHOEI MARU NO. 5<br>SMALL STERN TRAWLER | JA-85-0639 | BSA | 1 |
| SHOKEN MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0930 | BSA,GOA,NWA,<br>SNA | 3 |
| SHOSEI MARU NO. 30<br>DANISH SEINER | JA-85-0556 | BSA | 1 |
| SHOSHIN MARU NO. 18<br>MEDIUM STERN TRAWLER | JA-85-0454 | BSA | 1 |
| SHOSHIN MARU NO. 21<br>MEDIUM STERN TRAWLER | JA-85-0453 | BSA | 1 |
| SHOTOKU MARU NO.63 | JA-85-1194 | BSA | 1 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| SMALL STERN TRAWLER | | | |
| SHOUTOKU MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0028 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| SHOYO MARU<br>MEDIUM STERN TRAWLER | JA-85-1394 | BSA | 1 |
| SHOYO MARU (B)<br>CARGO/TRANSPORT VESSEL | JA-85-1503 | GOA,NWA,SMT | 3 |
| SHUNYOO MARU NO. 118<br>MEDIUM STERN TRAWLER | JA-85-0564 | BSA | 1 |
| SHUYO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1028 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| SHUYO MARU<br>PAIR TRAWLER | JA-85-0110 | BSA | 1 |
| SINGAPORE FONTAINE<br>CARGO/TRANSPORT VESSEL | JA-85-0586 | BSA,GOA,NWA,<br>SMT | 3 |
| SKYLARK<br>CARGO/TRANSPORT VESSEL | JA-85-0023 | BSA,GOA,NWA,<br>SMT | 3 |
| SOHO MARU NO. 52<br>MEDIUM STERN TRAWLER | JA-85-0633 | BSA | 1 |
| SOHO MARU NO. 68<br>DANISH SEINER | JA-85-0204 | BSA | 1 |
| SOYO MARU<br>FACTORY SHIP | JA-85-0240 | BSA | 2 |
| SOYOKAZE MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1040 | BSA,GOA,NWA,<br>SMT | 3 |
| STARLING<br>CARGO/TRANSPORT VESSEL | JA-85-0024 | BSA,GOA,NWA,<br>SMT | 3 |
| STEVENS<br>CARGO/TRANSPORT VESSEL | JA-85-0022 | BSA,GOA,NWA,<br>SMT | 3 |
| SUIHOO MARU NO. 28<br>MEDIUM STERN TRAWLER | JA-85-0565 | BSA | 1 |
| SUIYO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0575 | BSA,GOA,NWA,<br>SMT | 3 |
| SUMI MARU NO. 18<br>LONGLINE FISHING VESSEL | JA-85-1491 | ABS | 1 |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| SUMIYOSHI MARU NO. 53<br>LONGLINER/GILLNET | JA-85-0608 | BSA,GOA | 1 |
| SUN HAPPINESS<br>CARGO/TRANSPORT VESSEL | JA-85-0891 | BSA,GOA,NWA,<br>SMT | 3 |
| SUNBIRD<br>CARGO/TRANSPORT VESSEL | JA-85-0576 | BSA,GOA,NWA,<br>SMT | 3 |
| SUOH<br>CARGO/TRANSPORT VESSEL | JA-85-0893 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| SURUGA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-2014 | BSA,GOA,NWA,<br>SMT | 3 |
| SUZUKA MARU<br>LARGE STERN TRAWLER | JA-85-0363 | NWA | 1 |
| SUZUKAZE MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1058 | BSA,GOA,SMT | 3 |
| SWALLOW<br>CARGO/TRANSPORT VESSEL | JA-85-0032 | BSA,GOA,NWA,<br>SMT | 3 |
| SYUNYO MARU<br>PAIR TRAWLER | JA-85-0062 | BSA | 1 |
| TAISEI MARU NO. 16<br>MEDIUM STERN TRAWLER | JA-85-0450 | BSA | 1 |
| TAISEI MARU NO. 16<br>CARGO/TRANSPORT VESSEL | JA-85-1052 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| TAISEI MARU NO. 3<br>MEDIUM STERN TRAWLER | JA-85-0449 | BSA | 1 |
| TAISEI MARU NO. 3<br>CARGO/TRANSPORT VESSEL | JA-85-0085 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| TAISEI MARU NO. 35<br>MEDIUM STERN TRAWLER | JA-85-0636 | BSA | 1 |
| TAISEI MARU NO. 51<br>MEDIUM STERN TRAWLER | JA-85-0250 | BSA | 1 |
| TAISEI MARU NO. 52<br>CARGO/TRANSPORT VESSEL | JA-85-1055 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| TAISEI MARU NO. 87<br>CARGO/TRANSPORT VESSEL | JA-85-1053 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| TAISEI MARU NO. 98<br>CARGO/TRANSPORT VESSEL | JA-85-1054 | BSA,GOA,NWA,<br>SMT,SNA | 3 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| TAISEI MAUR NO. 58<br>MEDIUM STERN TRAWLER | JA-85-0411 | BSA | 1 |
| TAIYO MARU NO. 83<br>MEDIUM STERN TRAWLER | JA-85-0380 | NWA | 1 |
| TAKACHIHO MARU<br>LARGE STERN TRAWLER | JA-85-0291 | BSA,GOA,SMT | 1 |
| TAKASHIRO MARU NO. 31<br>POT FISHING VESSEL | JA-85-0856 | SNA | 1 |
| TAKATOYO MARU NO. 18<br>LONGLINE FISHING VESSEL | JA-85-1331 | ABS | 1 |
| TAKATSUKI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-2022 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| TAKESHIMA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0921 | BSA,GOA,NWA,<br>SMT | 3 |
| TAKUYO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0029 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| TATEYAMA MARU<br>PAIR TRAWLER | JA-85-0835 | BSA | 1 |
| TEISHO MARU NO. 18<br>MEDIUM STERN TRAWLER | JA-85-0535 | BSA | 1 |
| TENKAI MARU<br>TANKER FUEL/WATER | JA-85-0894 | BSA,GOA,SMT,<br>SNA | 3 |
| TENSEI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0896 | BSA,GOA,NWA,<br>SMT | 3 |
| TENSHUN MARU<br>TANKER FUEL/WATER | JA-85-0182 | BSA,GOA,SMT,<br>SNA | 3 |
| TENYO MARU<br>LARGE STERN TRAWLER | JA-85-0352 | BSA,GOA | 1 |
| TENYO MARU NO. 2<br>LARGE STERN TRAWLER | JA-85-0332 | BSA,GOA | 1 |
| TENYO MARU NO. 3<br>LARGE STERN TRAWLER | JA-85-0333 | BSA,GOA | 1 |
| TENYO MARU NO. 5<br>LARGE STERN TRAWLER | JA-85-0334 | BSA,GOA | 1 |
| TENYOSHI MARU | JA-85-0008 | BSA,GOA,SMT, | 3 |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| TANKER FUEL/WATER | | SNA | |
| TENYU MARU NO. 28<br>DANISH SEINER (STERN CHUTE) | JA-85-1483 | BSA | 1 |
| TENYU MARU NO. 37<br>LONGLINER/GILLNET | JA-85-0616 | BSA,GOA | 1 |
| TENYU MARU NO. 57<br>SMALL STERN TRAWLER | JA-85-0637 | BSA | 1 |
| TESHIO MARU<br>LARGE STERN TRAWLER | JA-85-1169 | NWA | 1 |
| TOKACHI MARU<br>LARGE STERN TRAWLER | JA-85-0360 | NWA | 1 |
| TOKIWA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0631 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| TOKUKO MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0593 | BSA,GOA,NWA,<br>SMT | 3 |
| TOKURYU MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0592 | BSA,GOA,NWA,<br>SMT | 3 |
| TOKYO REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-1135 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| TOMI MARU NO. 21<br>LONGLINE FISHING VESSEL | JA-85-1476 | ABS | 1 |
| TOMI MARU NO. 51<br>MEDIUM STERN TRAWLER | JA-85-0897 | BSA | 1 |
| TOMI MARU NO. 53<br>MEDIUM STERN TRAWLER | JA-85-0433 | BSA | 1 |
| TOMI MARU NO. 58<br>MEDIUM STERN TRAWLER | JA-85-0467 | BSA | 1 |
| TOMI MARU NO. 81<br>SMALL STERN TRAWLER | JA-85-1192 | BSA | 1 |
| TOMI MARU NO. 82<br>SMALL STERN TRAWLER | JA-85-1193 | BSA | 1 |
| TOMI MARU NO. 83<br>MEDIUM STERN TRAWLER | JA-85-1170 | BSA | 1 |
| TOMI MARU NO. 85<br>MEDIUM STERN TRAWLER | JA-85-0282 | BSA,GOA | 1 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| TOMI MARU NO. 88<br>LONGLINER/GILLNET | JA-85-0612 | BSA,GOA | 1 |
| TORA MARU NO. 31<br>MEDIUM STERN TRAWLER | JA-85-0422 | BSA | 1 |
| TORA MARU NO. 58<br>SMALL STERN TRAWLER | JA-85-1190 | BSA | 1 |
| TOSA MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1071 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| TOSHIN MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0056 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| TOYOSHIMA MARU<br>PAIR TRAWLER | JA-85-0123 | BSA | 1 |
| TRAMUNTANA<br>CARGO/TRANSPORT VESSEL | JA-85-0073 | BSA,GOA,NWA,<br>SMT | 3 |
| TSUDA MARU<br>LARGE STERN TRAWLER | JA-85-0337 | BSA,GOA | 1 |
| TSUNE MARU NO. 31<br>LONGLINER/GILLNET | JA-85-0601 | BSA,GOA | 1 |
| TSURUSAKI<br>CARGO/TRANSPORT VESSEL | JA-85-0630 | BSA,GOA,NWA,<br>SNA | 3 |
| TSUSHIMA MARU<br>PAIR TRAWLER | JA-85-0071 | BSA | 1 |
| UNO MARU NO. 17<br>CARGO/TRANSPORT VESSEL | JA-85-1208 | BSA,CRB,GOA,<br>NWA,SMT,SNA | 3 |
| UNO MARU NO. 18<br>CARGO/TRANSPORT VESSEL | JA-85-1104 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| UNO MARU NO. 8<br>CARGO/TRANSPORT VESSEL | JA-85-1032 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| WAKABA MARU<br>PAIR TRAWLER | JA-85-0117 | BSA | 1 |
| WAKATSUKI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-1150 | BSA,GOA,NWA,<br>SMT | 3 |
| WASHIMA MARU<br>PAIR TRAWLER | JA-85-0122 | BSA | 1 |
| WAYO MARU<br>PAIR TRAWLER | JA-85-0064 | BSA | 1 |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| WESTERN REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-0599 | BSA,GOA,NWA,<br>SMT | 3 |
| WHITE ARROW<br>CARGO/TRANSPORT VESSEL | JA-85-0084 | BSA,GOA | 3 |
| WORLD FONTAINE<br>CARGO/TRANSPORT VESSEL | JA-85-0588 | BSA,GOA,NWA,<br>SMT | 3 |
| YAGISHIRI<br>CARGO/TRANSPORT VESSEL | JA-85-0581 | BSA,GOA,NWA,<br>SMT | 3 |
| YAHATA MARU NO. 56<br>MEDIUM STERN TRAWLER | JA-85-0441 | BSA | 1 |
| YAHATA MARU NO. 58<br>MEDIUM STERN TRAWLER | JA-85-0632 | BSA | 1 |
| YAKUSHI MARU NO. 31<br>MEDIUM STERN TRAWLER | JA-85-0496 | BSA | 1 |
| YAKUSHI MARU NO. 51<br>MEDIUM STERN TRAWLER | JA-85-0638 | BSA | 1 |
| YAMASAN MARU NO. 101<br>SMALL STERN TRAWLER | JA-85-1184 | BSA | 1 |
| YAMASAN MARU NO. 102<br>SMALL STERN TRAWLER | JA-85-1185 | BSA | 1 |
| YAMATO MARU<br>LARGE STERN TRAWLER | JA-85-0339 | BSA,GOA,SNA | 1 |
| YAMATO REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-2019 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| YASAKA REEFER<br>CARGO/TRANSPORT VESSEL | JA-85-0052 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| YASHIMA MARU<br>PAIR TRAWLER | JA-85-0070 | BSA | 1 |
| YASHIO MARU NO. 11<br>MEDIUM STERN TRAWLER | JA-85-0452 | BSA | 1 |
| YAYOI MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0018 | BSA,GOA,NWA,<br>SMT,SNA | 3 |
| YOSHI MARU NO. 81<br>MEDIUM STERN TRAWLER | JA-85-0355 | BSA | 1 |
| YOSHINO REEFER | JA-85-0039 | BSA,GOA,NWA, | 3 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| CARGO/TRANSPORT VESSEL | | SMT,SNA | |
| YURYO MARU NO. 31<br>MEDIUM STERN TRAWLER | JA-85-0466 | BSA | 1 |
| YURYO MARU NO. 35<br>DANISH SEINER | JA-85-0201 | BSA | 1 |
| YUWASU MARU<br>CARGO/TRANSPORT VESSEL | JA-85-0005 | BSA,GOA | 3 |
| ZAO MARU<br>LARGE STERN TRAWLER | JA-85-0361 | NWA | 1 |
| ZENPO MARU NO. 21<br>MEDIUM STERN TRAWLER | JA-85-0253 | BSA | 1 |
| ZUIYO MARU<br>LARGE STERN TRAWLER | JA-85-0335 | BSA,GOA,SMT | 1 |
| ZUIYO MARU NO. 2<br>LARGE STERN TRAWLER | JA-85-0351 | BSA,GOA | 1 |
| ZUIYO MARU NO. 3<br>LARGE STERN TRAWLER | JA-85-0331 | BSA,GOA | 1 |
| ***GOVERNMENT OF THE REPUBLIC OF KOREA | | | |
| 31 DONGWON<br>LONGLINE FISHING VESSEL | KS-85-0053 | BSA,GOA | 1 |
| 501 DONG SOO<br>CARGO/TRANSPORT VESSEL | KS-85-0119 | BSA,GOA | 3 |
| CHEOG YANG HO<br>LARGE STERN TRAWLER | KS-85-0003 | BSA,GOA | 1 |
| CORAL STAR<br>CARGO/TRANSPORT VESSEL | KS-85-0135 | BSA,GOA | 3 |
| CRYSTAL DAHLIA<br>LARGE STERN TRAWLER | KS-85-0034 | BSA,GOA | 1 |
| DAE JIN NO. 21<br>LARGE STERN TRAWLER | KS-85-0136 | BSA,GOA | 1 |
| DAE SUNG HO<br>LARGE STERN TRAWLER | KS-85-0051 | BSA,GOA | 1 |
| DAEJIN NO. 52<br>LARGE STERN TRAWLER | KS-85-0037 | BSA,GOA | 1 |
| DONGSAN-HO | KS-85-0039 | BSA,GOA | 1 |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| LARGE STERN TRAWLER | | | |
| GAE CHEOG HO<br>FACTORY SHIP | KS-85-0112 | BSA,GOA | 2 |
| GAE CHEOG HO NO. 2<br>CARGO/TRANSPORT VESSEL | KS-85-0090 | BSA,GOA | 3 |
| HAN JIN HO<br>LARGE STERN TRAWLER | KS-85-0045 | BSA,GOA | 1 |
| HAN KIL HO<br>LARGE STERN TRAWLER | KS-85-0044 | BSA,GOA | 1 |
| HANIL HO<br>MEDIUM STERN TRAWLER | KS-85-0107 | BSA,GOA | 1 |
| KYUNG YANG HO<br>LARGE STERN TRAWLER | KS-85-0085 | BSA,GOA | 1 |
| NAM BUG<br>LARGE STERN TRAWLER | KS-85-0033 | BSA,GOA | 1 |
| NO. 29 TAE BAEK<br>FACTORY SHIP | KS-85-0091 | BSA,GOA | 2 |
| NO. 1 CHIL BO SAN<br>CARGO/TRANSPORT VESSEL | KS-85-0133 | BSA,GOA | 1 |
| NO. 1 HAN SUNG<br>LARGE STERN TRAWLER | KS-85-0106 | BSA,GOA | 1 |
| NO. 2 CHIL BO SAN<br>CARGO/TRANSPORT VESSEL | KS-85-0125 | BSA,GOA | 1 |
| NO. 201 O DAE YANG<br>LONGLINE FISHING VESSEL | KS-85-0128 | BSA,GOA | 1 |
| NO. 215 TAE BAEK<br>MEDIUM STERN TRAWLER | KS-85-0105 | BSA,GOA | 1 |
| NO. 3 CHIL BO SAN HO<br>CARGO/TRANSPORT VESSEL | KS-85-0074 | BSA,GOA | 3 |
| NO. 303 DAI HO<br>LARGE STERN TRAWLER | KS-85-0095 | BSA,GOA | 1 |
| NO. 315 TAE BAEK<br>MEDIUM STERN TRAWLER | KS-85-0117 | BSA,GOA | 1 |
| NO. 5 CHIL BO SAN HO<br>CARGO/TRANSPORT VESSEL | KS-85-0075 | BSA,GOA | 3 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| NO. 6 CHIL BO SAN HO<br>CARGO/TRANSPORT VESSEL | KS-85-0076 | BSA,GOA | 3 |
| NO. 7 SANG WON<br>MEDIUM STERN TRAWLER | KS-85-0041 | BSA,GOA | 1 |
| NO. 70 OYANG HO<br>LARGE STERN TRAWLER | KS-85-0048 | BSA,GOA | 1 |
| NO. 707 DAI HO<br>LARGE STERN TRAWLER | KS-85-0123 | BSA,GOA | 1 |
| NO. 71 DONG BANG<br>LARGE STERN TRAWLER | KS-85-0121 | BSA,GOA | 1 |
| NO. 77 DONG BANG<br>CARGO/TRANSPORT VESSEL | KS-85-0118 | BSA,GOA | 3 |
| NO. 99 TAE BAEK<br>FACTORY SHIP | KS-85-0079 | BSA,GOA | 2 |
| OCEAN VIOLET<br>CARGO/TRANSPORT VESSEL | KS-85-0098 | BSA,GOA | 3 |
| ODAEYANG NO. 106<br>CARGO/TRANSPORT VESSEL | KS-85-0099 | BSA,GOA | 3 |
| OYANG HO<br>LARGE STERN TRAWLER | KS-85-0006 | BSA,GOA | 1 |
| PUNG YANG HO<br>LARGE STERN TRAWLER | KS-85-0004 | BSA,GOA | 1 |
| SALVIA<br>LARGE STERN TRAWLER | KS-85-0103 | BSA,GOA | 1 |
| SHIN AN HO<br>LARGE STERN TRAWLER | KS-85-0047 | BSA,GOA | 1 |
| SHIN YANG HO<br>LARGE STERN TRAWLER | KS-85-0122 | BSA,GOA | 1 |
| SUNFLOWER NO. 7<br>LARGE STERN TRAWLER | KS-85-0002 | BSA,GOA | 1 |
| TAE BAEK HO<br>LARGE STERN TRAWLER | KS-85-0042 | BSA,GOA | 1 |
| TAE YANG NO. 12<br>CARGO/TRANSPORT VESSEL | KS-85-0081 | BSA,GOA | 3 |
| YUYANG HO<br>LARGE STERN TRAWLER | KS-85-0104 | BSA,GOA | 1 |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| ***GOVERNMENT OF THE NETHERLANDS | | | |
| ALIDA<br>LARGE STERN TRAWLER | NL-85-0006 | NWA | 1 |
| ANNIE HILLINA<br>MEDIUM STERN TRAWLER | NL-85-0027 | NWA | 1 |
| ARIADNE<br>MEDIUM STERN TRAWLER | NL-85-0009 | NWA | 1 |
| ASTRID<br>LARGE STERN TRAWLER | NL-85-0028 | NWA | 1 |
| BOEIER<br>LARGE STERN TRAWLER | NL-85-0021 | NWA | 1 |
| CORNELIS VROLIJK FZN<br>MEDIUM STERN TRAWLER | NL-85-0014 | NWA | 1 |
| DIRK DIRK<br>LARGE STERN TRAWLER | NL-85-0026 | NWA | 1 |
| HENDRIKA JOHANNA<br>MEDIUM STERN TRAWLER | NL-85-0025 | NWA | 1 |
| HOLLAND<br>LARGE STERN TRAWLER | NL-85-0023 | NWA | 1 |
| JOHANNA MARIA<br>MEDIUM STERN TRAWLER | NL-85-0011 | NWA | 1 |
| JOINT FROST<br>LARGE STERN TRAWLER | NL-85-0020 | NWA | 3 |
| PEER SLUIS<br>MEDIUM STERN TRAWLER | NL-85-0024 | NWA | 1 |
| PRINS BERNHARD<br>MEDIUM STERN TRAWLER | NL-85-0007 | NWA | 1 |
| ZEELAND<br>LARGE STERN TRAWLER | NL-85-0022 | NWA | 1 |
| ***GOVERNMENT OF THE POLISH PEOPLE'S REPUBLIC | | | |
| AMAREL<br>LARGE STERN TRAWLER | PL-85-0046 | BSA,GOA | 1 |
| ANTARES<br>LARGE STERN TRAWLER | PL-85-0037 | BSA,GOA WOC | 1 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| ANTONI GARNUSZEWSKI<br>CARGO/TRANSPORT VESSEL | PL-85-0106 | BSA,GOA,NWA WOC | 3 |
| AQUARIUS<br>LARGE STERN TRAWLER | PL-85-0103 | BSA,GOA | 1 |
| AQUILA<br>LARGE STERN TRAWLER | PL-85-0097 | BSA,GOA | 1 |
| ARCTURUS<br>LARGE STERN TRAWLER | PL-85-0038 | BSA,GOA | 1 |
| AWIOR<br>LARGE STERN TRAWLER | PL-85-0060 | BSA,GOA WOC | 1 |
| BOGAR<br>LARGE STERN TRAWLER | PL-85-0085 | BSA,GOA | 1 |
| BURAN<br>CARGO/TRANSPORT VESSEL | PL-85-0033 | BSA,GOA,NWA WOC | 3 |
| CASSIOPEIA<br>LARGE STERN TRAWLER | PL-85-0099 | BSA,GOA | 1 |
| DELFIN<br>LARGE STERN TRAWLER | PL-85-0065 | BSA,GOA WOC | 1 |
| DENEBOLA<br>LARGE STERN TRAWLER | PL-85-0075 | BSA,GOA WOC | 1 |
| DZIECI POLSKIE<br>CARGO/TRANSPORT VESSEL | PL-85-0091 | BSA,GOA,NWA WOC | 3 |
| GARNELA<br>LARGE STERN TRAWLER | PL-85-0008 | BSA,GOA | 1 |
| GDYNSKI KOSYNIER<br>LONGLINE FISHING VESSEL | PL-85-0090 | BSA,GOA,NWA WOC | 3 |
| GEMINI<br>LARGE STERN TRAWLER | PL-85-0048 | BSA,GOA | 1 |
| GRINWAL<br>LARGE STERN TRAWLER | PL-85-0007 | BSA,GOA | 1 |
| GRYF POMORSKI<br>LARGE STERN TRAWLER | PL-85-0049 | BSA,GOA,NWA WOC | 3 |
| HAJDUK<br>LARGE STERN TRAWLER | PL-85-0066 | BSA,GOA WOC | 1 |
| HALNIAK<br>CARGO/TRANSPORT VESSEL | PL-85-0029 | BSA,GOA,NWA WOC | 3 |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| HUMBAK<br>LARGE STERN TRAWLER | PL-85-0019 | BSA,GOA | 1 |
| INDUS<br>LARGE STERN TRAWLER | PL-85-0094 | BSA,GOA | 1 |
| KALMAR<br>LARGE STERN TRAWLER | PL-85-0039 | BSA,GOA | 1 |
| KAPITAN LEDOCHOWSKI<br>CARGO/TRANSPORT VESSEL | PL-85-0087 | BSA,GOA,NWA WOC | 3 |
| KASZUBY 2<br>CARGO/TRANSPORT VESSEL | PL-85-0027 | BSA,GOA,NWA WOC | 3 |
| KOLIAS<br>LARGE STERN TRAWLER | PL-85-0050 | BSA,GOA | 1 |
| KULBAK<br>LARGE STERN TRAWLER | PL-85-0104 | BSA,GOA | 1 |
| LEWANTER<br>CARGO/TRANSPORT VESSEL | PL-85-0030 | BSA,GOA,NWA WOC | 3 |
| LIKODYN<br>LARGE STERN TRAWLER | PL-85-0025 | BSA,GOA | 1 |
| MANTA<br>LARGE STERN TRAWLER | PL-85-0052 | BSA,GOA WOC | 1 |
| MARLIN<br>LARGE STERN TRAWLER | PL-85-0034 | BSA,GOA WOC | 1 |
| MAZURY<br>CARGO/TRANSPORT VESSEL | PL-85-0098 | BSA,GOA,NWA WOC | 3 |
| MORS<br>LARGE STERN TRAWLER | PL-85-0063 | BSA,GOA WOC | 1 |
| MUSTEL<br>LARGE STERN TRAWLER | PL-85-0012 | BSA,GOA | 1 |
| ORCYN<br>LARGE STERN TRAWLER | PL-85-0077 | BSA,GOA WOC | 1 |
| ORLEN<br>LARGE STERN TRAWLER | PL-85-0078 | BSA,GOA | 1 |
| OTOL<br>LARGE STERN TRAWLER | PL-85-0011 | BSA,GOA | 1 |
| PARMA<br>LARGE STERN TRAWLER | PL-85-0084 | BSA,GOA WOC | 1 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| PERSEUS<br>MEDIUM STERN TRAWLER | PL-85-0004 | BSA,GOA WOC | 1 |
| POLLUX<br>LARGE STERN TRAWLER | PL-85-0006 | BSA,GOA | 1 |
| POMORZE<br>LARGE STERN TRAWLER | PL-85-0031 | BSA,GOA,NWA WOC | 3 |
| PROF. BOGUCKI<br>LARGE STERN TRAWLER | PL-85-0107 | BSA,GOA WOC | 1 |
| REGULUS<br>LARGE STERN TRAWLER | PL-85-0095 | BSA,GOA | 1 |
| REKIN<br>LARGE STERN TRAWLER | PL-85-0080 | BSA,GOA WOC | 1 |
| SAGITTA<br>LARGE STERN TRAWLER | PL-85-0040 | BSA,GOA | 1 |
| SIRIUS<br>LARGE STERN TRAWLER | PL-85-0062 | BSA,GOA WOC | 1 |
| TAZAR<br>LARGE STERN TRAWLER | PL-85-0054 | BSA,GOA WOC | 1 |
| TERRAL<br>CARGO/TRANSPORT VESSEL | PL-85-0086 | BSA,GOA,NWA WOC | 3 |
| TUNEK<br>LARGE STERN TRAWLER | PL-85-0045 | BSA,GOA | 1 |
| VEGA<br>LARGE STERN TRAWLER | PL-85-0055 | BSA,GOA WOC | 1 |
| WALEN<br>LARGE STERN TRAWLER | PL-85-0009 | BSA,GOA | 1 |
| WINETA<br>CARGO/TRANSPORT VESSEL | PL-85-0061 | BSA,GOA,NWA WOC | 3 |
| ZONDA<br>CARGO/TRANSPORT VESSEL | PL-85-0102 | BSA,GOA,NWA WOC | 3 |
| ZULAWY<br>CARGO/TRANSPORT VESSEL | PL-85-0041 | BSA,GOA,NWA WOC | 3 |
| ***GOVERNMENT OF SPAIN | | | |
| ALTEAMAR UNO | SP-85-0067 | NWA | 1 |

| NATION VESSEL NAME VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| MEDIUM STERN TRAWLER | | | |
| ANA MARIA GANDON MEDIUM STERN TRAWLER | SP-85-0057 | NWA | 1 |
| ANCORA D'OURO MEDIUM STERN TRAWLER | SP-85-0090 | NWA | 1 |
| ANDES MEDIUM STERN TRAWLER | SP-85-0117 | NWA | 1 |
| ANGUIACHO MEDIUM STERN TRAWLER | SP-85-0118 | NWA | 1 |
| AREA COVA SIDE TRAWLER | SP-85-0013 | NWA | 1 |
| AXEXO SIDE TRAWLER | SP-85-0104 | NWA | 1 |
| CANTON DE CORA MEDIUM STERN TRAWLER | SP-85-0030 | NWA | 1 |
| CAPITAN EMILIO SIDE TRAWLER | SP-85-0123 | NWA | 1 |
| CAPITAN JORGE SEGUNDO SIDE TRAWLER | SP-85-0069 | NWA | 1 |
| CHICHA TOUZA MEDIUM STERN TRAWLER | SP-85-0025 | NWA | 1 |
| CODESIDE MEDIUM STERN TRAWLER | SP-85-0165 | NWA | 1 |
| CONBAROYA II MEDIUM STERN TRAWLER | SP-85-0015 | NWA | 1 |
| CONBAROYA III MEDIUM STERN TRAWLER | SP-85-0047 | NWA | 1 |
| CONGELAMAR PRIMERO MEDIUM STERN TRAWLER | SP-85-0174 | NWA | 1 |
| COSTA DEL CABO SIDE TRAWLER | SP-85-0159 | NWA | 1 |
| CRUNA MEDIUM STERN TRAWLER | SP-85-0124 | NWA | 1 |
| CUDILLERO MEDIUM STERN TRAWLER | SP-85-0111 | NWA | 1 |



| NATION VESSEL NAME VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| EGUNSENTIA MEDIUM STERN TRAWLER | SP-85-0062 | NWA | 1 |
| FARPESCA IV MEDIUM STERN TRAWLER | SP-85-0093 | NWA | 1 |
| FRAGANA MEDIUM STERN TRAWLER | SP-85-0046 | NWA | 1 |
| ISLA GRACIOSA MEDIUM STERN TRAWLER | SP-85-0127 | NWA | 1 |
| ISLA MONTANA CLARA MEDIUM STERN TRAWLER | SP-85-0128 | NWA | 1 |
| IZARRA MEDIUM STERN TRAWLER | SP-85-0064 | NWA | 1 |
| KANTXOPE MEDIUM STERN TRAWLER | SP-85-0056 | NWA | 1 |
| LAXE DOS PICOS MEDIUM STERN TRAWLER | SP-85-0035 | NWA | 1 |
| MADROA SMALL STERN TRAWLER | SP-85-0024 | NWA | 1 |
| MANUEL NORES MEDIUM STERN TRAWLER | SP-85-0107 | NWA | 1 |
| MAPOSA CUARTO MEDIUM STERN TRAWLER | SP-85-0161 | NWA | 1 |
| MAPOSA OCTAVO MEDIUM STERN TRAWLER | SP-85-0163 | NWA | 1 |
| MAPOSA PRIMERO SIDE TRAWLER | SP-85-0149 | NWA | 1 |
| MAPOSA QUINTO MEDIUM STERN TRAWLER | SP-85-0072 | NWA | 1 |
| MAPOSA SEGUNDO SIDE TRAWLER | SP-85-0150 | NWA | 1 |
| MAPOSA SEPTIMO MEDIUM STERN TRAWLER | SP-85-0164 | NWA | 1 |
| MAPOSA SEXTO SIDE TRAWLER | SP-85-0085 | NWA | 1 |
| MAPOSA TERCERO MEDIUM STERN TRAWLER | SP-85-0166 | NWA | 1 |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| MAR DE GALILEA<br>SMALL STERN TRAWLER | SP-85-0055 | NWA | 1 |
| MAR DE LABRADOR<br>MEDIUM STERN TRAWLER | SP-85-0176 | BSA,GOA | 1 |
| MARIA EUGENIA G<br>MEDIUM STERN TRAWLER | SP-85-0170 | NWA | 1 |
| MARIA TERESA RODRIGUEZ<br>MEDIUM STERN TRAWLER | SP-85-0167 | NWA | 1 |
| MAYI CUATRO<br>MEDIUM STERN TRAWLER | SP-85-0073 | NWA | 1 |
| MIRADOR DEL FITO<br>MEDIUM STERN TRAWLER | SP-85-0171 | NWA | 1 |
| MOUTA<br>MEDIUM STERN TRAWLER | SP-85-0040 | NWA | 1 |
| NAVIJOSA NOVENO<br>MEDIUM STERN TRAWLER | SP-85-0168 | NWA | 1 |
| NAVIJOSA OCTAVO<br>MEDIUM STERN TRAWLER | SP-85-0160 | NWA | 1 |
| NAVIJOSA QUINTO<br>SIDE TRAWLER | SP-85-0152 | NWA | 1 |
| NAVIJOSA SEXTO<br>SIDE TRAWLER | SP-85-0153 | NWA | 1 |
| NAVIJOSA VII<br>SIDE TRAWLER | SP-85-0154 | NWA | 1 |
| NUSKA<br>MEDIUM STERN TRAWLER | SP-85-0043 | NWA | 1 |
| ORBALLO<br>MEDIUM STERN TRAWLER | SP-85-0036 | NWA | 1 |
| PEGAGO CUARTO<br>SIDE TRAWLER | SP-85-0151 | NWA | 1 |
| PEGAGO SEGUNDO<br>SIDE TRAWLER | SP-85-0098 | NWA | 1 |
| PEGAGO TERCERO<br>MEDIUM STERN TRAWLER | SP-85-0070 | NWA | 1 |
| PEIXE DO MAR | SP-85-0005 | NWA | 1 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| SIDE TRAWLER | | | |
| PEIXINO<br>MEDIUM STERN TRAWLER | SP-85-0108 | NWA | 1 |
| PERCA<br>MEDIUM STERN TRAWLER | SP-85-0045 | NWA | 1 |
| PESCAMARO UNO<br>MEDIUM STERN TRAWLER | SP-85-0034 | NWA | |
| PESCAPUERTA PRIMERO<br>SIDE TRAWLER | SP-85-0019 | NWA | 1 |
| PESCAPUERTA SEGUNDO<br>LARGE STERN TRAWLER | SP-85-0112 | NWA | 1 |
| PESCAPUERTA TERCERO<br>MEDIUM STERN TRAWLER | SP-85-0020 | NWA | 1 |
| PEVEGASA SEGUNDO<br>MEDIUM STERN TRAWLER | SP-85-0083 | NWA | 1 |
| PINEIRO CORREA<br>MEDIUM STERN TRAWLER | SP-85-0066 | NWA | 1 |
| PINZON PRIMERO<br>MEDIUM STERN TRAWLER | SP-85-0172 | NWA | 1 |
| PLAYA DE CADIZ<br>MEDIUM STERN TRAWLER | SP-85-0136 | NWA | 1 |
| PLAYA DE MENDUINA<br>SMALL STERN TRAWLER | SP-85-0137 | NWA | 1 |
| PLAYA DE MOGOR<br>MEDIUM STERN TRAWLER | SP-85-0021 | NWA | 1 |
| PLAYA DE PESMAR<br>MEDIUM STERN TRAWLER | SP-85-0113 | NWA | 1 |
| PUENTE DE GONDOMAR<br>MEDIUM STERN TRAWLER | SP-85-0077 | NWA | 1 |
| PUENTE LOURIDO<br>MEDIUM STERN TRAWLER | SP-85-0109 | NWA | 1 |
| PUENTE MINOR<br>MEDIUM STERN TRAWLER | SP-85-0023 | NWA | 1 |
| PUENTE TORALLA<br>SMALL STERN TRAWLER | SP-85-0052 | NWA | 1 |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| PUXEIROS<br>SIDE TRAWLER | SP-85-0028 | NWA | 1 |
| RIO VERDUGO<br>MEDIUM STERN TRAWLER | SP-85-0065 | NWA | 1 |
| SUEMAR DOS<br>SMALL STERN TRAWLER | SP-85-0143 | NWA | 1 |
| SUEMAR UNO<br>MEDIUM STERN TRAWLER | SP-85-0059 | NWA | 1 |
| TASARTE<br>MEDIUM STERN TRAWLER | SP-85-0114 | NWA | 1 |
| TEUCRO<br>MEDIUM STERN TRAWLER | SP-85-0101 | NWA | 1 |
| TITO MARQUEZ<br>MEDIUM STERN TRAWLER | SP-85-0038 | NWA | 1 |
| TORALLA<br>MEDIUM STERN TRAWLER | SP-85-0016 | NWA | 1 |
| UR ERTZA<br>MEDIUM STERN TRAWLER | SP-85-0110 | NWA | 1 |
| VILACHAN<br>MEDIUM STERN TRAWLER | SP-85-0078 | NWA | 1 |
| VILLA ANA<br>SIDE TRAWLER | SP-85-0145 | NWA | 1 |
| VILLA DE MARIN<br>MEDIUM STERN TRAWLER | SP-85-0051 | NWA | 1 |
| VIXIADOR<br>MEDIUM STERN TRAWLER | SP-85-0039 | NWA | 1 |
| XEITOSINO<br>MEDIUM STERN TRAWLER | SP-85-0022 | NWA | 1 |
| ZAMANES<br>SIDE TRAWLER | SP-85-0053 | NWA | 1 |
| ***TAIWAN | | | |
| CHEN I NO. 1<br>LONGLINER/GILLNET | TW-85-3118 | PBS | 1 |
| CHIEF DRAGON 737<br>MEDIUM STERN TRAWLER | TW-85-0055 | BSA,GOA | 1 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| CHIEF DRAGON 777<br>CARGO/TRANSPORT VESSEL | TW-85-0056 | BSA,GOA | 3 |
| CHIEN JIA 3<br>LONGLINE FISHING VESSEL | TW-85-3075 | PBS | 1 |
| CHIN HUEY 21<br>LONGLINE FISHING VESSEL | TW-85-3073 | PBS | 1 |
| CHIN WOEI 61<br>LONGLINE FISHING VESSEL | TW-85-3114 | PBS | 1 |
| CHUNG MA 2<br>LONGLINE FISHING VESSEL | TW-85-3078 | PBS | 1 |
| FU PENG 1<br>LONGLINE FISHING VESSEL | TW-85-3110 | PBS | 1 |
| GOLDEN DRAGON NO. 1<br>LARGE STERN TRAWLER | TW-85-0004 | BSA,GOA | 1 |
| HAI FWU 12<br>LONGLINE FISHING VESSEL | TW-85-3086 | PBS | 1 |
| HAI I 1<br>LONGLINE FISHING VESSEL | TW-85-3052 | PBS | 1 |
| HIGHLY NO. 303<br>CARGO/TRANSPORT VESSEL | TW-85-0054 | BSA,GOA | 3 |
| HIGHLY NO. 707<br>CARGO/TRANSPORT VESSEL | TW-85-0061 | BSA,GOA | 3 |
| HO MEI NO. 1<br>LONGLINER/GILLNET | TW-85-3083 | PBS | 1 |
| HORNG HSING<br>LONGLINE FISHING VESSEL | TW-85-3045 | PBS | 1 |
| HUI CHING NO. 1<br>LONGLINER/GILLNET | TW-85-3036 | PBS | 1 |
| KUO ZONG 3<br>LONGLINE FISHING VESSEL | TW-85-3059 | PBS | 1 |
| PENG MOU 6<br>LONGLINE FISHING VESSEL | TW-85-3099 | PBS | 1 |
| RUEY FONG. 3<br>LONGLINE FISHING VESSEL | TW-85-3016 | PBS | 1 |
| SHENG FONG NO. 1<br>LONGLINER/GILLNET | TW-85-3119 | PBS | 1 |

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| SHENG PENG 1<br>LONGLINE FISHING VESSEL | TW-85-3049 | PBS | 1 |
| SHIN TAI 7<br>LONGLINE FISHING VESSEL | TW-85-3111 | PBS | 1 |
| SHIN YUAN CHENG NO. 21<br>LONGLINER/GILLNET | TW-85-3066 | PBS | 1 |
| SHIN YUAN SENG NO. 11<br>LONGLINER/GILLNET | TW-85-3057 | PBS | 1 |
| SHYA SHENG<br>LONGLINE FISHING VESSEL | TW-85-3014 | PBS | 1 |
| SUR TON 1<br>LONGLINE FISHING VESSEL | TW-85-3019 | PBS | 1 |
| SUR TON 3<br>LONGLINE FISHING VESSEL | TW-85-3020 | PBS | 1 |
| TONG ANN 31<br>LONGLINE FISHING VESSEL | TW-85-3097 | PBS | 1 |
| TONG CHOU 7<br>LONGLINE FISHING VESSEL | TW-85-3064 | PBS | 1 |
| YIH HSING<br>LONGLINE FISHING VESSEL | TW-85-3044 | PBS | 1 |
| YING RUEY SHIANG 3<br>LONGLINE FISHING VESSEL | TW-85-3013 | PBS | 1 |
| YING YIH SHIANG<br>LONGLINE FISHING VESSEL | TW-85-3015 | PBS | 1 |
| YU SHAN 7<br>LONGLINE FISHING VESSEL | TW-85-3087 | PBS | 1 |
| YU SHIANG 7<br>LONGLINE FISHING VESSEL | TW-85-3108 | PBS | 1 |
| YUNG CHANG FU 1<br>LONGLINE FISHING VESSEL | TW-85-3094 | PBS | 1 |
| YUNG CHANG FU 31<br>LONGLINE FISHING VESSEL | TW-85-3061 | PBS | 1 |
| ***GOVERNMENT OF THE U.S.S.R. | | | |
| 18 SYEZD VLKSM<br>LARGE STERN TRAWLER | UR-85-0617 | BSA,GOA | 1 |



| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| ABINSK<br>CARGO/TRANSPORT VESSEL | UR-85-0756 | BSA,GOA WOC | 3 |
| AMURSKIY BEREG<br>CARGO/TRANSPORT VESSEL | UR-85-0750 | BSA,GOA WOC | 3 |
| BABYKINO<br>LARGE STERN TRAWLER | UR-85-0765 | BSA,GOA | 1 |
| BEREG MECHTY<br>CARGO/TRANSPORT VESSEL | UR-85-0753 | BSA,GOA WOC | 3 |
| KAMCHATSKIY BEREG<br>CARGO/TRANSPORT VESSEL | UR-85-0755 | BSA,GOA WOC | 3 |
| KAPITAN REDKOKASHA<br>LARGE STERN TRAWLER | UR-85-0766 | BSA,GOA | 1 |
| KARGAT<br>LARGE STERN TRAWLER | UR-85-0198 | BSA,GOA | 1 |
| KATANGLI<br>LARGE STERN TRAWLER | UR-85-0018 | BSA,GOA | 1 |
| KHRUSTALNYI BEREG<br>CARGO/TRANSPORT VESSEL | UR-85-0732 | BSA,GOA WOC | 3 |
| KLUCHEVSKOI<br>LARGE STERN TRAWLER | UR-85-0082 | BSA,GOA | 1 |
| KORENGA<br>LARGE STERN TRAWLER | UR-85-0215 | BSA,GOA | 1 |
| LOTOS<br>LARGE STERN TRAWLER | UR-85-0200 | BSA,GOA | 1 |
| MYS BELKINA<br>LARGE STERN TRAWLER | UR-85-0214 | BSA,GOA | 1 |
| MYS EGOROVA<br>LARGE STERN TRAWLER | UR-85-0097 | BSA,GOA | 1 |
| MYS GRINA<br>LARGE STERN TRAWLER | UR-85-0169 | BSA,GOA | 1 |
| MYS GROZNY<br>LARGE STERN TRAWLER | UR-85-0185 | BSA,GOA | 1 |
| MYS RATMANOVA<br>LARGE STERN TRAWLER | UR-85-0078 | BSA,GOA | 1 |
| NIKOLAEVSKIY KARABEL | UR-85-0175 | BSA,GOA | 1 |

BILLING CODE 3510-22-C

| NATION<br>VESSEL NAME<br>VESSEL TYPE | APPLICATION NUMBER | FISHERY | ACTIVITY |
|---|---|---|---|
| LARGE STERN TRAWLER | | | |
| OPALOVYI<br>CARGO/TRANSPORT VESSEL | UR-85-0773 | BSA,GOA WOC | 3 |
| POGRANICHNIK STRELNIKOV<br>LARGE STERN TRAWLER | UR-85-0225 | BSA,GOA | 1 |
| POIMA<br>LARGE STERN TRAWLER | UR-85-0201 | BSA,GOA | 1 |
| PROLIV LAPERUZA<br>CARGO/TRANSPORT VESSEL | UR-85-0772 | BSA,GOA WOC | 3 |
| SAMARA<br>LARGE STERN TRAWLER | UR-85-0047 | BSA,GOA | 1 |
| SEVERODONETSK<br>FACTORY SHIP | UR-85-0757 | BSA,GOA | 1 |
| SLAVIANSKIY<br>LARGE STERN TRAWLER | UR-85-0767 | BSA,GOA | 1 |
| SOJUZ - 5<br>LARGE STERN TRAWLER | UR-85-0235 | BSA,GOA | 1 |
| SOVGAVANJ<br>LARGE STERN TRAWLER | UR-85-0234 | BSA,GOA | 1 |
| SULAK<br>FACTORY SHIP | UR-85-0238 | BSA,GOA | 2 |
| SVETLAJA<br>LARGE STERN TRAWLER | UR-85-0080 | BSA,GOA | 1 |
| TERNEI<br>LARGE STERN TRAWLER | UR-85-0202 | BSA,GOA | 1 |
| TIGIL<br>LARGE STERN TRAWLER | UR-85-0162 | BSA,GOA | 1 |
| VOSTOCHNYI BEREG<br>CARGO/TRANSPORT VESSEL | UR-85-0761 | BSA,GOA WOC | 3 |
| XVI SYEZD PROFSOYUZOV<br>LARGE STERN TRAWLER | UR-85-0720 | BSA,GOA | 1 |
| ZELENOGRAD<br>LARGE STERN TRAWLER | UR-85-0634 | BSA,GOA | 1 |

**Japan**

*Joint Venture*—The Government of Japan has applied for fishing vessel permits to engage in joint venture activities off Alaska. The applications request that Japanese vessels receive transshipments in the FCZ of U.S. harvested fish in the total amount of 330,000 mt. The species being requested include 4,200 mt Pacific cod, 324,400 mt pollock, and 1,400 mt other species. The five American companies that will be partners in individual joint venture operations with the Japanese are:

Peter Pan Seafoods, Inc., 1000 Denny Building, 6th & Blanchard, Seattle, WA 98121
Universal Seafoods, Inc., P.O. Box 15110, NE., 90th Street, Redmond, WA 98052
Mr. Clinton E. Atkinson, 8000 Crest Drive, NE., Seattle, WA 98115
Whitney-Fidalgo Seafoods, Inc., 2360 W. Commodore Way, P.O. Box 99008, Seattle, WA 98199
Westward Trawlers, Inc., 3040 W. Commodore Way, Seattle, WA 98199

**Poland**

*Joint Venture*—The Government of the Polish People's Republic has applied for fishing vessel permits to engage in joint venture activities in Alaska. The applications request that Polish vessels transshipments in the FCZ of U.S. harvested fish in the total amount of 20,000 mt of pollock in Alaska with two American partners: Alaska Contact, 750 West Second Avenue, Suite 204, Anchorage, Alaska and Quest Trading Company, 790 North 4th Court, Coos Bay, Oregon. Both operations will begin January 1 and end December 31, 1985. For the WOC fishery, Poland has requested 10,000 mt of Pacific whiting with the American partner, Quest Trading Company. This operation will begin May 1, and end October 30, 1985.

**Korea**

*Joint Venture*—The Government of the Republic of Korea has applied for fishing vessel permits to engage in joint venture activities in Alaska. The applications request that Korean vessels receive transshipments, in the FCZ, of U.S. harvested fish in the total amount of 125,700 mt for the following species: pollock (75,100 mt); Pacific cod (8,750 mt); flounders (8,250 mt); Pacific ocean perch (5,400 mt); Atka Mackerel (25,400 mt) and other groundfish (2,800 mt). Thirteen (13) American partners will participate in the joint ventures with Korea, however, negotiations have been completed with only the following six companies:

Daerim America, Inc., 2125 Center Avenue, Suite 105, Ft. Lee, NJ 07024
Profish International, Inc., 1530 Westlake Avenue N., Suite 700, Seattle, WA 98109
Cal-Alaska Fisheries, Inc., 324 W. 8th Street, Suite 203, Los Angeles, CA 90005
Alaska Joint Venture Fisheries, Ltd., 750 W. Second Avenue, Anchorage, Alaska 99501
Joint Venture Fisheries, Ltd., Canal Place Office Park, 150 Nickerson, Suite 207, Seattle, WA 98107
Alaska Contact, Ltd., 750 West Second Avenue, Suite 203, Anchorage, Alaska 99501

**Netherlands**

*Joint Venture*—The Government of the Kingdom of the Netherlands has applied for fishing vessel permits to engage in joint venture activities in the NWA fishery. The applications request that Netherlands vessels receive transshipments of Atlantic Mackerel from U.S. fishing vessels in the amount of 5,000 mt from January–December, 1985. The American partner in this joint venture is Scan Ocean, Inc., 42 Rogers Street, Gloucester, MA 01930.

**East Germany**

*Joint Venture*—The Government of the German Democratic Republic has applied for fishing vessel permits to engage in joint venture activities in the NWA fishery. The applications request that East German vessels receive transshipments, in the FCZ, of 5,000 mt of mackerel from U.S. fishing vessels. The American partner in the joint venture is Joint Trawlers (North America), Ltd., P.O. Box 1209 Gloucester, MA 01930. The operation will take place December, 1984–April, 1985.

**Taiwan**

*Joint Venture*—Taiwan has applied for fishing vessel permits to engage in joint venture activities in Alaska. The applications request that Taiwanese vessels receive transshipments of U.S. harvested fish in the total amount of 9,000 mt including Pacific cod (3,700 mt); pollock (2,800 mt); Turbot (1,400 mt) and other species (1,100 mt). This joint venture has two American partners: Alaska Contact, Ltd., 750 W. 2nd Avenue, Suite 203, Anchorage, AK 99501 and St. George Tanaq, Corp., 2604 Fairbank Street, Anchorage, AK 99503. The vessels will operate March, 1985–November, 1985.

**USSR**

*Joint Venture*—The Government of the Union of Soviet Socialist Republics has applied for fishing vessel permits to engage in joint venture activities in Alaska. The applications request that Soviet vessels receive transshipments of pollock (2,589 mt), atka mackerel (20,468 mt), yellowfin sole (31,865 mt), Pacific cod (24,369 mt), other flounders (21,244 mt), and other species (2,065 mt) from domestic vessels. The total is 102,600 mt. The American partner is Marine Resources Company (MRC), 192 Nickerson #307, Seattle, WA 98109. The operation will begin February, 1985 and end October, 1985.

**Spain**

*Joint Venture*—The Government of Spain (GOS) has applied for a fishing vessel permit to engage in joint venture activities in Alaska. The application requests that the Spanish vessel receive transshipments of groundfish totalling 12,000 mt: pollock (4,000 mt) and Pacific cod (8,000 mt). The American partner is Alaska Salt Fish Corporation, 705 Christensen Drive, Anchorage, AK 99501. The operation was scheduled to begin January, 1985 and continue until the harvesting ends. The vessel for which a permit was requested has sunken. This notice is to indicate the intent of GOS to form a joint venture.

[FR Doc. 84–31649 Filed 11–30–84; 8:45 am]
BILLING CODE 3510–22–M

## COMMODITY FUTURES TRADING COMMISSION

### Public Information Collection Requirement Submitted to Office of Management and Budget for Review

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of information collection.

**SUMMARY:** The Commodity Futures Trading Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

**ADDRESS:** Persons wishing to comment on this information collection should contact Katie Lewin, Office of Management and Budget, Room 3235, NEOB, Washington, D.C. 20503, (202) 395–7231. Copies of the submission are available from Joseph Salazar, Agency Clearance Officer, (202) 254–9735.

Title: Market Surveys.

Form number: Not applicable.

Action: Extension.

Respondents: Businesses (excluding small businesses).

Estimated annual burden: 2,000.

Estimated number of respondents: 400.

Issued in Washington, D.C., November 27, 1984.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 84-31488 Filed 11-30-84; 8:45 am]

BILLING CODE 6351-01-M

## New York Futures Exchange Commodity Research Bureau Futures; Price Index Futures Contract

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of availability of the terms and conditions of proposed commodity futures contract.

**SUMMARY:** The New York Futures Exchange ("NYFE") has applied for designation as a contract market in the Commodity Research Bureau Futures Price Index ("CRB Index"). The Commodity Futures Trading Commission ("Commission") has determined that the terms and conditions of the proposed futures contract are of major economic significance and that, accordingly, making available the proposed contract for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

**DATE:** Comments must be received on or before February 1, 1985.

**ADDRESS:** Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Reference should be made to the NYFE CRB Index futures contract.

**FOR FURTHER INFORMATION CONTACT:** Richard Shilts, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, (202) 254-7303.

A copy of the terms and conditions of the NYFE's proposed CRB Index futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the NYFE in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1983)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the NYFE in support of its application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, by February 1, 1985.

Issued in Washington, D.C., on November 28, 1984.

Jean A. Webb,

*Secretary to the Commission.*

[FR Doc. 84-31330 Filed 11-30-84; 8:45 am]

BILLING CODE 6351-01-M

## DEPARTMENT OF ENERGY

### Bonneville Power Administration

## Draft Conservation Cost-Sharing Principles and Proposed Model Conservation Standards Implementation Program Guidelines; Meeting

**AGENCY:** Bonneville Power Administration (BPA), DOE.

**ACTION:** Meeting notice.

**SUMMARY:** *Cost Sharing:* In early August 1984, BPA initiated a process to develop policy and principles reflecting the concept of conservation cost sharing.Cost sharing is defined as the up-front sharing of the cost of conservation program incentives between BPA and implementor. This concept was proposed in lieu of the current conservation contract charge to: (1) Address concerns about equitable cost recovery from generating and non-generating utilities, (2) reflect BPA's current resource planning assumptions, and (3) address program flexibility and cost concerns voiced by utilities regarding the conservation contract charge. The resulting final cost-sharing principles will be used as the basis for negotiating amendments to BPA's long-term conservation contract reflecting the cost sharing approach.

BPA has written draft conservation cost-sharing principles, and will hold meetings and accept comments on the principles. Copies of the principles are available upon request from the Public Involvement office at the address below. Any written comments on the principles should be received by 5 p.m., December 31, 1984, addressed to Ms. Donna L. Geiger, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

*Model Conservation Standards:* In its Two Year Action Plan, the Northwest Power Planning Council (Council) established standards for energy-efficiency in new residential and commercial buildings. The Council recommended that State and local governments adopt these Model Conservation Standards (MCS) by January 1, 1986, and that BPA develop a program to reimburse these entities for incremental costs associated with the adoption and enforcement of the MCS.

In response, BPA has developed Proposed Policies and Guidelines for a Model Conservation Standards Implementation Program (MCSIP), which will support MCS implementation and enforcement after January 1, 1986. BPA will hold meetings and accept comments on MSCIP. Copies of these procedures which were released November 16, 1984, are also available from the Public Involvement office. Written comments regarding the MCSIP should be received by 5 p.m., December 17, 1984, addressed to Ms. Donna L. Geiger, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon, 97212.

Public meetings on the Draft Conservation Cost-Sharing Principles (CS) and the proposed Model Conservation Standard Implementation Program Guidelines will be held during the week of December 10th. Meeting locations, dates and times are as follow:

Missoula, Montana
- December 10, Missoula Village Red Lion, Canyon Room, 100 Madison, 9:30–11:30 a.m.—CS, 1:00–3:00 p.m.—MCS

Spokane, Washington
- December 11, Spokane Ridpath Hotel, Terrace Room C, West 515 Sprague, 9:30–11:30 a.m.—CS, 1:00–3:00 p.m.—MCS

Portland, Oregon
- December 12, Thunderbird Motor Inn—Jantzen Beach, Klamath Room, 1401 N. Hayden Island Drive, 9:30–11:30 a.m.—MCS, 1:00–3:00 p.m.—CS

Boise, Idaho
- December 13, Owyhee Plaza, 1109 Main Street, 9:30–11:30 a.m.—CS, 1:00–3:00 p.m.—MCS

Seattle, Washington
- December 14, Seattle Mercer Forum, Rooms I and II, Mercer Street at 3rd Avenue North, 9:30–11:30 a.m.—CS, 1:00–3:00 p.m.—MCS

*Responsible Officials:* Sue F. Hickey, Director, Division of Planning and

Evaluation, Office of Conservation, is the official responsible for developing the cost-sharing policy. Sydney D. Berwager, Director, Division of Residential Programs, Office of Conservation, is the official responsible for developing MCS-support policies and procedures.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna L. Geiger, Public Involvement Office, P.O. Box 12999, Portland, Oregon, 97212. Telephone numbers, voice/TTY, for the Public Involvement Office are: 503–230–3478 in Portland; toll-free 800–452–8429 for Oregon outside of Portland; and toll-free 800–547–6048 for Washington, Idaho, Montana, Utah, Wyoming, Nevada, and California.

Issues in Portland, Oregon, on November 27, 1984.

**James J. Jura,**

*Acting Administrator.*

[FR Doc. 84-31631 Filed 11-29-84; 4:39 pm]

BILLING CODE 6450-01-M

## Southwestern Power Administration

### Proposed Town Bluff Hydropower Project, Texas; Notice of Final Selection

**AGENCY:** Department of Energy, Southwestern Power Administration.

**ACTION:** Notice of final selection of the Sam Rayburn Municipal Power Agency as the financial sponsor and preference customer for the proposed Town Bluff Hydropower Project in Texas.

**SUMMARY:**

1. The tenative selection of the Sam Rayburn Municipal Power Agency, a public body in the state of Texas, as the financial sponsor and preference customer for the proposed Town Bluff Hydropower Project was announced in the Federal Register, Volume 49, Number 199, Friday, October 12, 1984, page 40095. This announcement also stated that any subsequent proposals and/or applications for sponsorship or power and energy from the project received prior to November 13, 1984, would be considered in the final selection process.

2. Inquires requesting additional information were received; however, no subsequent proposals or applications for financial sponsorship or power and energy from the project were received during the above mentioned public comment period which closed on November 13, 1984. Because no additional proposals were received and because the previously announced proposal submitted by the Sam Rayburn Municipal Power Agency met or exceeded all financial sponsor and preference customer criteria, notice is hereby given that the Sam Rayburn Municipal Power Agency is selected as the financial sponsor and preference customer for the proposed Town Bluff Hydropower Project, Texas.

**ADDRESSES:**

For further information about the proposed project design, construction and financing, contact: James L. Hair, Executive Assistant, Forth Worth District, Corps of Engineers, P.O. Box 17300, Fort Worth, Texas 76102, Telephone (817) 334–2301;

or

For further information about the proposed marketing of the power and energy from the proposed project, contact; Walter M. Bowers, Director, Power Marketing, Southwestern Power Administration, P.O. Box 1619, Tulsa, Oklahoma 74101, Telephone (918) 581–7529.

Dated: November 23, 1984.

**Ronald H. Wilkerson,**

*Administrator, Southwestern Power Administration.*

[FR Doc. 84-31678 Filed 11-30-84; 11:37 am]

BILLING CODE 6450-01-M

## Federal Energy Regulatory Commission

**[Docket No. GP85–4–000]**

### Amerada Hess Corp., et al; Blanket Protest, Complaint, Motion To Intervene, and Request for Evidentiary Hearings on Production-Related Cost Allowances

In the matter of Amerada Hess Corp., American Petrofina Co., Aminoil USA Inc., Amoco Production Co., ARCO Oil and Gas Co., Champlin Petroleum Co., Chevron USA Inc., Cities Service Co., Cities Service Oil & Gas Corp., CNG Producing Co., Conoco, Inc. Diamond Shamrock Exploration Co., Exxon Corp., Getty Oil Co., Gulf Oil Co., Kerr-McGee Corp., The Louisiana Land & Exploration Co., Marathon Oil Co., Mobil Producing Texas and New Mexico, Inc., Mobil Oil Exploration & Producing Southeast Inc., Phillips Oil Co., Placid Oil Co., Shell Western E&P Inc., Shell Oil Co., Shell Offshore Inc., Sohio Petroluem Co., Sun Exploration & Production Co., The Superior Oil Co., Tenneco Oil Co., Texaco, Inc., Texaco Producing Inc., Union Oil of California, Union Texas Petroleum Corp.

Issued November 27, 1984.

On October 31, 1984, Associated Gas Distributors (AGD) filed a Blanket Protest, Complaint, Motion to Intervene, and Request for Evidentiary hearings on Production-Related Cost Allowances in response to the blanket affidavits submitted by the above-named companies [1] insofar as such affidavits purport to cover rate increases for natural gas first sales to the following named interstate pipelines: Columbia Gas Transmission Corporation, Consolidated Gas Transmission Corporation, Panhandle Eastern Pipe Line Company, Sea Robin Pipeline Company, Southern Natural Gas Company, Tennessee Gas Pipeline Company, Texas Gas Transmission Corporation, Texas Eastern Transmission Corporation, Transcontinental Gas Pipe Line Corporation, and United Gas Pipe Line Company (jointly referred to as AGD pipeline supplies). Specifically, AGD alleges that each of the AGD companies relies either directly or indirectly upon one or more of the AGD pipeline suppliers and that the rate increases proposed by the above-captioned producing companies, insofar as their blanket affidavits provide for increased rates for first sales of natural gas to the AGD pipeline suppliers, will adversely affect the AGD companies' cost of purchased gas, their retail rates, and their competitive position in the marketplace.

AGD states that Mobil Oil Corporation filed a complaint on August 28, 1984 [2] that argued that a vast majority of interstate pipelines failed to comply with the Commission's section 110 regulations by not paying production-related costs in installments during the period March 7, 1983 through December 31, 1984. AGD further states that on September 8, 1984, Indicated Producers submitted in Docket No. GP84–51–000 a "Motion to Require Pipeline Purchasers to Pay Gathering and Compression Allowances." As reason for the non-payment of the section 110 allowances, AGD alleges" . . . that the pipelines' non-payment is attributable to good faith disagreements or non-agreements between the contracting parties as to whether the producers' charges for production-related services are justified by the facts pertaining to individual wellhead sales and/or the producers' failure to provide in a timely way the factual description or basis for their charges." Therefore, on the basis of the Mobil Complaint, the Indicated Producers Motion, the pipelines' response thereto and the instant complaint, AGD asserts that a proceeding in the nature of a hearing before the Production Related Cost

[1] The blanket affidavits are required by §154.94(k)(1) of the Commission's regulations under the Natural Gas Act.

[2] Mobil Corp. v. ANR Pipeline Company, Docket No. GP84–50–000.

Board is required by the remedial procedure provided in § 275.1105(d) of the Commission's regulation.

Any person who desires to be heard or to make a protest to the request should file, within 30 days after this notice is published in the **Federal Register**, with the Commission a motion to intervene or a protest in accordance with Rules 211 or 214 of the Rules of Practice and Procedure. Such motion to intervene or protest should be filed at 825 North Capitol Street, NE., Washington, D.C. 20426. All protests filed will be considered but will not make the protestants parties to the proceeding. Any party who wishes to become a party must file a motion to intervene in accordance with the Commission's rules. The companies named in this filing have been served by AGD and also have 30 days from **Federal Register** publication to file their answers.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-31476 Filed 11-30-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER85-132-000]**

## Carolina Power & Light Co.; Filing

November 27, 1984.

The filing Company submits the following:

Take notice that on November 19, 1984, Carolina Power & Light Company (CP&L) tendered for filing proposed cancellation of the "1971 Generator Installation Agreement" dated July 6, 1969, between CP&L (FPC No. 98), Duke Power Company (FPC No. 247), South Carolina Electric & Gas Company (FPC No. 30), and Virginia Electric and Power Company (FPC No. 96). Under the Agreement, CP&L built a 194 megawatt unit, Asheville Unit No. 2, at CP&L's Asheville Steam Electric Plant and sold unit capacity and energy to the other three utilities. In addition, CP&L and Duke constructed and operated 230 kV transmission facilities to provide additional interconnection from the Asheville Steam Electric Plant.

Under the provisions of Article 2 of the Agreement, CP&L would notify the Parties to the Agreement prior to May 1 of each year the amount of the Asheville Unit No. 2 generating capacity CP&L would remain in order to have sufficient capacity to meet their projected Western Division peak demand. No charges or payments have been made between CP&L and Duke, SCE&G, or VEPCO for capacity since April 30, 1977, nor the transmission facilities since April 30, 1979, thereby making the "1971 Generator installation Agreement" inactive.

CP&L has sent copies of this filing to Duke Power Company, South Carolina Electric & Gas Company, and Virginia Electric and Power Company.

This cancellation is proposed to be effective sixty days after filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 31477 Filed 11-30-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER85-131-000]**

## Citizens Utilities Co.; Cancellation

November 27, 1984.

The filing Company submits the following:

Take notice that on November 19, 1984, Citizens Utilities Company (Citizens) tendered for filing a notice of cancellation Rate Schedule FPC No. 11.

Citizens requests an effective date of January 18, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NW., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 11, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-31478 Filed 11-30-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. GP85-5-000]**

## Conoco, Inc., Complaint

Issued: November 27, 1984.

Conoco, Inc., a producer of natural gas, has filed a complaint against sixteen pipeline companies [1] alleging that those companies have failed to make timely payments to Conoco of production-related cost allowances. Conoco states that § 271.1104(e) of the Commission's regulations [2] implementing section 110 of the NGPA,[3] requires the pipeline companies to pay it for certain production-related costs incurred before March 7, 1983, (the retroactive period) in equal installments between March 3, 1983 and December 31, 1984. Also the pipeline companies allegedly were required to pay Conoco for production-related costs incurred after March 7, 1983, (the current period) within the time period stated in Conoco's invoice or in the contract.[4] Conoco states that as of September 30, 1984, the pipeline companies had paid only 22.1% of their payments for the retroactive period and only 12.9% of the amounts billed for the current period. Conoco requests that the Commission: (1) Direct that the pipeline companies make the payments for which they have received billings within thirty days, (2) declare that failure to make timely payments will result in enforcement action including imposition of civil fines under section 504(b) of the NGPA, and (3) direct the pipeline companies to offset the production-related cost allowances against any Btu refund payments required by the rulemaking proceeding in Docket No. RM84-6-000.

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[1] Columbia Gas Transmission Corporation; El Paso Natural Gas Company; Gas Company of New Mexico, Division of Southern Union Company; Lone Star Gas Company; Natural Gas Pipeline Company of America; Northern Natural Gas Company, Division of Internorth Inc.; Northwest Central Pipeline Corporation; Northwest Pipeline Corporation; Panhandle Eastern Pipe Line Company; Sea Robin Pipeline Company; Southern Natural Gas Company; Texas Eastern Transmission Corporation; Texas Gas Resources Corporation; Transcontinental Gas Pipeline Company; Transwestern Pipeline Company; United Gas Pipe Line Company.

[2] 18 CFR 271.1104(c) (1984).

[3] 15 U.S.C. 3320 (1982).

[4] That time period generally was a month or less from the date of the invoice.

Any person who desires to be heard or to make any protest to this complaint should file, within 15 days after this notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed will be considered but will not make the protestants parties to the proceeding. Copies of the complaint have been served by Conoco on all respondents. Answers to the complaint shall be due within 21 days after this notice is published in the **Federal Register** under Rules 206 and 213 (18 CFR 385.206 and 385.213).

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-31479 Filed 11-30-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. CP85-85-000]**

## Consolidated Gas Transmission Corp. and Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Request Under Blanket Authorization

November 27, 1984.

Take notice that on November 2, 1984, Consolidated Gas Transmission Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), Tenneco Building, Houston, Texas 77002 (collectively referred to herein as Applicants), filed in Docket No. CP85-85-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to increase the maximum volume of natural gas to be stored in the jointly-owned Harrison storage pool, located in northern Pennsylvania and southern New York, pursuant to the certificates issued to Consolidated in Docket No. CP82-537-000 and Tennessee in Docket No. CP82-413-000 under section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicants propose to increase the storage capacity of the Harrison storage pool by 644,000 Mcf of gas, from 33,456,000 Mcf to 34,100,000 Mcf, at a pressure base of 14.73 psia. Applicants explain that the additional capacity would be utilized as top storage gas and thus the top storage gas level is also proposed to be increased by 644,000 Mcf, from 20,073,600 Mcf to 20,717,600 Mcf. Applicants state that in planning the development of the Harrison storage pool, the original capacity of the production pool was estimated to be 33,456,000 Mcf of gas at the original pool pressure of 2140 psig. It is further stated that with continued operation of the pool, Applicants have found that this volume of gas reaches a stabilized wellhead pressure for the pool of less than 2140 psig. Applicants have calculated that the requested additional 644,000 Mcf of natural gas can be stored at Harrison before reaching the original pool pressure of 2140 psig.

Applicants advise that no new facilities would be necessary to increase the storage pool capacity and that the increase in capacity would have virtually no impact on the normal operations of the facility.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-31480 Filed 11-30-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER85-130-000]**

## Illinois Power Co.; Filing

November 27, 1984.

The filing Company submits the following:

Take notice that on November 16, 1984, Illinois Power Company (Illinois) tendered for filing an initial rate schedule (Power Coordination Agreement) described herein between Soyland Power Cooperative, Inc. (Soyland), Western Illinois Power Cooperative, Inc. (WIPCO) and Illinois Power Company.

Under the Power Coordination Agreement, Soyland and WIPCO will have the right to purchase the output from a portion of Illinois Power Company's fossil-fueled generating capacity. The parties to the Agreement also agreed to pool their generating facilities so as to minimize the facilities which each will require to meet the growing requirements of their respective customers and members for electric power and to provide their customers for economic benefits and reliable service inherent from coordinated system planning and operation. In addition, the Agreement provides that the parties will share the use of transmission facilities, including the right to tap the systems of the other parties for the purpose of serving its members or customers located in the area served by the pool.

The Company, with the concurrence of Soyland and WIPCO, requests that the Commission grant a waiver of its notice requirements pursuant to the Commission's regulations and allow the filing to become effective on January 1, 1985, without suspension to achieve the effective date provided in the Power Coordination Agreement.

Copies of the filing were served upon the Company's electric cooperative customers, and the Illinois Commerce Commission, Springfield, Illinois.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 11, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-31481 Filed 11-30-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. CP85-88-000]**

## Natural Gas Pipeline Company of America; Application

November 27, 1984

Take notice that on November 6, 1984, Natural Gas Pipeline Company of America (Applicant), 701 East 22nd Street, P.O. Box 1208, Lombard, Illinois, 60148, filed in Docket No. CP85-88-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate

of public convenience and necessity authorizing the transportation of natural gas and the construction and operation of appurtenant facilities in the Twin Field area, Hansford County, Texas, all as more fully set forth in the application which is on file with the Commission and is open to public inspection.

Applicant states that it owns and operates a gas collection system in the Twin Field area, Hansford County, Texas. Applicant further states that analysis indicates significant quantities of heavy hydrocarbons which condense in the pipeline and cause pressure drop problems. In order to alleviate this situation, Applicant proposes to install a block valve, two side taps, and appurtenant facilities to connect its system to a skin mounted, refrigeration-type, liquid extraction plant to be located within Applicant's booster station No. 86 in Hansford County, Texas. Applicant explains that this plant would be capable of processing 2 MMcf of natural gas per day.

It is stated that the cost of the proposed facilities is $21,000 which would be financed with funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 17, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the approrpriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-31482 Filed 11-30-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. CP83-14-047]**

## Northern Natural Gas Company, Division of InterNorth, Inc.; Petition To Amend

November 27, 1984.

Take notice that on November 9, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP83-14-047 a petition to amend the order issued October 26, 1984, in Docket No. CP83-14-040 pursuant to section 7(c) of the Natural Gas Act so as to authorize the extension of the term of said order from January 26, 1985, to October 26, 1986. Petitioner also requests authorization to expand the applicability of this program and to make an administrative change to Rate Schedule LVCS, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that on October 8, 1982, it filed an application for a certificate of public convenience and necessity authorizing Petitioner to provide service through October 26, 1984, under two new flexible pricing rate schedules: The Flexible Pricing-Pipeline Option (FPO) and the Large Volume Contract Service (LVCS) rate schedule. It is stated that Rate Schedule FPO would apply to a group of Petitioner's utility customers whose consumers possess installed alternative fuel capability and are designated and defined, according to their natural gas requirements, in Petitioner's F.E.R.C. Gas Tariff, Third Revised Volume No. 1, as priorities 6, 7, and 8 (boiler fuel, 1,500 Mcf of gas or more per day) consumers. It is stated that Rate Schedule LVCS would provide a similar service, but would apply to distributor customers who contract on an individual basis with end-users who consume more than 199 Mcf of gas per day and who possess installed alternative fuel capability. Petitioner asserts that both of these services are designed to provide natural gas service to those consumers who, because of competitive fuel pricing situations, would otherwise use alternative fuels rather than purchase natural gas at prices basd on Petitioner's existing rates.

Petitioner states that on December 22, 1982, May 27, 1983, and November 25, 1983, Petitioner was issued temporary authorization in Docket Nos. CP83-14-001, CP83-14-005, and CP83-14-014, respectively, to provide service under these flexible rate schedules for customers and consumers who would otherwise use No. 6 fuel oil. It is asserted that such temporary certificates were granted by the Commission as a means of providing short-term relief from the economically debilitating effects that would occur to Petitioner and its customers if measures were not taken to stem the load loss occurring on Petitioner's system.

Petitioner states that on February 22, 1984, the Presiding Administrative Law Judge issued an initial decision recommending the issuance of a permanent certificate with several conditions, one of which required tracking of the discount sales and crediting of any net overrecovery of fixed costs in future rate cases to Petitioner's noneligible customers (26 FERC ¶ 63,071). It is stated that on May 25, 1984, the Commission approved the initial decision but added the condition that the fixed costs recovered from discount sales revenues be credited to noneligible customers during the period that Petitioner's current rates are in effect (27 FERC ¶ 61,299). It is further stated that the Commission's order authorized Petitioner's flexible pricing rate schedules to include those consumers who possess any alternative fuel capability rather than limiting the program to those consumers with only No. 6 fuel oil capability. Petitioner states that it accepted the certificate but sought rehearing of the rate conditions. It is stated that the Commission denied Petitioner's request for rehearing on August 21, 1984 (28 FERC ¶ 61,230). It is also stated that on October 17, 1984, Petitioner filed a petition for review with the United States Court of Appeals for the District of Columbia Circuit requesting such court to review the Commission's orders issued on May 25, 1984, and August 21, 1984, in Docket No. CP83-14-000.

Petitioner states that the Commission order of May 25, 1984, authorized its flexible pricing rate schedules through October 26, 1984. On July 23, 1984, Petitioner states it filed a petition to amend order to extend the term of the Commission's May 25, 1984, order from October 26, 1984, to October 26, 1986, as well as to make certain minor language changes to Rate Schedule LVCS. It is stated that on October 26, 1984, the

Commission issued an order in Docket No. CP83–14–040 granting Petitoner's request to extend the term, but limited the extension to a three-month period terminating January 26, 1985. It is asserted that such limited extension was granted, based on the success of Petitioner's program as documented in Petitioner's July 23, 1984, petition to amend, to provide the Commission additional time necessary to evaluate fully the final results and merits of this program for the entire period ending October 26, 1984.

It is stated that the Commission's May 25, 1984, order requires Petitioner to track and keep records of all sales made under the FPO and LVCS rate schedules and to secure from each discount customer an affidavit stating the price at which that customer could purchase alternative fuels and stating that the customer would switch to an alternative fuel if Petitioner did not provide the flexible rate.

Petitioner asserts that it has filed its compliance report containing the required information necessary for the Commission to evaluate the benefits of this program.

Petitioner asserts that the reasons underlying the permanent certificates issued May 25, 1984, and October 26, 1984, still exist. Accordingly, Petitioner requests that the Commission amend its order of October 26, 1984, to extend this flexible pricing service through October 26, 1986. Petitioner asserts that the FPO and LVCS rate schedules are accomplishing their desired goals, i.e. (1) returning load to the system that would otherwise use alternative fuels, (2) recovering fixed costs that Petitioner would lose in the absence of FPO and LVCS sales, (3) reducing Petitioner's take-or-pay exposure, (4) reducing Petitioner's system-wide gas costs reflected through its purchase gas adjustment (PGA), and (5) assisting in reducing the current surplus of natural gas available to Petitioner.

Petitioner states that from the inception of this program on May 27, 1983, through October 26, 1984, Petitioner has sold approximately 3,600,000 Mcf of natural gas to customers and consumers which otherwise would have used some alternative fuels. It is stated that these volumes were sold at rates ranging from $3.33461 per Mcf to $3.5566 per Mcf and assisted in the recovery of fixed costs ranging from $.27251 to $.4945 per Mcf.

It is asserted that such recovery of fixed costs has amounted to approximately $1.5 million to date that Petitioner would otherwise have foregone in the absence of these two rate schedules. Petitioner states that its currently effective rates are based upon total system sales of 587,000,000 Mcf. Petitioner states that its sales have deteriorated from this level and it is estimated now such sales would be 572,000,000 Mcf for 1985. Petitioner asserts that sales at the 572,000,000 Mcf level for 1985 would not enable Petitioner to recover the fixed costs underlying its currently effective rates. It is further asserted that the continued availability of the flexible rate schedules is critical to enable Petitoner the opportunity to recover its fixed costs and to achieve its market objectives of maintaining stable rates and halting further market erosion.

Over the past several years, Petitioner asserts, it has experienced a gas supply surplus; and such surplus is expected to be in existence throughout the proposed term of this service. It is asserted that sales under these rate schedules certainly assist Petitioner's efforts in reducing and managing this gas supply surplus. It is stated that the sales made under these flexible pricing rate schedules have resulted in Petitioner's avoidance of approximately $8.8 million in take-or-pay exposure which continues to be a major problem confronting Petitioner. Petitioner also states that the actual sales made under these flexible rate schedules have been priced at rate reflecting Petitioner's system-wide average cost of natural gas, whereas, the actual production required by these sales was purchased ratably from Petitoner's sources in the lower 48 states. As a result, Petitioner states that its general system customers have realized the benefit of approximately $1.1 million of increased gas cost recovery. It is asserted that this purchase price differential automatically is flowed back as a benefit in the form of reduced gas cost to Petitioner's customers via Petitioner's existing PGA tariff mechanism.

Although Petitioner has had as many as thirteen large volume customers on the flexible pricing program over the last two years, Petitioner asserts that the volume of actual sales made or the number of customers who have so far participated in this program cannot be the only measure of the need for this program. It is asserted that the flexibility offered by this program combined with the ability to demonstrate the programs' continued availability are major forces that are necessary to compete in the very competitive market environment.

Petitioner asserts that continued regulatory uncertainty diminishes the effectiveness of this program and impedes Petitioner's efforts to maximize its market acceptance. It is further asserted that market knowledge and acceptance. It is further asserted that market knowledge and acceptance of this program make it a powerful marketing tool in and of itself, and sales erosion to alternative fuels can be minimized simply with regulatory assurance and continued availability of such a competitive program. Petitioner submits that the extension of the program's term from January 26, 1985, to October 26, 1986, would provide the necessary assurance to Petitioner's customers regarding the program's overall stability.

Petitioner states that on November 1, 1984, it implemented new Rate Schedule CDO–1 (Contract Demand-Offsystem Service) which was approved by Commission Order dated June 1, 1984, in Docket No. RP83–73. It is stated that this rate schedule is available to any buyer who has contracted for a firm offsystem purchase of natural gas from Petitioner to serve a community wherein the buyer's distribution pipeline facilities are connected to Petitioner's pipeline facilities through a third party's pipeline facilities. At the present time, Petitioner states that it serves two utility customers under Rate Schedule CDO–1 who in turn serve end-users. Consequently, Petitioner seeks approval to extend the applicability of Rate Schedules LVCS and FPO to natural gas delivered to a gas utility under Petitioner's Rate Schedule CDO–1. Petitioner states that it has an immediate need to expand the applicability of these flexible pricing rate schedules to include Petitioner's CDO–1 customers to avoid the loss of at least three ultimate consumers to an alternative fuel.

Petitioner further requests the Commission to expand the market eligible for service under these two rate schedules to include the requirements consumers which do not have installed alternative fuel capability but would install alternative fuel capability due to the cost of natural gas service. Petitioner asserts that such expansion is needed to discourage customers and consumers from making an uneconomic investment in alternative fuel capability where the new investment is used not so much to utilize the alternative fuel as to qualify for cheaper natural gas. It is further stated that once the consumer has installed alternative fuel capability, the danger of such consumer's switching from natural gas to alternative fuels is exacerbated. Petitioner also seeks authority to make one administrative change to Rate Schedule LVCS which it claims does not affect the type of service being rendered. It is stated that

language has been added to the "Contract Requirements" section of said rate schedule which states that "all contracts executed pursuant to this rate schedule would be subject to termination if Petitioner effectuates a reduction in its Purchase Gas Cost that would enable the sale to be made pursuant to the CD–1 and CDO–1 Rate Schedules but constituting no increase in cost to the ultimate consumers."

Petitioner states that the Commission issued a permanent certificate on May 25, 1984, approving Petitioner's flexible rate program and applied such program to consumers who have the capability to use any alternative fuel. It is stated that such permanent certificate requires Petitioner to credit the fixed costs recovered by its flexible pricing sales to non-discount customers during the period Petitioner's current rates remain in effect. It is also stated that the Commission required Petitioner, after rates are established in its next rate case, to track sales and revenues under Rate Schedules FPO and LVCS and to determine if there has been any net over-recovery of costs to the non-eligible customers. If there is a net under-recovery, Petitioner's stockholders must bear the loss. It is stated that on May 25, 1984, Petitioner accepted the certificate without prejudice to Petitioner's filing for rehearing of the above revenue crediting provisions. It is further stated that on June 25, 1984, Petitioner filed for rehearing of the subject revenue crediting provisions which was subsequently denied on August 21, 1984. On October 17, 1984. Petitioner states it filed a petition for review with the United States Court of Appeals for the District of Columbia Circuit requesting such court to review the Commission's orders issued on May 25, 1984, and August 21, 1984. Consequently, Petitioner asserts that the ultimate treatment of the revenues which result from the implementation of these flexible rate schedules is subject to the final disposition of the pending court proceeding.

Any person desiring to be heard or to make any protest with reference to said peition to amend should on or before Dec. 17, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84–31483 Filed 11–30–84; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. ER85–128–000]**

## PacifiCorp, Doing Business as Pacific Power & Light Co.; Filing

November 27, 1984.

The filing Company submits following:

Take notice that on November 16, 1984, PacifiCorp, doing business as Pacific Power & Light Company (Pacific), tendered for filing Pacific's Revised Appendix 1 for the state of Oregon. The Revised Appendix 1 calculates an average system cost for the state of Oregon applicable to the exchange of power between Bonneville Power Administration (Bonneville and Pacific).

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective July 1, 1984, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Public Utility Commissioner of Oregon, and Bonneville's Direct Service Industrial Customers.

Any person desiring to be heard or to protect said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 11, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84–31484 Filed 11–30–84; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. ER85–126–000]**

## Tampa Electric Co.; Filing

November 27, 1984.

The filing Company submits the following:

Take notice that on November 15, 1984, Tampa Electric Company (Tampa) tendered for filing Service Schedule X providing for extended economy interchange service between Tampa and the City of Tallahassee, Florida (Tallahassee). Tampa states that Service Schedule X is submitted for inclusion as a supplement under the existing contract for interchange service between Tampa and Tallahassee, designated as Tampa's Rate Schedule FERC No. 20.

Tampa proposes an effective date of November 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served on Tallahassee and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 10, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84–31485 Filed 11–30–84; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. CP85–74–000]**

## Texas Gas Transmission Corp.; Application

November 27, 1984.

Take notice that on October 29, 1984, Texas Gas Transmission Corporation (Texas Gas) filed in Docket No. CP85–74–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Amoco Production Company (Amoco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that under a gas producer contract dated June 29, 1984, (Contract) between Texas Gas and Amoco, Amoco has the right to retain each day, from the date of first deliveries until July 1, 1987, up to 25 percent of the daily contract quantity established thereunder for sale to Florida Gas Transmission Company (Florida Gas) to fulfill Amoco's obligations to Florida Gas under a warranty contract dated November 20, 1964. It is further stated that in order to fulfill its obligations under the Contract, Texas Gas entered into a gas transportation agreement (Agreement) with Amoco on June 29, 1984. Texas Gas states that under this Agreement Texas Gas would transport such retained gas for Amoco on a firm basis in its system and in its capacity in a portion of the system of ANR Pipeline Company (ANR).

It is indicated that Texas Gas would receive such gas at a point of receipt at the proposed interconnection of the facilities of Texas Gas and Amoco on Amoco's A Production Platform in Block 294, West Cameron area, offshore Louisiana, and would transport such gas through the facilities which are presently being constructed by Texas Gas under blanket authority granted in Docket No. CP84–583–000 to a point of interconnection with the facilities of ANR in Block 167, West Cameron area. It is stated that ANR would then transport and deliver such gas to Texas Gas, under an existing transportation agreement, at a point onshore near Eunice, Louisiana, for further transportation and delivery to Florida Gas for the account of Amoco in Acadia Parish, Louisiana.

By this application Texas Gas requests authorization to perform such transportation for Amoco, whenever requested by Amoco, for a term not to extend beyond July 1, 1987. It is indicated that Amoco would pay Texas Gas a monthly transportation charge determined by multiplying the volumes of gas delivered during such month by the sum of (a) the ANR Rate Schedule X–63 100 percent load factor rate and (b) Texas Gas' legally effective rate applicable to the transportation service rendered in Texas Gas' pipeline, which is in Texas Gas' Rate Schedule T–SL/Z–SL, as filed with the Commission. It is stated that no new facilities nor new sales are proposed herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 17, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Gas to appear or be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84–31486 Filed 11–30–84; 8:45 am]

BILLING CODE 6717–01–M

## ENVIRONMENTAL PROTECTION AGENCY

**[OPPG–FRL–2729–1]**

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget for review. The ICR describes the nature of the solicitation and the expected impact, and, where appropriate, includes the actual data collection instrument. The following ICRs are available to the public for review and comment.

**FOR FURTHER INFORMATION CONTACT:** Nanette Liepman (PM–223); Office of Standards and Regulations; Regulation and Information Management Division; U.S. Environmental Protection Agency; 401 M Street, SW; Washington, D.C. 20460; telephone (202) 382–2742 of FTS 382–2742.

**SUPPLEMENTARY INFORMATION:**

**Pesticides Programs**

• Title: Affirmation of Nonmultinational Status (EPA #0612).

Abstract: EPA requires anyone seeking to obtain registrant-submitted health and safety data from the Agency to affirm that they are not affiliated with a foreign or multinational pesticide producer. EPA uses this information to ensure compliance with Section 10(g) of the Federal Insecticide, Fungicide and Rodenticide Act.

Respondents: Anyone wanting certain EPA health and safety data.

• Title: PCBs Manufacture, Processing, Distribution in Commerce and Use Prohibitions: Use in Electrical Transformers (EPA #1199).

Abstract: EPA requires owners of PCB electrical transformers to prepare PCB Smoke Spread Reduction Plans for each PCB transformer location. Agency inspectors will use these plans to determine compliance with requirements for transformer isolation under the Toxic Substances Control Act.

Respondents: Owners of PCB electrical transformers.

**Resources Management Programs**

• Title: Contractor's Cumulative Claim and Reconciliation (EPA #0246).

Abstract: Contractors with cost-reimbureable EPA contracts submit certain information to the Agency under the Federal Acquisition Regulations. EPA uses the information in auditing the claim and in reconciling payments with allowable, allocable and reasonable costs.

Respondents: Contractors with cost reimbursable EPA contracts.

**Agency PRA Clearance Requests Completed by OMB**

EPA #0227, Applicants Permit to Discharge Wastewater—Form 1 (General Information), was approved 11/5/84 (OMB #2000–0474; expires 4/30/85).

EPA #0822, Pretreatment Baselines Monitoring Report, was approved 10/18/84 (OMB #2040–0012: expires 10/31/87).

EPA #0861, NPDES Compliance Inspection Report, was approved 11/5/84 (OMB #2040-0003: expires 4/30/85).

Comments on all parts of this notice should be sent to:

Nanette Liepman (PM-223), U.S. Environmental Protection Agency, Office of Standards and Regulations, Regulation & Information Management Division, 401 M Street, SW., Washington, D.C. 20460;

and

Carlos Tellez and Rick Otis, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503.

Dated: November 23, 1984.

Daniel J. Fiorino,

*Acting Director, Regulation and Information Management Division.*

[FR Doc. 84-31398 Filed 11-30-84; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL COMMUNICATIONS COMMISSION

### Statement of Future Policy on Incomplete and Patently Defective AM and FM Construction Permit Applications

August 2, 1984.

This Public Notice reflects our continuing effort to expedite application processing. In an ongoing proceeding in General Docket No. 79-137, involving application processing procedures, we have made significant improvements in meeting this objective. In 1981, we revised the Application for Construction Permit for Commercial Broadcast Station (FCC Form 301). The revised Form 301 has resulted in an improvement in application processing through clarification and refinement of the reporting requirements and the elimination of antiquated and unnecessary disclosures. We have recently revised the Application for Construction Permit for Noncommercial Educational Broadcast Stations (FCC Form 340). The revised Form 340 is similar to the revised Form 301. In regard to our experience with the revised Form 301, however, we continue to receive many incomplete and patently defective applications.[1] This problem is especially acute in the FM service.

The number of construction permit applications returned by the FM Branch is approximately 40% of the tendered applications. Incomplete and patently defective applications place an inordinate burden on our processing staff. This burden entails repeated requests by the staff for information clearly called for in the application. This delays the processing of not only the incomplete and patently defective applications, but also the processing of grantable applications. Most important, service to the public in the initiation of new broadcast service is delayed. In the future, we expect the problem to be aggravated by the increase in the volume of FM applications resulting from BC Docket No. 80-90 and our related action today changing our filing and cut-off procedures.

At the outset, we recognize that returning or dismissing an incomplete or patently defective construction permit application can result in severe consequences to the applicant. At the very least, the applicant could lose its place in the processing line. In many situations, a cut-off date could preclude the refiling of the application. For these reasons, we have not instituted draconian procedures with respect to incomplete or defective applications. However, we do feel that return is warranted where the application is not substantially complete and thus both impairs our ability to evaluate the application and significantly delays processing. In this Public Notice, we are advising applicants as to the types of omissions and defects which will render the application subject to return at the time of tender. We are also advising applicants as to the types of omissions and defects which will result in the return of an application as unacceptable for filing, or outright dismissal.

We have delineated below three stages at which an application can be either returned or dismissed—return at time of tender, return as unacceptable for filing, and dimissal. The first stage involves obvious defects—significant omissions such as a failure to include required sections. The second stage involves engineering omissions and other defects which would render the application subject to return as unacceptable for filing. Finally, the third stage involves dismissal after the application has been accepted for filing.

Illustrative examples of defects and omissions at each of the three processing stages are set forth below. We emphasize, however, that, while detailed, they are *not* meant to be all-inclusive. It should also be noted that a failure of the staff to discern an omission or defect at one stage in the process does not preclude appropriate action upon later discovery.

#### Return at Time of Tender

If the application does not include required sections, the application is patently defective and will be returned at the time of tender. Such an application will not be assigned a file number until resubmitted with all required sections and signed. In these cases we will *not* allow the applicant to remedy the omission and have its application accepted *nunc pro tunc* in order to participate in a comparative hearing, if a cut-off date has passed by the time of resubmission.

#### Return As Unacceptable for Filing

Section 73.3580(h) of the Rules requires local public notice of the filing of certain broadcast applications and amendments. We permit the applicant to certify compliance with this requirement. In the event the applicant fails to certify; or if it did not, in fact, comply with the requirements contained in § 73.3580, the application is subject to return as unacceptable for filing.

Each application receives a detailed engineering review by the processing staff to determine whether it meets our technical acceptance criteria. Indeed, we believe this to be a core function of the Commission. This review involves determinations with respect to interference to existing facilities, power requirements and minimum spacing requirements. For AM applications, the interference study pertains to daytime hours, nighttime hours and critical hours. In addition, AM applications must comply with certain acceptance criteria. FM applications must comply with distance separation standards as well as the maximum power and antenna height limitations. If an application does not comply with these requirements and does not contain an appropriate request for waiver, the application will be returned. Similarly, if an FM applicant proposes a directional antenna with a ratio exceeding 15 dB maximum to minimum radiation in the horizontal plane (§73.316) and does not include sufficient justification for waiver, the application is subject to return.

There are special concerns applicable to AM broadcasting. Of the three broadcasting services, AM broadcasting is the most complex from an engineering point of view. The accuracy of the coordinates is absolutely essential. Failure to supply coordinates or submitting obviously incorrect coordinates may render the entire engineering section defective. The staff

[1] In regard to full service television applications, the administrative burden attendant to incomplete and patently defective applications has not proved to be inordinate. For this reason, we are not including television applications within the ambit of this *Public Notice* at this time.

must also be able to determine the antenna effeciency of a nondirectional antenna. Therefore, the height of the antenna, frequency, power and both the length and number of radials in the ground system must be included. If the antenna is top loaded or sectionalized, we must have this information. In regard to a directional antenna, we must have the field ratios, the phases, theoretical RMS and the height of the antenna. Return is appropriate if this requested information is not included.

**Dismissal**

In some situations, an applicant may fail to answer a question or include an Exhibit clearly called for in the application. Many of these instances can be attributed to clerical error or oversight. However, when numerous uncorrected defects and omissions, considered in the totality, impair our ability to evaluate the application, the application will be subject to dismissal. In a similar vein, dismissal is warranted if the application contravenes our multiple ownership rules without sufficient justification for waiver.

**Reconsideration Nunc Pro Tunc**

Finally, we would also like to note that we have, on many occasions, granted reconsideration of an action dismissing or returning an application as unacceptable for filing when an applicant submits a relatively minor curative amendment within 30 days. In contested proceedings, the result of this procedure is that applications are accepted *nunc pro tunc*. We will continue to act favorably on such requests after an initial dismissal or return of an application as unacceptable for filing. This procedure is a reasonable accommodation to applicants who wish to participate in the comparative proceeding and may be unfamiliar with our application requirements. In the situations in which we have granted reconsideration in the first instance, the curative amendment has not unduly delayed the processing of other applications. In the future, we will, however, expect such applicants to completely review *all* portions of a returned or dismissed application. Thereafter, if the same application is returned or dismissed a second time, it will *not* be afforded *nunc pro tunc* reconsideration rights. Repeating a procedure whereby applications are re-accepted *nunc pro tunc* is obviously unfair to other applicants in a comparative proceeding who have prepared properly executed applications. Furthermore, this process of repeatedly affording *nunc pro tunc* reconsideration rights leads to delay and tends to encourage the filing of incomplete and poorly prepared applications.

Delay in publication is due to late receipt of document by the FCC representative and the Office of Federal Registration.

Action by the Commission July 26, 1984. Commissioners Fowler (Chairman), Quello, Dawson, Rivera and Patrick.

**William J. Tricarico,**

*Secretary, Federal Communications Commission.*

[FR Doc. 31538 Filed 11-30-84; 8:45 am]

BILLING CODE 6712-01-M

## FEDERAL MARITIME COMMISSION

### Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following 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.: 221–010685
Title: Los Angeles Terminal Agreement
Parties: The City of Los Angeles acting as the Los Angeles Harbor Department (City) Los Angeles Harbor Improvement Corporation (LAHIC)
Synopsis: Agreement No. 221–010685 provides for the lease by the City to LAHIC of certain land within the Port of Los Angeles containing sites for existing terminals or terminals that are to be constructed. The parties have requested a shortened review period for the agreement.

Agreement No.: 221–010686
Title: Los Angeles Terminal Agreement
Parties: The City of Los Angeles acting as the Los Angeles Harbor Department (City) Los Angeles Harbor Improvement Corporation (LAHIC)
Synopsis: Agreement No. 221–010686 provides that LAHIC will lease from the City eight marine terminal sites located within the Port of Los Angeles. The agreement also provides for the leaseback of the sites to the City by LAHIC when the construction and improvements have been completed thereto. The leases and leaseback provide a means for creating an income stream to LAHIC, which will be fractionalized and sold as certificates of participation. The buyers of the certificates will provide the capital necessary to finance the projects. Operational control of the sites will be in the Los Angeles Harbor Department. The parties have requested a shortened procedure for the agreement.

Agreement No.: 224–010690
Title: Los Angeles Terminal Agreement
Parties: The City of Los Angeles (City) Mitsui O.S.K. Lines, Ltd. (MOL)
Synopsis: Agreement No. 224–010690 provides for the granting by the City to MOL preferential use of a container terminal at Berths 136–139 including 70 acres of backland area within the Port of Los Angeles. The term of the agreement will be for ten years cancellable after the fifth year. Compensation will be based on a guranteed minimum per acre. The revenue sharing will be as provided in the Agreement. MOL must pay the City crane charges and they have the option to purchase up to five container cranes itself or require the city to make the purchase. When the agreement is concluded, the City agrees to purchase any cranes MOL has purchased provided that the City is not obligated to purchase more than four cranes at the facility.

Agreement No.: 244–010691
Title: Charleston Terminal Agreement
Parties: The South Carolina State Ports Authority (Authority) Atlantic Cargo Services, A.B. (ACS)
Synopsis: Agreement No. 244–010691 provides for the granting by the Authority to ACS of a lease to use 4.7 acres at the Columbus Street Terminal in Charleston for the parking and assembly of ACS's containers and other purposes in connection with their container shipping terminal operations. The term of the agreement will be for 3 years commencing on the effective date as determined by the Commision with options for two 3-year terms. The parties requested a shortened review period for the agreement.

Agreement No.: 224–010692
Title: Portland Terminal Agreement
Parties: The Port of Portland (Port) Daiichi Chuo Kisen Kaisha and Trade Ocean Line (Daiichi/T.O. Line)
Synopsis: Agreement No. 224–010692 provides that Daiichi/T.O. Line shall use the premises at Terminals 1, 2

and/or 4, the adjacent dock, and backup areas as assigned by the Port, for their breakbulk multipurpose vessels in their eastbound/westbound trade. The Port will provide Daiichi/T.O. Line all marine terminal services. The agreement shall be for a term of two years and shall commence the first day of the month following the date the Commission designates as the effective date. Daiichi/T.O. Line agrees to use the Port of Portland as its designated Columbia River port of call. The agreement provides reduction to its services and facilities charges when the prescribed tonnage are reached and exceeded.

By Order of the Federal Maritime Commission.

Dated: November 28, 1984.

Bruce A. Dombrowski,

*Assistant Secretary.*

[FR Doc. 84-31532 Filed 11-30-84; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Suntrust Banks, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Compaines; and Acquisition of Nonbanking Company

*Correction*

In FR Doc. 84-30342 beginning on page 45808 in the issue of Tuesday, November 20, 1984, make the following correction:

On page 45809, first column, second complete paragraph, last line, "1974" should have read "1984".

BILLING CODE 1505-01-M

### Commerce Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or a bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 24, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Commerce Bancorp, Inc.*, Washington, D.C.; to become a bank holding company by acquiring 100 percent of the voting shares of Commerce National Bank of Washington, D.C.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minesota 55480:

1. *Cash Holding Company, Inc.*, Sioux Falls, South Dakota; to become a bank holding company by acquiring 98.6 percent of the voting shares of Southern Hills Bank, Edgemont, South Dakota, and 100 percent of the voting shares of Custer County Bank, South Dakota.

2. *Gebsco, Inc.*, Cochrane, Wisconsin; to acquire 90.7 percent of the voting shares of Mondovi State Bank, Mondovi, Wisconsin.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Greater Texas Bancshares, Inc.*, Georgetown, Texas; to acquire 100 percent of the voting shares of National Bank of Oak Hill, Austin, Texas, a *de nova* bank.

2. *Lone Star Bancgroup, Inc.*, Dallas, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Lone Star National Bank, Dallas, Texas.

3. *Ruidoso Bank Corporation*, Ruidoso, New Mexico; to acquire 100 percent of the voting shares of Bank of the Rio Grande, N.A., Las Cruces, New Mexico, a *de novo* bank.

4. *Vidor Bancshares, Inc.*, Beaumont, Texas; to become a bank holding company by acquiring 99 percent of the voting shares of Allied Vidor Bank, Vidor, Texas.

5. *Westchase Bancshares, Inc.*, Houston, Texas; to become a bank holding company by acquiring 23 percent of the voting shares of West Belt National Bank, Houston, Texas.

D. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. **North Bay Bancorp**, Novato, California; to become a bank holding company by acquiring 100 percent of the voting shares of Novato National Bank, Navota, California (in organization).

Board of Governors of the Federal Reserve System, November 27, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-31506 Filed 11-30-84; 8:45 am]

BILLING CODE 6210-01-M

### Full Service Insurance Agency, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 21, 1984.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Full Service Insurance Agency, Inc.*, Buxton, North Dakota; to acquire Philip Peterson Insurance Agency, Climax, Minnesota, thereby engaging in general insurance agency activities in a community that has a population not exceeding 5,000. These activities would be performed in Traill and Grand Forks Counties, North Dakota.

Board of Governors of the Federal Reserve System, November 27, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-31507 Filed 11-30-84; 8:45 am]

BILLING CODE 6210-01-M

## Merrill Bankshares Co., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 20, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Merrill Bankshares Company*, Bangor, Maine; to engage *de novo* through its subsidiary, Merrill Life Insurance Company, Phoenix, Arizona, in underwriting credit life insurance and credit accident and health insurance directly related to the extension of credit by The Merrill Trust Company, Bangor, Maine and Merrill Bank, N.A., Farmington, Maine, bank subsidiaries of the Applicant. These activities would be conducted in the State of Maine.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Alpha Banco, Inc.*, Alpha, Illinois; to engage *de novo* in acting as agent for the issuance of insurance related to the extension of credit to customers of Farmers State Bank of Alpha. These activities would be performed in Mercer, Henry, and Knox Counties in the State of Illinois.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Community Bancshares, Inc.*, Houston, Texas; to engage *de novo* through its subsidiary, First Community Leasing, Houston, Texas, in leasing personal or real property, and acting as broker, agent and adviser in connection with the leasing of such property.

D. **William W. Wiles**, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551:

1. *NBC Bank Corp*, El Dorado, Arkansas and *Exchange Bancshares, Inc.*, El Dorado, Arkansas; to engage through a joint venture in providing electronic data processing accounting functions for Applicants' banking subsidiaries and for local businesses, through a *de novo* Consolidated Data Services, Inc., El Dorado, Arkansas. This application may be inspected at the Federal Reserve Bank of St. Louis.

Board of Governors of the Federal Reserve System, November 27, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-31508 Filed 11-30-84; 8:45 am]

BILLING CODE 6210-01-M

## SBC Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 21, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *SBC Financial Corporation*, Chittenango, New York; to become a bank holding company by acquiring 80 percent of the voting shares of State Bank of Chittenango, Chittenango, New York.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Americorp, Inc.*, Savannah, Georgia (formerly Atlantic South Coastal Corporation); to acquire 100 percent of the voting shares of Ameribank, N.A., Savannah, Georgia. Comments on this application should be received not later than December 19, 1984.

2. *First American Corporation*, Nashville, Tennessee; to acquire 100 percent of the voting shares of Midland Bank and Trust Company, Memphis, Tennessee.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *The Levelland Company*, Levelland, Texas; to increase its current holding

from 22.22 percent to 23.33 percent of the voting shares of Lubbock Bancorporation, Inc., Lubbock, Texas, thereby indirectly increasing its holding in Bank of the West, Lubbock, Texas.

Board of Governors of the Federal Reserve System, November 27, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-31509 Filed 11-30-84; 8:45 am]

BILLING CODE 6210-01-M

## Valley Bancorporation; Application To Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 21, 1984.

**A. Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Valley Bancorporation*, Appleton, Wisconsin; to engage *de novo* through its subsidiary, Valley Brokerage Services, Appleton, Wisconsin, in providing discount brokerage services by acting as agent to its customers. These activities would be conducted in the State of Wisconsin.

Board of Governors of the Federal Reserve System, November 27, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-31511 Filed 11-30-84; 8:45 am]

BILLING CODE 6210-01-M

## Welcome Bancshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 24, 1984.

**A. Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Welcome Bancshares, Inc.*, C/O Welcome State Bank, Welcome, Minnesota; to acquire Welcome Insurance Agency, Welcome, Minnesota, thereby operating a general insurance agency in the city of Welcome, Minnesota, which has a population not exceeding 5,000. These activities would serve Martin, Jackson, Watonwan, and Faribault counties in the State of Minnesota, and Emmett and Kessuth counties in the State of Iowa.

Board of Governors of the Federal Reserve System, November 27, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-31510 Filed 11-30-84; 8:45 am]

BILLING CODE 6210-01-M

**[Docket No. R-0534]**

## U.S. Treasury Book-Entry Securities Service: Request for Comment

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Request for comment.

**SUMMARY:** The Board of Governors is requesting public comment on a proposed fee for the funds settlement component of the secondary market book-entry transfer of U.S. Treasury securities.

**DATE:** Comments must be received by January 16, 1985.

**ADDRESS:** Comments, which should refer to Docket No. R-0534, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551, or delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding the Availability of Information, 12 CFR 261.6(a).

**FOR FURTHER INFORMATION CONTACT:** Gerald D. Manypenny, Manager (202/452-3954) or Brada W. Panther, Analyst (202/452-2831), Division of Federal Reserve Bank Operations; or Gilbert T. Schwartz, Associate General Counsel (202/452-3625) or Daniel L. Rhoads, Attorney (202/452-3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**SUMMARY:** The Federal Reserve's book-entry securities service provides for safekeeping and transfer of book-entry securities. Book-entry securities issued by the United States Treasury are the principal securities in the Federal Reserve's book-entry system. Prior to 1981, fees for Treasury book-entry securities services were established by the Department of the Treasury. However, with the implementation of pricing for Federal Reserve services under the Monetary Control Act of 1980 ("MCA"), the account maintenance and secondary market transfers of Treasury book-entry securities were regarded by the Federal Reserve as priced services under the MCA.

Based upon a review of the roles of the Federal Reserve and the Treasury in providing this service, the Treasury Department has concluded that the secondary market book-entry service provided by the Reserve Banks for U.S. Treasury securities should be regarded as a fiscal agency activity conducted on Treasury's behalf rather than as a priced service under the MCA. Consequently, the Treasury has determined that fees charged for the book-entry securities activity performed on behalf of the Treasury by Reserve Banks as fiscal agents will be established by the Treasury and collected by Reserve Banks on behalf of the Treasury. In this regard, by separate announcement the Treasury Department is requesting public comment on a proposed fee schedule for this activity. The Treasury's proposed fee schedule would contain no charge for account maintenance but would impose fees of $1.50 for securities transfers originated on-line and $6.25 for securities transfers orginated or received off-line.[1]

A book entry securities transfer message typically contains two elements, the securities transfer and the accompanying funds settlement and related accounting. The Federal Reserve and the Treasury have etermined that the funds settlement element of a securities transfer message is not a fiscal agency activity performed by the Reserve Banks on behalf of the Treasury. Therefore, the fees proposed by the Treasury for this service do not include funds settlement.

Separation of the funds settlement activity from the securities transfer element may have a disruptive effect on the secondary market since the settlement may not take place at the same time the securities are transferred. Funds settlement is believed necessary to support secondary market activity in book-entry Treasury securities. Accordingly, the Board believes it appropriate to regard the funds settlement element as an activity incidental to the provision of the securities transfer fiscal agency service on behalf of the Treasury Department rather than as a priced service under the MCA.

The Board also believes that the Federal Reserve's costs of providing the funds settlement element should be recovered from users of the service. Consequently, the Board has determined to solicity public comment on a fee of $0.75 per book-entry securities transfer to recover these costs. This fee would cover the direct, support, overhead and float costs associated with this element and would be in addition to the fees announced by the Treasury. Since the funds settlement activity is incidental to the provision of a fiscal agency service, the fee does not take into account the private sector adjustment factor. Further, it is proposed that income from this fee would be regarded as a recovery of costs rather than as revenue.

By order of the Board of Governors of the Federal Reserve System, November 29, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-31606 Filed 11-30-84; 8:45 am]

BILLING CODE 6210-01-M

[1] Current Federal Reserve fees provide for a monthly account maintenance fee of $15 plus $0.50 per issue in the account, and transfer fees of $3 for transfers originated on-line and $10 for transfers originated or received off-line.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 82N-0058; DESI 11300]**

### McNeil Pharmaceutical; Parafon Forte Tablets; Hearing on Proposal to Withdraw Approval; Correction

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice correction.

**SUMMARY:** The Food and Drug Administration (FDA) is adding Cord Laboratories, Inc. to the list of parties to the hearing on Parafon Forte Tablets announced October 15, 1984.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Rice, Jr., Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3490.

**SUPPLEMENTARY INFORMATION:** In a notice published in the **Federal Register** of October 15, 1984 (49 FR 40212), the Commissioner of Food and Drugs granted a hearing on the proposal to withdraw approval of the new drug application for parafon Forte Tables. That notice listed as parties to the hearing, FDA's Center for Drugs and Biologics, McNeil Pharmaceutical (the holder of NDA 11-529), and four other drug manufacturers. However, one manufacturer that filed a hearing request in response to the proposed withdrawal was inadvertently omitted from the list of parties. That manufacturer is now being added as a party to the Parafon Forte hearing.

Accordingly, the following correction should be made in FR Doc. 84-27101, beginning on page 40212, in the issue of Monday, October 15, 1984.

The addition to page 40212, third column, third paragraph, should read as follows:

5. Cord Laboratories, Inc., 2555 West Midway Blvd., Broomfield, Co 80020.

Dated: November 23, 1984.

**Joseph P. Hile,**

*Associate Commissioner for Regulatory Affairs.*

[FR Doc. 84-31490 Filed 11-30-84; 8:45 am]

BILLING CODE 4160-01-M

### Advisory Committee; Amendment of Meeting Notice

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration is amending the notice of the Cardiovascular and Renal Drugs Advisory Committee meeting to explain that the committee discussion and conclusions regarding aspirin will be considered by the agency in its preparation of a final monograph on OTC internal analgesic drugs. The notice, which was published in the **Federal Register** of November 14, 1984 (49 FR 45070), is amended by revising the meeting announcement to read as follows:

**Cardiovascular and Renal Drugs Advisory Committee**

*Date, time, and place.* December 10 and 11, 9 a.m., Auditorium, Lister Hill Center, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD.

*Type of meeting and contact person.* Open public hearing, December 10, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; December 11, 9 a.m. to 5 p.m.; Joan C. Standaert, Center for Drugs and Biologics (HFN-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730.

*General function of the committee.* The committee reviews and evaluates available data on the safety and

effectiveness of marketed and investigational prescription drugs for use in the treatment of cardiovascular and renal disorders.

*Agenda—Open public hearing.* Interested persons desiring to present data, information, or views, orally or in writing, on issues pending before the committee should notify the contact person.

*Open committee discussion.* The committee will discuss the use of aspirin in cardiovascular disease, Sterling Drug Inc. (information on file in Docket No. 77N-0094); Atenupres (Lofexidine) NDA 18-955, Merrell Dow, for use in hypertension; Sectral (Acebutolo) NDA 18-971, Ives Laboratories, for use in angina pectoris, cardiac arrhythmia, and hypertension; Questran (Cholestyramine) NDA 16-640, NDA 16-019, Mead Johnson, for use in coronary artery disease. The committee's discussion and conclusions regarding aspirin will be considered by the agency in its preparation of a final monograph on OTC internal analgesic drugs. Such a monograph is being developed as part of the OTC Drug Review proceeding on OTC internal analgesic, antipyretic, and antirheumatic products. The advance notice of proposed rulemaking for those products was published in the Federal Register of July 8, 1977 (42 FR 35346).

Dated: November 27, 1984.

Joseph P. Hile,

*Associate Commissioner for Regulatory Affairs.*

[FR Doc. 84-31492 Filed 11-30-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket Nos. 84V-0260 ET AL.]

## Availability of Approved Variances for Sunlamp Products

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that variances from the performance standard for sunlamp products have been approved by the Deputy Director, Center for Devices and Radiological Health (CDRH), for certain specified sunlamps and sunlamp products manufactured or imported by three organizations. The intended use of the products is to produce ultraviolet radiation for tanning the skin.

**DATE:** The effective dates and termination dates of the variances are listed in the table below under "Supplementary Information."

**ADDRESS:** The applications and all correspondence on the applications have been placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Tracy Summers, Centers for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

**SUPPLEMENTARY INFORMATION:** Under § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), each of the three organizations listed in the table below has been granted a variance from certain requirements of the performance standard for sunlamp products (21 CFR 1040.20). Approval has been granted for the listed products to vary as specified from that portion of §1040.20(c)(2)(ii) requiring the maximum timer interval for a sunlamp product to be 10 minutes or less. All other provisions of § 1040.20 remain applicable to the listed sunlamp products and ultraviolet lamps.

Each of the variances for the nominally untraviolet-A (UVA) sunlamp products permits the listed manufacturer or importer to introduce into commerce sunlamp products that have less than 5 percent of their ultraviolet radiation at wavelengths shorter than 320 nanometers. FDA's experience with this kind of sunlamp product indicates that the relatively lengthy exposure recommended by the manufacturer does not result in severe, acute skin burns or corneal injury. Therefore, the time interval requirement of § 1040.20(c)(2)(ii) is not appropriate for these UVA products. Even through the skin hazard is reduced, there is still a need to wear protective eyewear to eliminate the unnecessary risk to chemically sensitized lenses or of cornea damage or of long-term development of lens opacities.

CDRH has determined that suitable and/or alternate means of radiation protection are provided by constraints on the physical and optical design and by warnings in the user manual and on the products for all of the variances in lieu of the requirements listed in the table that were determined to be inappropriate. Therefore, on the effective dates specified in the table below, FDA aproved the requested variances by letter to each manufacturer or importer from the Deputy Director, CDRH.

So that each product may show evidence of the variance approved for the manufacturer or importer of that product, each product shall bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)) a variance number, which is the FDA docket number appearing in the table below, and the effective date of the variance as specified in the table below.

| Docket No. | Organization granted the variance | Sunlamp product | Effective date/termination date |
|---|---|---|---|
| 84V-0260 | Mt. Hood Manufacturing, Inc., 37396 Ruben Lane, Sandy, OR 97055. | Sunmaster UVA tanning beds manufactured by Mt. Hood Manufacturing, Inc. | Sept. 11, 1984-Sept. 11, 1989 |
| 84V-0273 | Pacific Solarium, 1610 N. 1st Street, Yakima, WA 98901 | UVA sunlamp products (tanning beds) manufactured by Pacific Solarium. | Sept. 21, 1984-Sept. 21, 1989 |
| 84V-0295 | Southern Exposure, Inc., 473 W. Northwest Highway, Palatine, IL 60067. | UVA Solariums manufactured by Alisun Holland b.v. | Sept. 21, 1984-Sept. 21, 1989 |

In accordance with § 1010.4, the applications and all correspondence on the applications have been placed on public display under the designated docket numbers in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 23, 1984.

Joseph P. Hile,

*Associate Commissioner for Regulatory Affairs.*

[FR Doc. 84-31491 Filed 11-30-84; 8:45 am]

BILLING CODE 4160-01-M

## National Institutes of Health

## National Heart, Lung, and Blood Institute; Cardiology Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cardiology Advisory Committee.

National Heart, Lung, and Blood Institute, January 7 and 8, 1985, Building 31C, Conference Room 8, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 8:30 a.m. on January 7 to adjournment of January 8. Attendance by the public will be limited to space available. Topics for discussion will include a review of the research programs relevant to the Cardiology area and consideration of future needs and opportunities.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Room 4A21, Building 31, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–4236, will provide summaries of the meeting and rosters of the Committee members.

Eugene R. Passamani, M.D., Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Room 320, Federal Building, Bethesda, Maryland 20205, telephone (301) 496–5421, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Disease Research, National Institutes of Health)

Dated: November 26, 1984.

**Betty J. Beveridge,**

*NIH Committee Management Officer.*

[FR Doc. 84–31505 Filed 11–30–84; 8:45 am]

**BILLING CODE 4140–01–M**

## National Heart, Lung, and Blood Institute; Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Epidemiology and Clinical Applications, National Heart, Lung, and Blood Institute, National Institutes of Health, January 15–16, 1985. The meeting will be held in Conference Room B119, Federal Building, 7550 Wisconsin Avenue, Bethesda, Maryland 20205.

This meeting will be open to the public on January 15 from 9:00 a.m. to recess and from 8:30 a.m. to adjournment on January 16 to discuss new initiatives, program policies and issues. Attendance by the public is limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide a summary of the meeting and a roster of committee members upon request. Dr. William Friedewald, Executive Secretary of the Committee, Federal Building, Room 212, Bethesda, Maryland 20205, phone (301) 496–2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: November 26, 1984.

**Betty J. Beveridge,**

*NIH Committee Management Officer.*

[FR Doc. 84–31504 Filed 11–30–84; 8:45 am]

**BILLING CODE 4140–01–M**

## National Heart, Lung, and Blood Institute; Pulmonary Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, February 21–22, 1985, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 9, Bethesda, Maryland 20205.

The entire meeting, from 8:30 a.m. on February 21 to adjournment on February 22, will be open to the public. The Committee will discuss the plans for fiscal year 1986. Attendance by the public will be limited to the space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A–21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the Committee members.

Dr. Suzanne S. Hurd, Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health)

Dated: November 26, 1984.

**Betty J. Beveridge,**

*Committee Management Officer.*

[FR Doc. 84–31503 Filed 11–30–84; 8:45 am]

**BILLING CODE 4140–01–M**

## Office of Human Development Services

## Review of Commercial Activities, FY 1985

**AGENCY:** Office of Human Development Services, HHS.

**ACTION:** Notice.

**SUMMARY:** The Assistant Secretary for Human Development Services gives notice that the Office of Human Development Services (OHDS) will review in FY 1985 some of its activities to determine if these activities should be performed by commercial sources under contract or "in house" by government personnel using government facilities. Publication of this informational notice is required by the provisions of Office of Management and Budget (OMB) Circular A–76 (Revised). This notice is not an invitation for bids or a request for proposals.

**Authority:** The Budget and Accounting Act of 1921 (31 U.S.C. 1 et seq.) and the Office of Federal Procurement Policy Act Amendments of 1979 (41 U.S.C. 401 et seq.); OMB Circular No. A–76 (Revised).

**FOR FURTHER INFORMATION CONTACT:** William Rule, IV, Office of Human Development Services, Office of Management Services, 200 Independence Ave. SW., Rm. 315D, Washington, D.C. 20201 Telephone (202) 245–3368.

**SUPPLEMENTARY INFORMATION:** OHDS is required by OMB Circular A–76 to inventory all functions that are not purely governmental and which can be designated as commercial activities. These inventoried commercial activities are scheduled for review and for cost-comparison studies to determine if the activity should remain "in house" or contracted out. The commercial activities scheduled for FY 1985 review and the locations where these activities are being performed are as follows:

*Commercial Activity and Location*

1. Word Processing and Typing, Washington, D.C.
2. Mail and Messenger Services, Washington, D.C.
3. Audio-Visual Services, Washington, D.C.
4. ADP Services, Washington, D.C.
5. Clearinghouse Operations, Washington, D.C.
6. Training Services, Washington, D.C.
7. Equipment Operation and Security, Washington, D.C.
8. Material Management, Washington, D.C.
9. Travel Services, Nationwide.

Dated: November 23, 1984.

**Norman Goldstein,**

*Director, Office of Management Services.*

Approved: November 27, 1984.

**Dorcas R. Hardy,**

*Assistant Secretary for Human Development Services.*

[FR Doc. 84–31498 Filed 11–30–84; 8:45 am]

**BILLING CODE 4130–01–M**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[W-32093, W-71385, W-71386, W-71391, W-71414, W-71895]

### Notice of Proposed Continuation of Withdrawal; Wyoming

*Correction*

In FR Doc. 84-30183 beginning on page 45497 in the issue of Friday, November 16, 1984, make the following corrections:

1. On page 45497, in the third column, under "T.26N., R. 84 W.," in Sec. 9, "W½SW¼" should read "N½SW¼".

2. In the same column, under "T. 28 N., R. 84 W.," in Sec. 15, "SW½;" should read "SW¼;".

3. On page 45498, in the first column, under "T. 29 N., R. 84 W.,":

a. In Sec. 9, the fourth line should read "SE¼SE¼;".

b. In Sec. 26, in the second line, "SW¼SE¼," should read "SW¼SW¼ SE¼;".

c. In Sec. 28, in the first line, "SW¼NE¼NE¼," should read "SW¼NW¼NE¼,".

4. On the same page, in the second column, under "T. 29N., R. 85 W.,":

a. In Sec. 3, in the first line, "NE¼SW¼" should read "NW¼ SW¼".

b. In Sec. 12, in the third line, "NW¼NE¼SE¼." should read "NW¼NE¼SW¼."

BILLING CODE 1505-01-M

### Minerals Management Service

### Outer Continental Shelf; Proposed Development and Production Plan; Availability of Draft Environmental Impact Statement and Intent To Hold Public Hearings

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of Availability for Environmental Impact Statement/ Environmental Impact Report.

**SUMMARY:** Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service, Santa Barbara County, California State Lands Commission and California Coastal Commission have jointly prepared a Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Point Arguello Field Development and Production Plans proposed for the southern Santa Maria Basin, offshore Santa Barbara County, California. Single copies of the Final EIR/EIS, including the Response to Comments Volume, can be obtained from Santa Barbara County, Resource Management Department, Energy Division, 123 East Anapamu Street, Santa Barbara, California 93101 or by contacting Randy Smith at (805) 963-3434. A Technical Appendix Addendum and republished final copies of Technical Appendices O and K have also been prepared. The technical appendices which were prepared for the Draft EIR/EIS may also be obtained individually or as a unit by forwarding a written request to the above address. When requesting an individual appendix, refer to the following titles:

E. Geology
F. Air Quality
G. Onshore Water Resources
I. Marine Biology
J. Terrestrial and Freshwater Biology
K. Cultural Resources
L. Aesthetics (Noise, Visual)
M. Socioeconomics
N. Other Uses (Commercial Fishing, Recreation, Traffic)
O. System Safety and Reliability

Copies of the Final EIR/EIS will also be available for review in following public libraries:

County of Los Angeles Public Library, Govt. Pub. Unit, 330 W. Temple, Los Angeles, CA 90012
State Library—Govt. Pub. Sec., Attn: Beverly Pettijohn, P.O. Box 2037, Sacramento, CA 95814
San Luis Obispo, City/County Library, 1354 Bishop Street, San Luis Obispo, CA 93406
Main Library, Vandenburg Air Force Base, CA 73437
U.S. DOI Natural Resource Library, 18th and C NW., Washington D.C. 20240
Santa Barbara Public Library, 40 E. Anapamu Street, Santa Barbara, CA 93101
University of California Library, Santa Barbara Campus, Main Library, Santa Barbara, CA 93106

Agencies, interested groups or individuals needing further information should contact Mary Elaine Warhurst at Minerals Management Service, 1340 W. 6th Street, Los Angeles, CA 90017 or at (213) 688-4360.

Dated: November 26, 1984.

**William E. Grant,**

*Regional Director, Pacific OCS Region.*

[FR Doc. 84-31494 Filed 11-30-84; 8:45 am]

BILLING CODE 4310-MR-M

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-193]

### Certain Rowing Machines and Components Thereof; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice if hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Lotus International 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 November 28, 1984.

Copies of the initial determination, the settlement 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 respondent. 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.

Issued: November 28, 1,984.

By order of the Commission.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 84-31521 Filed 11-30-84; 8:45 am]

BILLING CODE 7020-02-M

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[Investigation No. 337-TA-193]

## Certain Rowing Machines and Components Thereof; Initial Determination Terminating Respondent on the Basis of Settlement 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 respondent on the basis of a settlement agreement: Fu Luong Traffic Parts Co., Ltd.

**SUMMARY 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 November 28, 1984.

Copies of the initial determination, the settlement 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 respondent. 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.

Issued: November 28, 1984.

By order of the Commission.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 84-31522 Filed 11-30-84; 8:45 am]

BILLING CODE 7020-02-M

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[Investigation No. 337-TA-193]

## Certain Rowing Machines and Components Thereof; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

**AGENCY:** U.S. International Trade Commision.

**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 respondent on the basis of a settlement agreement: M.T.I. 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 November 28, 1984.

Copies of the initial determination, the settlement 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 respondent. 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, Officer of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

Issued: November 28, 1984.

By order of the Commission.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 84-31523 Filed 11-30-84; 8:45 am]

BILLING CODE 7020-02-M

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## INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30517]

## Atlantic Richfield Co.; Exemption; Continuance in Control

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** The Interstate Commerce Commission exempts the continuance in control of Arco Metals Trucking Company and Butte, Anaconda & Pacific Railway by Atlantic Richfield Company from the requirements of 49 U.S.C. 11343, subject to protective conditions for rail employees.

**DATES:** This decision is effective on January 2, 1985. Petitions for reconsideration must be filed by December 24, 1984. Petitions for stay must be filed by December 13, 1984.

**ADDRESSES:** Send pleadings referring to Finance Docket No. 30517 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Michael F. Morrone, 1150 Seventeenth Street, NW., Suite 1000, Washington, DC 20036

**FOR FURTHER INFORMATION CONTACT:** Louis E. Gitomer, (202) 275-7245.

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: November 14, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioner Simmons dissented in part with a separate expression. Chairman Taylor, joined by Commissioner Lamboley, concurred in the result with a separate expression.

James H. Bayne,

*Secretary.*

[FR Doc. 84-31513 Filed 11-30-84; 8:45 am]

BILLING CODE 7035-01-M

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[Ex Parte No. 388 (Sub-Nos. 5, 9, 17 and 22]

## Intrastate Rail Rate Authority; Georgia, Iowa, Missouri and New Mexico

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of certification.

**SUMMARY:** The Commission grants final certification to the Georgia Public Service Commission, the Iowa Department of Transportation, the Missouri Public Service Commission, and the New Mexico State Corporation Commission under 49 U.S.C. 11501(b) to regulate intrastate rail transportation, subject to a condition precedent that they modify their standards and procedures as noted in the full decision.

**DATES:** If the necessary changes are made, certification will begin on January 2, 1985.

**FOR FURTHER INFORMATION CONTACT:** Louis E. Gitomer, (202) 275-7245.

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll Free (800) 424-5403.

Decided: November 19, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioner Simmons dissented in part with a separate expression. Chairman Taylor concurred in part and dissented in part with a separate expression.

James H. Bayne,

*Secretary.*

[FR Doc. 84-31512 Filed 11-30-84; 8:45 am]

BILLING CODE 7035-01-M

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[Docket No. AB-57 (Sub-14X)]

## Soo Line Railroad Company—Abandonment Exemption—in Marquette, MI; Exemption

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its 2.7-mile line of railroad between milepost 0.0 near Washington Street and milepost 2.7 near Hawley Street in Marquette, MI.

Applicant has certified: (1) That no local traffic has moved over the line for at least 2 years and that and overhead traffic is not moved over the line or may be rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective January 2, 1985, unless stayed pending reconsideration. Petitions to stay must be filed by December 13, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by December 24, 1984 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: C. Harold Peterson, 804 Soo Line Building, P.O. Box 530, Minneapolis, MN 55504.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: November 26, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

*Secretary.*

[FR Doc. 84-31613 Filed 11-30-84; 8:45 am]

BILLING CODE 7035-01-M

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## NATIONAL COMMUNICATIONS SYSTEM

### National Security Telecommunications Advisory Committee; Closed Meeting

A meeting of the National Security Telecommunications Advisory Committee (NSTAC) will be held on December 12, 1984. The meeting will be held at Headquarters North American Aerospace Defense Command (HQ NORAD) in Colorado Springs, Peterson AFB, Colorado.

**December 12, 1984**

8:00 a.m.—Call to Order
8:05 a.m.—Welcome from Chief, North American Aerospace Defense Command
8:30 a.m.—Review of Government Action on NSTAC recommendations
9:15 a.m.—Report from Industry
11:00 a.m.—NSTAC IV Deliberations
2:00 p.m.—Classified Government Briefing
4:00 p.m.—Discussion with President's representative
4:30 p.m.—Adjournment

Due to the requirement to discuss Classified information, the afternoon session of this meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (202) 692-9274 or write the Manager, National Communications System, Washington, DC 20305-2010.

David C. Brown,

*Captain, USN, NCS Joint Secretariat.*

[FR Doc. 84-31473 Filed 11-30-84; 8:45 am]

BILLING CODE 3610-05-M

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## NUCLEAR REGULATORY COMMISSION

### Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of the Office of Management and Budget review of information collection.

**SUMMARY:** The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: New.

2. The title of the information collection: Disposal of High-Level Radioactive Waste in Geologic Repositories: Amendments to Licensing Procedures, 10 CFR Part 60.

3. The form number if applicable: Not Applicable.

4. How often the collection is required: On Occasion.

5. Who will be required or asked to report: Affected States and Indian Tribes.

6. An estimate of the number of responses: 96

7. An estimate of the total number of hours needed annually to complete the requirement or request: 460

8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: 10 CFR Part 60 contains detailed provisions for the participation of States and Indian tribes in the process of siting and developing a high-level radioactive waste geologic repository. The proposed amendments do not require States and affected Indian tribes to submit any proposals. This is strictly voluntary on their part, and only if they desire to do so would the information in question be required of them.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395–7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 21st day of November 1984.

For the Nuclear Regulatory Commission.

**John Philips,**

*Acting Director, Office of Administration.*

[FR Doc. 84-31543 Filed 11-30-84; 8:45 am]

BILLING CODE 7590-01-M

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## Ad Hoc Advisory Committee for Review of Enforcement Policy; Initial Meeting

An Ad Hoc Advisory Committee for Review of Enforcement Policy has been established by the Nuclear Regulatory Commission to obtain expert advice from persons outside the Commission on the effectiveness of its current enforcement practices.

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Committee on Enforcement Policy will hold its first meeting at 9:00 a.m., December 18, 1984 in Room 118 of the Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland. The meeting may continue on December 19, 1984 at the same location. The meeting will be open for public observation.

At this meeting, the Director, Office of Inspection and Enforcement, NRC, will make a presentation describing the current enforcement program, his views on the effectiveness of the program and potential issues for the committee to address. The committee will also discuss the proposed scope of its review of enforcement practices.

The Advisory Committee is chaired by E.P. Wilkinson of Del Mar, California. The other members are Colin S. Diver, Professor of Law, Boston University School of law; Micheal V. Hasten, an attorney in Chicago, Illinois with Winston and Strawn;

Dr. Joseph M. Hendrie, with the Department of Nuclear Energy, Brookhaven National Laboratory Associated Universities, Inc.; and Dr. Howard L. Parris, Project Manager, Human Factors Division, Electric Power Research Institute, Palo Alto, California.

Serving as liaison officer to the Committee for NRC is Karen Cyr, and attorney with the NRC Office of the Executive Legal Director.

Further information on the meeting may be obtained from Ms. Karen, Cyr, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301/492–7269.

Dated at Washington, D.C. this 28th day of November, 1984.

**John C. Hoyle,**

*Advisory Committee Management Officer.*

[FR Doc. 84-31541 Filed 11-30-84; 8:45 am]

BILLING CODE 7590-01-M

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## Advisory Panel for the Decontamination of Three Mile Island, Unit 2; Renewal

The Nuclear Regulatory Commission announces the renewal of the Advisory Panel for the Decontamination of Three Mile Island, Unit 2. It has been determined that renewal of this Advisory Panel for an additional two-year period is necessary and in the public interest in order to continue to receive public input and enhance public understanding of the major activities required to decontaminate and safely clean up the damaged facility (Unit 2) at Three Mile Island Nuclear Power Station.

The charter for the Panel has been extended to November 27, 1986.

Dated at Washington, DC, this 28th day of November 1984.

**John C. Hoyle,**

*Advisory Committee Management Officer.*

[FR Doc. 84-31542 Filed 11-30-84; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50–293]**

## Boston Edison Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the technical requirements of Appendix R to 10 CFR 50 to Boston Edison Company (the licensee), for the Pilgrim Nuclear Power Station, located in Plymouth County, Massachusetts.

**Environmental Assessment**

*Identification of Proposed Action*

The exemption would relax the following requirements:

1. That there be no intervening combustibles between redundant trains of safe shutdown equipment. The exemption would apply only to certain fire zones on the 23-foot and 51-foot elevations of the reactor building where the intervening combustible load is very low and the licensee proposes to install automatic water curtains where no physical barriers exist.

2. That total area coverage automatic fire suppression systems be installed. The exemption would apply only to the above fire zones and to the torus compartment below the reactor building. The licensee proposes to enclose in a fire barrier one train of shutdown cables in the torus compartment to assure safe shutdown.

3. That fixed fire suppression systems be installed in areas for which alternate shutdown capability is provided. The exemption would apply only to the fire zones identified in item 1 above and to the vital M.G. set room. Automatic smoke detection equipment, which alarms in the control room, and manually-operated fire suppression equipment is available in these areas.

The exemption is responsive to the licensee's application for technical exemptions dated May 17, 1983, as supplemented by a letter dated April 2, 1984. The request for schedular exemption will be the subject of a separate action.

*The Need for the Proposed Action*

The proposed exemption is needed because the features described in the licensee's request regarding the existing level of fire protection and proposed modifications at the plant are the most practical method of meeting the intent of Appendix R and literal compliance would not significantly enhance the fire protection capability.

*Environmental Impacts of the Proposed Action*

The proposed exemption will provide a degree of fire protection equivalent to that required by Appendix R such that there is no increase in the risk of fires at this facility. Consequently, the probability of fires has not been increased and the post-fire radiological releases will not be greater than

previously determined. Neither does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential non-radiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

*Alternative Use of Resources*

This action involves no use of resources not previously considered in the Final Environmental Statement related to operation of the Pilgrim Nuclear Power Station.

*Agencies and Persons Consulted*

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

**Finding of No Significant Impact**

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated May 17, 1983, and the supplement dated April 2, 1984, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Plymouth Public Library, North Street, Plymouth, Massachusetts.

Dated at Bethesda, Maryland, this 27th day of November 1984.

For the Nuclear Regulatory Commission.

**Gus C. Lainas,**

*Assistant Director for Operating Reactors, Division of Licensing.*

[FR Doc. 84-31549 Filed 11-30-84; 8:45 am]

BILLING CODE 7590-01-M

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[Docket No. 50-334]

## Duquesne Light Co. et al. (Beaver Valley Power Station Unit No. 1); Exemption

I

The Duquesne Light Company, Ohio Edison Company and Pennsylvania Power Company (the licensees), are the holder of Facility Operating License No. DPR-66 (the license) which authorizes operation of the Beaver Valley Power Station, Unit No. 1 The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now and hereafter in effect.

The facility comprises a pressurized water reactor at the licensee's site located at Beaver County, Pennsylvania.

II

By letter dated July 14, 1983, Duquesne Light Company applied for an amendment to Operating License DPR-66 to change certain provisions of the Technical Specifications. Among these requested changes, one change would require an exemption from the Commission's regulation, described as follows:

Section III.D.2(b)(ii) of Appendix J, 10 CFR Part 50, states that "Air locks opened during periods when containment integrity is not required by the plant Technical Specifications shall be tested at the end of such periods at not less than Pa".

Duquesne Light Company has requested that the Beaver Valley Unit No. 1 Technical Specification 4.6.1.3 be changed to required an overall air lock leak rate test at Pa (38.3 psig) to be perfomed only "Upon completion of maintenance which has been performed on the air lock that could affect the air lock sealing capability". This requested Technical Specification change is a deviation from the subject regulation. Containment integrity is not required whenever the plant is in cold shutdown (Mode 5) or refueling (mode 6). If an airlock is opened during Mode 5 and 6, Appendix J nevertheless requires that an overall air lock leakage test at not less than Pa be conducted prior to plant startup (i.e., entering Mode 4).

Airlocks typically do not have the capability to be pressurized internally to Pa and remain leaktight, without the installation of holding devices (strongbacks) or mechanical adjustment of the operating mechanisms of the inner doors. This is because the inner doors are designed to be seated with the application of pressure on the containment side of the door. During air lock testing, the test pressure exerted on the air lock side of the inner door causes the door to unseat. The use of strongbacks or mechanical adjustment of the door prevent the unseating of the inner door, allowing the test to proceed. The installation of strongback or performance of mechanical adjustments is time consuming (often taking several hours), may result in additional radiation exposure of operating personnel, and may cause degradation of the operating mechanism of the inner door with consequent loss of reliability of the air lock. In addition, when conditions require frequent degradation of the operating mechanism of the inner door with consequent loss of reliablity of the air lock. In addition, when conditions require frequent openings over a short period of time, testing at Pa after each opening becomes impractical (tests often take from 8 hours to several days), accelerated degradation of mechanical equipment, and increases personnel exposure to radiation.

Paragraph III.D.2(b)(i) requires that air locks be tested at Pa at 6-month intervals. Paragraph III.D.2(b)(iii) provides that air locks opened during periods when containment integrity is required, their seals must be tested within 3 days after opening. If both types of tests are current and no maintenance has been performed on the air lock, there should be no reason to expect the air lock to leak excessively just because it has been opened in Mode 5 or 6. Consequently, when no maintenance has been performed on an air lock, the tests prescribed by Paragraph III.D.2(b)(i) and III.D.2(b)(iii) should be sufficient; whenever maintenance has been performed on an airlock, the requirements of Paragraph III.D.2(b)(ii) must be still be applicable.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants an exemption with respect to the requirements of 10 CFR 50, Appendix J, Section III.D.2(b)(ii):

The Beaver Valley Unit I Technical Specifications may be amended to require overall air lock leak test at Pa prior to establishing containment integrity and upon completion of air lock maintenance that could affect the air lock sealing capability.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the Exemption will have no significant impact on the environment (49 FR 32134).

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 19th day of November, 1984.

For the Nuclear Regulatory Commission.

**Darrell G. Eisenhut,**

*Director for Operating Reactors Division of Licensing.*

[FR Doc. 84-31550 Filed 11-30-84; 8:45 am]

BILLING CODE 7590-01-M

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[Docket No. 50-87]

## Westinghouse Electric Corp. Nuclear Training Reactor; Renewal of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 8 to Facility Operating License No. R-119 for Westinghouse Electric Corporation (the licensee) which renews the license for operation of the Nuclear Training Reactor located in Zion, Illinois. The facility is a non-power reactor that has been operating a power levels not in excess of 10 kilowatts (thermal). The renewed Operating License No. R-119 will expire on January 28, 2002.

The amendmed license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I. Those findings are set forth in the license amendment. Opportunity for hearing was afforded in the notice of the proposed issuance of this renewal in the **Federal Register** on January 29, 1982 at 47 FR 4372. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared a Safety Evaluation Report (NUREG-1083) for the renewal of Facility Operating License No. R-119 and has, based on that report, concluded that the facility can continue to be operated by the licensee without endangering the health and safety of the public.

The Commission also has prepared an Environmental Assessment dated November 1, 1994 for the renewal of Facility Operating License No. R-119 and has concluded that this action will not have a significant effect on the quality of the human environment. The Notice of Finding of No Significant Environmental Impact was published in the **Federal Register** on November 26, 1984 at 49 FR 46521.

For further details with respect to this action, see (1) the application for amendment dated December 18, 1981, as supplemented, (2) the Finding of No Significant Envirnmental Impact, (3) Amendment No. 8 to Operating License R-119, (4) the Commission's related Safety Evaluation Report (NUREG-1083), and (5) Environmental Assessment. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Copies of NUREG-1083 may be purchased by calling (301) 492-9530 or by writing to the Publication Serivces Section, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 27 day of November 1984.

For the Nuclear Regulatory Commission.

**Cecil O. Thomas,**

*Chief, Standardization & Special Projects Branch, Division of Licensing.*

[FR Doc. 84-31551 Filed 11-30 84; 8:45 am]

BILLING CODE 7590-01-M

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

## Quotas for U.S. Imports of Coffee From Nonmembers of the International Coffee Agreement; Elimination of Quota in 1986-1987

The Council of the International Coffee Organization (ICO) approved a resolution September 30, 1984, setting maximum limits for imports of coffee from countries not parties to the 1983 International Coffee Agreement (ICA) for coffee years 1984-85 to 1988-89 (a coffee year is Oct. 1-Sept. 30). As part of this decision the United States agreed to limit non-member imports into the United States for coffee year 1984-85 to a quantity not greater than 74,710 60-kilogram bags. The United States has previously announced **Federal Register,** June 6, 1984) that the non-member quota for coffee year 1984-85 would not open until February 1, 1985; therefore this limit of 74,710 60-kilogram bags will apply for the period February 1-September 30, 1985.

According to this same ICO resolution, importing members of the ICO may also establish a non-member import limit at a level below the maximum limit (74,710 bags in the case of the United States) specified in the resolution. The United States has decided that beginning in coffee year 1985-86 the non-member import limit for the United States shall be zero. The elimination of imports from non-members, is done under the authority of Public Law 98-120 and is consistent with the responsibilities of the United States under the ICA.

Dated: November 27, 1984.

**William E. Brock,**

*U.S. Trade Representative.*

[FR Doc. 84-31475 Filed 11-30-84; 8:45 am]

BILLING CODE 3190-01-M

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## OFFICE OF PERSONNEL MANAGEMENT

## Excepted Service

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** This gives notice of positions placed or revoked under Schedules A, B and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

**FOR FURTHER INFORMATION CONTACT:** Tracy Spencer, (202) 632-6000.

**SUPPLEMENTARY INFORMATION:** The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on October 23, 1984 (49 FR 42657). Individual authorities established or revoked under Schedules A, B or C between October 1, 1984 and October 31, 1984 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

### Schedule A

The following exception is established:

*Department of the Army*

Building Manager, Office of the Director of Intercollegiate Athletics, U.S. Military Academy, West Point, New York. Effective October 25, 1984.

### Schedule B

No exceptions were established or revoked in Schedule B during the month of October.

### Schedule C

The following exceptions are established:

*Department of Agriculture*

One Confidential Assistant to the Director, Office of Rural Development Policy. Effective October 25, 1984.

One Confidential Assistant to the Administrator, Agricultural Marketing Service. Effective October 26, 1984.

*Department of Commerce*

One Special Assistant to the Deputy Assistant Secretary for Import Administration, International Trade Administration. Effective October 3, 1984.

One Special Assistant to the Deputy Assistant Secretary for Intergovernmental Affairs. Effective October 12, 1984.

One Congressional Affairs Officer to the Director, Minority Business Development Agency. Effective October 12, 1984.

One Chief, Executive Services to the Deputy Assistant Secretary for the Economic Development Administration. Effective October 18, 1984.

One Confidential Assistant to the Assistant Secretary for Trade Development. Effective October 24, 1984.

One Deputy Director to the Director, Office of Public Affairs. Effective October 26, 1984.

One Confidential Assistant to the Assistant Secretary for Economic Development. Effective October 30, 1984.

One Confidential Aide to the Special Assistant to the Secretary. Effective October 30, 1984.

*Department of Defense*

One Private Secretary to the Principal Deputy Assistant Secretary of Defense (Public Affairs). Effective October 24, 1984.

*Department of Education*

One Staff Assistant to the Director of Regional Liaison. Effective October 2, 1984.

One Confidential Assistant to the Director, Office of Intergovernmental and Interagency Affairs. Effective October 4, 1984.

One Confidential Assistant to the Assistant Secretary for Special Education and Rehabilitative Services. Effective October 19, 1984.

One Confidential Assistant to the Deputy Under Secretary for Management. Effective October 30, 1984.

One Staff Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs. Effective October 30, 1984.

*Department of Health and Human Services*

One Confidential Staff Assistant to the Chief of Staff. Effective October 2, 1984.

One Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs. Effective October 22, 1984.

One Special Assistant for Block Grants to the Director, Office of State and Project Assistant. Effective October 23, 1984.

*Department of Housing and Urban Development*

One Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations. Effective October 1, 1984.

One Special Assistant for Community Relations to the Regional Administrator/Regional Housing Commissioner in Los Angeles, California. Effective October 5, 1984.

One Senior Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations. Effective October 12, 1984.

One Senior Legislative Specialist to the Deputy Assistant Secretary for Legislation. Effective October 15, 1984.

One Special Assistant to the Secretary. Effective October 15, 1984.

One Special Assistant to the Assistant Secretary for Policy Development. Effective October 15, 1984.

One Intergovernmental Relations Specialist to the Deputy Under Secretary for Intergovernmental Relations. Effective October 18, 1984.

One Assistant Director for Executive Secretariat Operations to the Executive Assistant to the Secretary. Effective October 22, 1984.

One Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations. Effective October 23, 1984.

*Department of the Interior*

One Special Assistant to the Director, Bureau of Land Management in Sacramento, California. Effective October 15, 1984.

*Department of Justice*

One Staff Assistant to the Associate Deputy Attorney General. Effective October 25, 1984.

*Department of Labor*

One Staff Assistant to the Secretary. Effective October 12, 1984.

*Department of State*

One Special Assistant to the Deputy Assistant Secretary for Private Sector Initiatives, Bureau of International Organization Affairs. Effective October 2, 1984.

One Staff Assistant to the Under Secretary for Management. Effective October 3, 1984.

One Staff Assistant to the Under Secretary for Management. Effective October 3, 1984.

One Foreign Affairs Officer to the Assistant Secretary for the Bureau of Oceans and International Environmental and Scientific Affairs. Effective October 5, 1984.

One Special Assistant to the Coordinator for Public Diplomacy for Latin America and the Caribbean. Effective October 18, 1984.

*Department of Transportation*

One Staff Assistant to the Administrator, Research and Special Programs Administration. Effective October 1, 1984.

One Receptionist to the Deputy Secretary. Effective October 2, 1984.

One Deputy Executive Secretary for Management. Effective October 12, 1984.

One Deputy Executive Secretary for Policy. Effective October 12, 1984.

One Congressional Liaison Specialist to the Director of Congressional Affairs. Effective October 15, 1984.

One Staff Assistant to the Executive Secretary. Effective October 15, 1984.

One Congressional Liaison Officer to the Director of Congressional Affairs. Effective October 18, 1984.

One Executive Assistant to the Deputy Administrator, Urban Mass Transportation Administration. Effective October 19, 1984.

One Staff Assistant to the Assistant Secretary for Public Affairs. Effective October 30, 1984.

*Department of the Treasury*

One Special Assistant to the Assistant Secretary for Policy, Planning and Communications. Effective October 12, 1984.

*ACTION*

One Secretary (Typing) to the Director. Effective October 5, 1984.

*Administrative Conference of the United States*

One Special Assistant to the Chairman. Effective October 2, 1984.

*Agency for International Development*

One Legislative Research Assistant to the Director, Office of Legislative Affairs. Effective October 11, 1984.

One Congressional Liaison Assistant to the Assistant Administrator for the Bureau for Private Enterprise. Effective October 12, 1984.

*Commission on Civil Rights*

One Special Assistant to the Staff Director. Effective October 3, 1984.

One Public Affairs Specialist to the Public Affairs Officer. Effective October 3, 1984.

One Special Assistant to the Staff Director. Effective October 12, 1984.

One Confidential Assistant to the Staff Director. Effective October 12, 1984.

*Consumer Product Safety Commission*

One Special Assistant (Legal) to a Commissioner. Effective October 23, 1984.

*Executive Office of the President*

One Executive Secretary to the Executive Associate Director for Budget and Legislation, Office of Management and Budget. Effective October 18, 1984.

*Federal Deposit Insurance Corporation*

One Legislative Attorney and Advisor to the Director, Office of Congressional Relations and Public Information. Effective October 24, 1984.

*Federal Home Loan Bank*

One Secretary to the Director, Federal Savings and Loan Insurance Corporation. Effective October 5, 1984.

*Federal Labor Relations Authority*

One Congressional Affairs and Public Information Officer. Effective October 5, 1984.

*Federal Trade Commission*

One Special Assistant (Economic Advisor) to the Chairman. Effective October 10, 1984.

*General Services Administration*

One Confidential Assistant to the Commissioner, Federal Property Resources Service. Effective October 19, 1984.

*Interstate Commerce Commission*

One Confidential Assistant to a Commissioner. Effective October 1, 1984.

One One Confidential Assistant to a Commissioner. Effective October 11, 1984.

One Secretary (Stenography) to a Commissioner. Effective October 11, 1984.

One Confidential Assistant to a Commissioner. Effective October 15, 1984.

*International Trade Commission*

One Staff Assistant to a Commissioner. Effective October 1, 1984.

One Staff Assistant (Legal) to a Commissioner. Effective October 19, 1984.

*National Credit Union Administration*

One Executive Assistant to the Vice Chairman. Effective October 15, 1984.

One Staff Assistant to the Vice Chairman. Effective October 15, 1984.

*National Endowment for the Humanities*

One Special Assistant to the Chairman. Effective October 23, 1984.

*Selective Service System*

One Deputy Director to the Director, Congressional Affairs. Effective October 30, 1984.

*Small Business Administration*

One Special Assistant to the Assistant Administrator for Congressional and Legislative Affairs. Effective October 23, 1984.

One Special Assistant to the Associate Deputy Administrator for Special Programs. Effective October 25, 1984.

*United States Information Agency*

One Special Projects Officer to the Chairman, Advisory Board for Radio Broadcasting to Cuba. Effective October 12, 1984.

*United States Tax Court*

One Secretary (Confidential Assistant) to a Judge. Effective October 12, 1984.

U.S. Office of Personnel Management.

**Donald J. Devine,**

*Director.*

[FR Doc. 84-31545 Filed 11-30-84; 8:45 am]

BILLING CODE 6325-01-M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 14250; (812-5928)]**

## C-U Funding Corp.; Application for Exemption

November 26, 1984.

Notice is hereby given that C-U Funding Corp. (c/o Mudge, Rose, Guthrie, Alexander & Ferndon, 180 Maiden Lane, New York, New York, 10038) ("Applicant"), a Delaware corporation, filed an application on August 28, 1984, and amendments thereto on November 21 and 26, 1984, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act for the text of its relevant provisions.

Applicant states that it is a special purpose corporation formed solely to facilitate the financing of a certain coal-fired steam electric generating plant known as Craig Station Unit 3 ("Unit 3") constructed by Colorado-Ute Electric Association, Inc. ("Colorado-Ute"), an electric generation and transmission cooperative association headquartered in Montrose, Colorado. Colorado-Ute is also constructing coal handling and other facilities in conjunction with Unit 3; Colorado-Ute intends to transfer an undivided interest in these facilities to other electrical firms that share ownership of Craig Station Units 1 and 2, but will retain an undivided interest in Unit 3. Colorado-Ute's remaining undivided interest in the new coal handling facilities and Unit 3 (the "Facility") are subject to the transactions described hereinafter. Unit 3 commenced commercial operation in October, 1984.

Colorado-Ute is a taxable cooperative that operates on a not-for-profit basis and is in the business of providing wholesale electric service to its fourteen retail electric distribution cooperative members, who collectively constitute the second largest utility system in Colorado in terms of customers and sales. Colorado-Ute has entered into contracts with its members obligating them to purchase all their energy and power needs from, and for Colorado-Ute to deliver that power to the extent available, through the year 2025. The rates charged by Colorado-Ute are set by its Board of Directors and are subject to approval by both federal and state authorities.

Colorado-Ute has financed the construction of the Facility through various borrowings from the Federal Financing Bank, sale of pollution control bonds issued by Moffat County, Colorado, and by unsecured short term loans. Long term financing for the Facility has been effected by the issuance and sale by Moffat County of long term pollution control bonds ("Bond"), issued under a trust indenture between Moffat County and the United Bank of Denver, N.A., ("Trustee") and are payable from and secured by a pledge of the revenues to be received by Moffat County under a financing agreement ("Financing Agreement") with Colorado-Ute. To evidence its obligations under the Financing Agreement, Colorado-Ute executed and delivered to Moffat County a note ("Colorado-Ute Note") that obligates payments at such times of principal and interest (and premium, if any) on the Bonds in accordance witht their scheduled maturity or mandatory sinking fund redemptions. Pursuant to a guaranty agreement ("Guaranty") with Colorado-Ute, the National Rural Utilities Cooperative Finance Corporation ("CFE"), a private non-profit cooperative association that

provides financing to its members, has unconditionally guaranteed to the Trustee for the benefit of Bond holders the full and prompt payment of the principal and interest (and premium, if any) of the Bonds when due. Colorado-Ute has agreed to reimburse CFC for any amounts CFC expends under the Guarantee by execution of a note ("Guaranty Note"). Colorado-Ute's obligations under the Guaranty Note are absolute and unconditional.

Applicant states that Colorado-Ute's second step for long-term financing of the Facility was the sale of the Facility, on or about the in-service date of the Facility for federal income tax purposes, to separate owner trusts ("Lessors") consisting of institutional equity investors who thereafter will lease the Facility on a net lease basis to Colorado-Ute. Individual Lessors who acquire an undivided interest in the Facility are expected to assign their rights and obligation to a separate trust, of which United States Trust Company of New York ("US Trust") will be trustee. As a consequence of such assignment, US Trust will acquire legal title to the Facility ("Lessor"), and will then act on behalf of the individual Lessors. The lease will expire not prior to the latest maturity of the Bonds and the long-term, registered securities to be issued by Applicant ("Serial Facility Bonds"). Lessors, in consideration for an undivided interest in the Facility, make an equity contribution, assume the nonrecourse liabilities of Colorado-Ute pursuant to the Financing Agreement, and issue nonrecourse, taxable notes ("Taxable Indebtedness") constituting the balance of the purchase price. Lessors also issue a guaranty note ("Lessor Bond Guaranty Note") evidencing a nonrecourse, contingent obligation to CFC with respect to the liability of Colorado-Ute under the Guaranty. Assumption by Lessors of the Financing Agreement discharges Colorado-Ute from its terms and the Colorado-Ute Note.

The Taxable Indebtedness incurred by individual Lessors consists of a non-recourse loan from the National Cooperative Services Corporation ("NCSC"), a private, nonprofit District of Columbia corporation owned and operated by 29 electric cooperatives that assist in the development of alternative sources of capital. The loan from the NCSC ("NCSC Note"), Applicant states, is intended to serve as an interim measure pending completion of the Serial Facility Bond offering. With respect to the assumption of the Financing Agreement, Lessors issue a note ("Lessor Note") held by the Bond Trustee as security for the Bonds. The NCSC Note is prepayable without penalty to the Lessors, and along with the Lessor Note and Guaranty Note, are to be issued under a trust indenture, security agreement and first deed of trust ("Lease Indenture") between the Lessors and the First Interstate Bank of Denver, N.A. ("Lease Indenture Trustee") (together with any other notes issued under the Lease Indenture, "Lessor Notes"). Upon completion of the sale and leaseback transaction, the Rural Electrification Administration, an agency of the United States Department of Agriculture which is a primary source of long-term loans for electric cooperatives, will release its lien on the Facility and any other mortgagees, Applicant states, will also release their liens on the Facility.

Applicant states that the third and final phase in the financing of the Facility for which application for exemption from the Act is made is the issuance by individual Lessors of long-term refunding notes ("Refunding Lessor Notes") to the Applicant and the application of the proceeds thereof to prepay each Lessors' NCSC Note. Applicant will obtain the capital to acquire the Refunding Lessor Notes by issuing and selling Serial Facility Bonds, long-term taxable debt securities, registered under the Securities Act of 1933 and qualified under the Trust Indenture Act of 1939 ("Bond Indenture"). The Refunding Lessor Notes of the Lessors will require payments to be made in such amounts and at such times so as to provide for the payment of a proportionate share of the principal and interest (and premium, if any) on the Serial Facility Bonds. In the aggregate, all payments under the Refunding Lessor Notes will be sufficient to pay in full the principal and interest (and premium, if any ) on the Serial Facility Bonds when due.

Colorado-Ute's lease with the Lessors requires basic rental payments and certain other payments to be made directly to the Lease Indenture Trustee for distribution to the Bond Trustee and the Serial Facility Bondholders. In the aggregate, the payments will be sufficient to pay the principal and interest (premium, if any) when due of all Lessor Notes, including the Refunding Lessor Notes. As a net lease, Colorado-Ute will be unconditionally obligated to make basic rental payments without any right of counterclaim, set off, deduction or defense. Applicant contends that the direct source of payment for debt service on all Lessor Notes, including the Refunding Lessor Notes, and therefor, the direct source of payment for the Serial Facility Bonds, will be the basic rental and certain other payments by Colorado-Ute under its lease agreements with Lessors.

The application states that both Moody's Investor Service and Standard and Poor's Corporation have rated the Serial Facility Bonds on the basis of the creditworthiness of Colorado-Ute. Based on that evaluation, the Serial Facility Bonds have been rated "A2" and "A–" respectively. Moreover, Applicant contends that Colorado-Ute can be deemed to have issued the Serial Facility Bonds itself, a position taken by the Division of Corporation Finance of the Commission with respect to the Serial Facility Bonds registration statement under the Securities Act of 1933. Applicant therefor asserts that in substance Colorado-Ute is the issuer and principal source of payment of the Serial Facility Bonds.

Serial Facility Bonds to be issued by Applicant will be secured by a pledge of the Refunding Lessor Notes to the trustee under the Bond Indenture ("Bond Indenture Trustee"). Refunding Lessor Notes and other Lessor Notes, Applicant states, will be nonrecourse and secured equally and ratably by a first mortgage lien and security interest in Lessors' undivided interests in the Facility and certain of such Lessors' rights under the leases with Colorado-Ute, including the right to receive basic rental payments, certain other payments, and each Lessor's rights under various support agreements. Applicant believes these measures will enable Lessors to provide for the operation of the Facility and the transmission of power upon expiration of the lease or a termination by default.

Serial Facility Bondholders, Applicant states, are entitled to pursue remedies against Colorado-Ute and the Facilities in the event of default with respect to the Serial Facility Bonds. Following the closing of the sale of Serial Facility Bonds, the Refunding Lessor Notes will be pledged and assigned to the Bond Indenture Trustee as security for the Serial Facility Bonds. The Bond Indenture Trustee, as a holder of the Refunding Lessor Notes, will have the right to vote, give consents, and issue waivers with respect to the Refunding Lessor Notes pursuant to the Lease Indenture. The Bond Indenture Trustee may, after an occurance of default, and upon the direction of not less than 25% in principal of the Serial Facility Bonds outstanding, declare all Serial Facility Bonds to be immediately due, subject to the conditions and terms of the Bond Indenture and the rights of Lessors to cure any payment default of Colorado-Ute. Accordingly, Applicant asserts,

Serial Facility Bondholders will direct the action of the Lease Indenture Trustee by a "pass-through vote mechanism": The Serial Facility Bondholders direct the Bond Indenture Trustee, in its capacity as a holder of Refunding Lessor Notes, to vote or take action on their behalf, through the Lease Indenture Trustee. Thus, according to the application, the principal amount of Refunding Lessor Notes directing any action, or voting upon any proposal, will directly correspond to and be dependent on the postion of the principal amount of Serial Facility Bondholders.

In the event of default by Colorado-Ute, the Lease Indenture Trustee would have the right, upon direction of a majority in principal amount of Refunding Lessor Notes (a majority of the principal amount of Serial Facility Bonds also by reason of the pass-through voting mechanism) to declare all the Refunding Lessor Notes to be due and payable, and to execute the remedies provided under the Lease Indenture. Among the remedies under the Lease Indenture is the right to terminate the leases and demand redelivery of the Facility, and to demand that Colorado-Ute pay, within 10 days, all unpaid basic rent plus a stipulated amont which, in all cases, will be sufficient to pay the principal and interest on all the Serial Facility Bonds.

Applicant contents that, by virtue of the pass-through voting mechanism, the Serial Facility Bondholders have access under the Lease Indenture and Bond Indenture, to the credit of Colorado-Ute. Moreover, Serial Facility Bondholders are entitled to realize on the security of the Facility, appraised at a value of not less than $517 million, free of any rights of Colorado-Ute or any creditor thereof. The combination of Refunding Lessor Notes and the obligation of Colorado-Ute under the lease agreement with the Lessors, Applicant asserts, constitutes the substantial equivalent of a quaranty by Colorado-Ute of the Serial Facility Bonds.

Applicant contemplates each Lessor will reimburse Colorado-Ute for basic rent paid by Colorado-Ute under the lease in an amount equal to the accrued and unpaid interest on their Lessor Notes for the interim period following the lease closing and the commencement date projected for July 1, 1985. Colorado-Ute, Applicant maintains, will be the primary obligor with respect to such rental payments and has an absolute and unconditional obligation to make such payment without regard to whether such reimbursement is made.

Applicant states that is may be deemed to be an investment company as defined by the Act by reason of its proposed acquisition and holding of the Refunding Lessor Notes and Applicant's issuance of the Serial Facility Bonds, which may be held by more than 100 persons. The only significant asets of the Applicant will be the Refunding Lessor Notes. All payments on the Refunding Lessor Notes, Applicant states, will be applied to the payment of principal and interest on the Serial Facility Bonds.

Applicant also represents that: (1) Applicant will not hold shares of capital stock of any other corporation; (2) applicant will not make investment decisions on behalf of the holders of the Serial Facility Bonds; (3) applicant will not sell, trade or otherwise deal in the Refunding Lessor Notes after they have been pledged as security; and (4) the outstanding common stock of Applicant will be held entirely by CT Corporation, a service corporation that facilitates corporate organizations, and that Applicant's equity securities will not be publicly offered. It is not expected that Applicant will make any additional Serial Facility Bond offerings.

Applicant asserts that an order pursuant to section 6(c) of the Act exempting it from all provisions of the Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 17, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated below. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Shirley E. Hollis,**

*Acting Secretary.*

[FR Doc. 31566 Filed 11-30-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23498, (70-7031)]

## The Connecticut Light and Power Co.; Proposed Acquisition of Securities

November 27, 1984.

In the matter of The Connecticut Light and Power Co., Selden Street, Berlin, Connecticut 06037; Montaup Electric Co., P.O. Box 2333, Boston, Massachusetts 02107; and New England Power Co., 25 Research Drive, Westborough, Massachusetts 01581.

Connecticut Light & Power Company ("CL&P"), an electric and gas utility subsidiary of Northeast Utilities, a registered holding company, Montaup Electric Company ("Montaup"), an indirect electric utility subsidiary of Eastern Utilities Associates, a registered holding company, and New England Power Company ("NEP"), an electric utility subsidiary of New England Electric System, a registered holding company, have collectively ("Applicants") filed a proposal with this Commission, pursuant to sections 9(a) and 10 of the Public Utility Holding Company Act of 1935.

The Applicants are proposing the acquisition by each Applicant of its respective share of common stock to be issued by New Hampshire Yankee Electric Corporation ("New Hampshire Yankee"). The Applicants, who are among sixteen joint owners ("Joint Owners") of the Seabrook Nuclear Power Project ("Seabrook"), currently under construction in Seabrook, New Hampshire, have ownership interests of 4.05985%, 2.89989%, and 9.95766%, respectively.

Public Service Company of New Hampshire ("PSNH") owns the largest joint ownership share of 35.56942%. Currently PSNH is responsible for directly managing the construction of Seabrook. At a meeting on June 23, 1984, the Joint Owners voted that a new division ("Division") within PSNH be created to manage the construction of Seabrook and, after the receipt of all necessary regulatory approvals, primary responsibility for management of construction of Seabrook be shifted to a new corporation, New Hampshire Yankee.

New Hampshire Yankee, organized under New Hampshire law and incorporated on August 2, 1984, has authorized, subject to the receipt of all necessary approvals, the issuance of 1,000 shares, $1.00 par value per share, of common stock to the Joint Owners. Each Joint Owner is to acquire such stock in proportion to its ownership share of Seabrook, and a restriction on the transfer of common stock has been agreed to in order to preserve this

equality. Consistent with their joint ownership shares, CL&P, Montaup, and NEP will acquire 40.5985, 28.9989, and 99.5766 shares respectively.

The purpose of selling common stock is to provide initial capitalization for the establishment of New Hampshire Yankee as a corporate entity. Costs are expected to be about $70,000. CL&P's, Montaup's and NEP's share of these costs, and therefore the estimated purchase price of their common stock will be $2,841.90, $2,029.92, and $6,970.36, respectively.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 26, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants 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 proposal, as filed or as amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

**Shirley E. Hollis,**

*Acting Secretary.*

[FR Do. 84-31564 Filed 11-30-84; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 14255; (812-5943)]**

## Jefferson Village Housing Partners and Jefferson Village Management Corp., Filing of Application for Order Granting Exemption

November 27, 1984.

Notice is hereby given that Jefferson Village Housing Partners, (1150 Seventeenth Street, N.W., Suite 500, Washington, D.C. 20036) (the "Partnership"), a District of Columbia limited partnership, and its general partner, Jefferson Village Management Corp. (the "General Partner") ("Applicants"), filed an application on September 21, 1984, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the provisions thereof relevant to the application.

The application states that the Partnership was formed under the District of Columbia Uniform Limited Partnership Act on December 29, 1983. Applicants state that the Partnership will operate as a "two-tier" partnership; *i.e.*, the Partnership will invest, as a limited partner, in Jefferson Village Associates (the "Operating Partnership"), which is engaged in the rehabilitation, ownership and operation of a government-assisted townhouse and garden apartment complex for low and moderate income persons (the "Complex").

The application states that the Partnership will offer to investors in transactions not involving any public offering 61 units of limited partnership interest ("Units") at $101,100 per Unit with a minimum investment of one-half Unit per investor. Purchasers of Units will become limited partners ("Limited Partners") owning 99 percent of the Partnership. In the event that subscriptions for all 61 Units are not received, no Units will be sold and all investor funds wil be returned.

Applicants represent that subscription for Units must be approved by the General Partner and that such approval will be made conditional upon representations as to suitability of the investment for each subscriber. The subscriber must show, among other things, that he is an Accredited Investor as defined in Rule 501(a) of Regulation D under the Securities Act of 1933 or that he is a "Qualified Investor" who has a net worth (exclusive of home, furnishings and automobiles) of at least $300,000 per Unit purchased. Applicants state that transfers of Units will be permitted, subject to certain exceptions, only with the prior written consent of the General Partner, which consent shall be given in the sole discretion of the General Partner.

Applicants state that, under the partnership agreement, each Limited Partner is entitled to review all books and records of the Partnership at any and all reasonable times. Applicants also state that the fees and other forms of compensation that will be paid to the General Partner and its affiliates will be fair and no less favorable to the Partnership than would be the case if such arrangements had been made with independent third parties. Applicants represent further that the Partnership is required to distribute to Limited Partners annual financial statements and an annual report of the Partnership's activities, which includes a description of all transactions during the fiscal year providing for payments to affiliated persons in excess of $1,000. Further, it is represented that the partnership agreement and private placement memorandum contain numerous provisions designed to insure fair dealing by the General Partner with the Limited Partners.

Applicants contend that the exemption of the partnership from all provisions of the Act is both necessary and appropriate in the public interest. Applicants assert that by investing in Operating Partnership interests, the Partnership is implementing the national policy enunciated by Congress in section 901 of Title IX of the Housing and Urban Development Act of 1968. Applicants further assert that the suitability standards set forth in the subscription agreement, the requirements for fair dealing provided by the Partnership's governing instruments, and pertinent governmental regulations imposed on the Operating Partnership by various federal, state and local agencies, provide protection to investors in Units comparable to that provided by the Act. Applicants contend, therefore, that the requested exemption would be entirely consistent with the protection of investors and the purposes and policies of the Act. Finally, Applicants contend that that Partnership's operations will be in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974).

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 21, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

*Acting Secretary.*

[FR Doc. 84-31565 Filed 11-30-84; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 14256; (812-5902) and (812-5904)]**

## Prudential-Bache California Municipal Fund and Prudential-Bache Municipal Series Fund; Applications for an Order Exempting Applicants

November 27, 1984.

Notice is hereby given that Prudential-Bache California Municipal Fund and Prudential-Bache Municipal Series Fund (One Seaport Plaza, 199 Water Street, New York, NY, 10292) ("Applicants"), each registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed applications on July 24, 1984, and amendments thereto on November 13, 1984, for an order of the Commission, pursuant to section 6(c) of the Act, exempting Applicants from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rule 22c-1 thereunder, to the extent necessary to permit Applicants to assess a contingent deferred sales load on certain redemptions of their respective shares and to permit Applicants to waive the contingent deferred sales load in specified circumstances. Applicants also request that all shares of any series which is subsequently created and issued and sold on substantially the same basis as the initial series be similarly exempted from the provisions of the Act enumerated above. All interested persons are referred to the applications on file with the Commission for a statement of the representations contained therein which are summarized below and to the Act and the rules thereunder for the text of the applicable provisions.

Applicants state they were organized as Massachusetts business trusts on May 18, 1984, and registered under the Act on said date. Prudential-Bache Securities Inc. ("Prudential-Bache"), Applicants' principal underwriter, is also Applicants' distributor and will receive the proceeds of the contingent deferred sales loads.

Applicants propose to impose a contingent deferred sales load upon certain redemptions of their shares. Applicants represent that no contingent deferred sales load will be imposed upon redemption on amounts derived from (i) increases in the value of an account (including reinvestment of dividend income and capital gains distributions) above the total cost of shares being redeemed due to increases in the net asset value per share of each Applicant, or (ii) purchases made more than five years prior to the redemption. (If the current net asset value of shares redeemed has declined below the shareholder's cost due to an Applicant's performance, the contingent deferred sales load will be applied to the current value rather than the repurchase price.) Applicants propose to waive the contingent deferred sales load on (i) redemptions following the death or disability of a shareholder, and (ii) redemptions in connection with certain distributions from Individual Retirement Accounts ("IRAs") or other qualified retirement plans.

Applicants state that where a contingent deferred sales load is imposed, the amount of the charge will depend upon the shares being redeemed were purchased. During the first 12 months after purchase, the charge would be 4% of the amount subject to a redemption charge. The charge would decrease by 1% per 12-month period thereafter until after five 12-month periods (with a 1% charge imposed during the fourth and fifth 12-month periods), at which time no charge would be imposed upon redemptions. Applicants represent that any contingent deferred sales load imposed upon redemption would not, in the aggregate, exceed 4% of the total cost of the shares redeemed. Applicants further represent that in determining the amount of the deferred sales load, shares held the longest will be assumed to be the first redeemed. Applicants request exemptions from the provisions of sections 2(a)(32), 2(a)(35) and 22(c) of the Act and Rule 22c-1 thereunder to the extent necessary to permit the contingent deferred sales loads.

Applicants propose to finance the distribution of their respective shares pursuant to plans adopted under Rule 12b-1 under the Act ("the Plans"). The Plans provide that each Applicant will accrue daily and pay monthly to Prudential-Bache a distribution fee equal .5% of the lesser of (i) the aggregate gross sales of each Applicant's shares since its inception (not including reinvestments of dividends or capital gains distributions) less the aggregate net asset value of shares redeemed since that Applicant's inception upon which a contingent deferred sales load has been imposed or waived, or (ii) each Applicant's average daily net assets.

Applicants propose to waive the contingent deferred sales load on (i) redemptions following the death or disability of a shareholder, and (ii) redemptions in connection with certain distributions from IRAs or other qualified retirement plans. Applicants state that in those situations, the redemption is either unforeseen by the shareholder at the time of purchase (i.e., resulting from the extraordinary circumstances of death or disability) or is fully intended at the time of purchase (i.e., ordinary retirement distribution pursuant to an IRA or other retirement plan). Applicants contend that neither situation would be inconsistent with Applicants' purpose or the shareholder's initial intention of making a long-term investment. Therefore, Applicants also request exemptions from the provisions of section 22(d) to permit the contingent deferred sales load to be waived in those situations.

Notice is further given that any interested person wishing to request a hearing on either application may, not later than December 24, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon the respective Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the applications will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

*Acting Secretary.*

[FR Doc. 84-31563 Filed 11-30-84; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 14251; File No. 812-5925]**

## Walter E. Robb III; Filing of Application, and Order of Temporary Exemption

November 26, 1984.

Notice is hereby given that Walter E. Robb III, 35 Farm Road, Sherborn, Massachusetts 01770) has filed an Application, and amendment thereto, pursuant to section 9(c) of the Investment Company Act of 1940, 15 U.S.C. 80a-1, *et seq.*, as amended, (the "Act"), for a permanent exemption from section 9(a) of the Act. The applicant

also requests that the Commission enter a temporary order permitting Mr. Robb to accept a position as independent trustee of Massachusetts Tax-Exemption Money Market Fund. All interested persons are referred to the Application on file with the Commission for a statement of the representations therein, pertinent parts of which are summarized below:

Mr. Robb was a defendant in an action entitled *SEC* v. *Gladding Corp.*, et al, C.A. No. 79–1194–MA (D.Mass., filed June 21, 1979). The Complaint alleged, inter alia, that Mr. Robb had violated sections 10(b) and 13(a) of the Securities Exchange Act of 1934, as amended ("Exchange Act"), 15 U.S.C. 78j(b) and 78m(a), and Rules 10b–5, 12b–20 and 13a–13 thereunder. On June 20, 1979, Mr. Robb entered into a Stipulation and Consent, without admitting or denying any of the allegations of the Complaint. Contemporaneous with the filing of the Complaint, and pursant to the Stipulation and Consent, a Final Judgment of Permanent Injunction (the "Injunction") was entered, enjoining Mr. Robb (a) from making any untrue statement of material fact or omitting to state a material fact necessary in order to make the statements made, in light of circumstances under which they were made, not misleading, in connection with the purchase or sale of Gladding Corporation common stock or any other securities of any issuer, by the use of any means or instrumentalities of interstate commerce, and (b) from filing or causing to be filed with the Commission a quarterly or other periodic report, of Gladding Corporation, its affiliates or subsidiaries, or of any other issuer, required to be filed by the Commission pursuant to section 13(a) of the Exchange Act and the rules and regulations thereunder, which is materially false and misleading or which otherwise fails to disclose a material fact required to be disclosed therein.

To the extent it may be applicable herein, section 9(a) of the Act disqualifies any person or any person with which such person is affiliated, from acting in the capacity of employee, officer, director, member of any advisory board, investment adviser, or depositor for any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust or registered face-amount certificate company if such person is by reason of any misconduct enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9(c) of the Act provides that upon Application, the Commission shall grant an exemption from the provisions of section 9(a) either unconditionally or on appropriate temporary or other conditional basis if it is established that: (1) The prohibitions of section 9(a), as applied to the specific application, are unduly or disproportionately severe; and/or (2) the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such Application.

The Application states that while Mr. Robb does not believe that the terms of the Injunction in *SEC* v. *Gladding*, supra, should, standing alone, constitute a basis for disqualification under section 9(a), in order to resolve fully any questions as to the applicability of that Section and in full compliance with all applicable federal securities laws. Mr. Robb has submitted an Application, pursuant to section 9(c) of the Act, for exemption from the provisions of section 9(a). In support of his position that the Commission should grant him an exemption from the provisions of section 9(a) of the Act, Mr. Robb states, inter alia, the following:

1. There have never been any factual findings of misconduct on the part of Mr. Robb, and he has made no admissions of any misconduct. As noted above, in the Judgment and Injunction entered against Mr. Robb, the Court made no findings of fact or conclusions of law; with the exception of that action, *SEC* v. *Gladding*, Mr. Robb has never been a defendant in any action or proceeding commenced by the Commission or any other person alleging a violation of federal or state securities law.

2. The Complaint filed by the Commission in *SEC* v. *Gladding* contained no allegations or suggestions of self-dealing, motivation of personal gain or actions involving moral turpitude on the part of Mr. Robb. Thus, even if the allegations of the Complaint were to be taken as true, they would not support the disproportionately severe prohibitions imposed by section 9(a), and do not suggest that the imposition of the prohibitions contained in section 9(a) on Mr. Robb is necessary for the protection of investors. There has never been anything in Mr. Robb's conduct which would make it against the public interest to grant his Application.

3. As is attested to in the Affidavits submitted with Mr. Robb's Application, Mr. Robb is a man of recognized integrity, outstanding character and ability, who has contributed much to his community.

4. Mr. Robb has been asked to serve as an independent trustee of Massachusetts Tax-Exempt Money Market Fund (the "Trust"), a Massachusetts Business Trust which is registered under the Investment Company Act of 1940 as a non-diversified open-end management investment company. Richard B. Bailey, Chairman of the Board of Trustees of the Trust, noted in his Affidavit that Mr. Robb is especially well suited to serve as a Trustee. His participation as a trustee would be in the best interests of the investors in the Trust, and in the public interest, in light of his integrity, ability, experience, independence and expertise in the area of business finance. In the position of independent trustee, Mr. Robb would not be responsible for preparing financial and reporting documents in the first instance, although he recognizes that his responsibilities as a trustee would include the approval of such documents.

5. More than five years have elapsed since the Injunction against Mr. Robb was entered, and he has complied with its terms fully since then. To prohibit him from serving as a trustee of the Trust, or from serving or acting in a similar capacity with other investment companies or related entities, would place an undue and disproportionate limitation on his ability to pursue his livelihood and participate fully in business and financial affairs.

6. The issuance of an Order granting Mr. Robb's Application would be fully in accord with the policies and principles underlying the provisions of section 9 of the Act.

Notice is given that any interested party may, not later than December 21, 1984, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities & Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon John J. Curtin, Jr., Esq. and Rory FitzPatrick, Esq. Bingham, Dana & Gould, 100 Federal Street, Boston, MA 02110. Proof of such service (by Affidavit or, in the case of an attorney, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided in Rule 0–5 of the Rules and Regulations promulgated under the Act, an Order disposing of the Application

herein may be issued by the Commission upon the basis of the information stated in said Application unless an order for hearing upon said Application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponement thereof.

The Commission has considered the matter and the application for exemption pending final determination of the matter by the Commission and finds, without passing on the merits of the specific arguments advanced by Applicant, that the conduct of Applicant has been such as not to make it against the public interest or protection of investors to grant Applicant's application for exemption from the provisions of section 9(a) of the Act pending final determination by the Commission of the application which is the subject of this Notice.

Accordingly, it is ordered, pursuant to section 9(c) for the Act, that the application of Walter E. Robb, III for exemption from the provisions of section 9(a) of the Act pending final determination by the Commission of the application which is the subject of this Notice, insofar as any ineligibility to serve or act in the capacities enumerated in such Section arises out of the injunction referred to in this Notice, be and is hereby granted, effective forthwith.

By the Commission.

**Shirley E. Hollis,**

*Acting Secretary.*

[FR Doc. 84-31557 Filed 11-30-84; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 21523; File No. SR-DTC-84-09]**

## Filing and Immediate Effectiveness of Proposed Rule Change by the Depository Trust Co.

November 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 October 22, 1984, the Depository Trust Company ("DTC") 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 modifies DTC's lottery system for allocating called securities among participants' positions at DTC. Specifically, the proposed rule change would establish a two step lottery process to allocate partially called securities among participants having positions in the callable securities and units that include callable securities. In the event of a partial call affecting such securities issues, DTC will first allocate the called securities among participants having positions in the issue of callable securities in accordance with DTC's existing lottery procedures, treating the total of participants' positions in the issue of callable securities represented by units as a single separate participant position. DTC will then reallocate the called securities allocated to the issue of units among participants having positions in the units by conducting a separate lottery.

DTC believes that the proposed rule change is consistent with the requirements of the Act in that it promotes the prompt and accurate clearance and settlement of securities transactions. Until recently, DTC refused to make depository-eligible units [1] that included callable securities because of allocation concerns. DTC believes that the proposed modification to DTC's lottery system, however, would address those concerns adequately.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning 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 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-DTC-84-9.

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 Fifth 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.

**Shirley E. Hollis,**

*Acting Secretary.*

[FR Doc. 31562 Filed 11-30-84; 8:45 am]

BILLING CODE 8010-01-M

[1] DTC's procedures permit the processing of units and their components through DTC's book-entry system; this enables participants to separate a unit into its components or combine the components to create a unit by book-entry. For example, a security may be issued with a warrant or an option attached that can be separated and sold independent of the security. DTC procedures allow participants to deposit the security only or to combine the security and the warrant or option to form a unit.

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**[Release No. 21524; File No. SR-PCC-84-12]**

## Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Clearing Corp.

November 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 November 2, 1984, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change modifies PCC's policy relating to interface settlement activities on days when banks located in the State of California are open and banks located in other parts of the country, especially New York City, are closed. PCC currently receives funds for interface settlement activities and disburses any funds owed participants on settlement day. The participant usually presents the check to the bank for payment the day after settlement (S+1). A problem occurs when PCC receives a draft from another clearing agency which is drawn on a non-California bank that is closed on S+1. To pay funds due to its participants, PCC may have to overdraft its settlement account and thereby incur interest charges on those overdrafts.

Under the revised policy, PCC would continue to receive payments from its participants and distribute checks to its participants for interface settlement activities on settlement day. PCC, however, would require PCC members

whose CNS interface cash settlements exceed a specified dollar amount to reimburse PCC for interest expenses it incurred with respect to those settlements. Under the proposed rule change, PCC would notify its members before each non-uniform bank holiday of the potential interest charges for receiving payments from another clearing agency and the threshold settlement levels for those charges to compensate PCC for overdraft interest expenses.

In its filing, PCC stated that it believes that the proposed rule change is consistent with section 17A of the Securities Exchange Act of 1934 by providing procedures for increased safeguarding of securities and funds which are in the custody and control of PCC. Previously, PCC, because the cost and financial exposure have been minimal, has absorbed any interest cost resulting from interface settlement activity. PCC believes that the volume and value of securities moving through the interface causes and unacceptable level of potential financial exposure and expense to PCC and its participants and, accordingly, has modified its procedures to minimize its financial risk, while allowing PCC participants to receive funds from PCC on settlement day.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 90 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning 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 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–PCC–84–12.

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 Commssion 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 Fifth 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.

**Shirley E. Hollis,**

*Acting Secretary.*

[FR Doc. 84–31561 Filed 11–30–84; 8:45 am]

BILLING CODE 8010–01–M

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**[Release No. 21496A]**

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Correction

In FR Doc. 84–30739 beginning on page 46228 in the issue of Friday, November 23, 1984, change the comment date in the last paragraph to January 15, 1985.

**Shirley E. Hollis,**

*Acting Secretary.*

November 28, 1984.

[FR Doc. 84–31587 Filed 11–30–84; 8:45 am]

BILLING CODE 8010–01–M

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**[Release No. 21497A]**

### Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Correction

In FR Doc. 30743 beginning on page 46229 in the issue of Friday, November 23, 1984, change the comment date in the last paragraph to January 15, 1985.

**Shirley E. Hollis,**

*Acting Secretary.*

November 28, 1984.

[FR Doc. 84–31568 Filed 11–30–84; 8:45 am]

BILLING CODE 8010–01–M

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## SMALL BUSINESS ADMINISTRATION

### Region I Advisory Council; Public Meeting; Amended Notice

The Small Business Administration Region I Advisory Council, located in the geographical area of Montpelier, Vermont, has changed it meeting date from December 3, 1984, to Thursday, December 6, 1984, 10:00 a.m. at the Lincoln Inn, St. Johnsbury, Vermont, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call David C. Emery, District Director, U.S. Small Business Administration, Federal Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602. (802) 229–0538.

**Jean M. Nowak,**

*Director, Office of Advisory Councils.*

November 28, 1984.

[FR Doc. 84–31627 Filed 11–30–84; 8:45 am]

BILLING CODE 8025–01–M

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. 1P84–18; Notice 1]**

### General Motors Corp., Receipt of Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

General Motors Corporation of Warren, Michigan, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with 49 CFR 571.101, Motor Vehicle Safety Standard No. 101, *Controls and Displays*. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the Act (15 U.S.C. 1417) and does not represent any agency decision or exercise of judgment concerning the merits of the petition.

Paragraph § 5.2.3 of Standard No. 101 requires, by reference to Table 1, the headlamp switch to be identified by a specified symbol. At the manufacturer's option the word "Lights" may also be provided. Petitioner manufactured 129,535 1984-model Pontiac Bonneville and Grand Prix passenger cars in which the symbol was omitted, but the optional wording provided. Inadvertent deletion of the symbol occurred because of a styling change in the control knob surface from the design of the year previous. Petitioner argues that the effect of the noncompliance on safety is inconsequential, because the word "Lights" appears on the trim place immediately to the left of the headlamp switch. This identification is immediately understandable and is not confusing to the operator.

Interested persons are invited to submit written data, views and arguments on the petition of General Motors Corporation described above. Comments should refer to the docket

number and be submitted to Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials will be filed, and all comments received after the closing date will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: January 2, 1985.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued: November 21, 1984.

**Barry Felrice,**

*Associate Administrator for Rulemaking.*

[FR Doc. 84–31552 Filed 11–30–84; 8:45 am]

**BILLING CODE 4910–59–M**

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**[Docket No. IP84–17; Notice 1]**

## Western Star Mack Trucks, Inc.; Petition for Exemption From Notice and Recall for Inconsequential Noncompliance

Western Star Mack Trucks, Inc., of Kelowna, B.C., Canada has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.302, Motor Vehicle Safety Standard No. 302, *Flammability of Interior Materials*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Section S4 of Standard No. 302 requires that an occupant trim panel, when tested in accordance with specified procedures, shall not burn or transmit a flame across its surface at a rate of more than 4 inches per minute. Plastic speaker grille retainer rings supplied in 514 trucks manufactured between January 1982 and June 1984 may not comply with the standard. Petitioner has discovered that the rings do not meet the requirements and causes assemblies to exceed the burn rate by ½ to ¾ inch per minute. Petitioner understands that the rings are also used by other manufacturers in the heavy duty truck, automotive and recreational vehicle industries.

Petitioner argues that the noncompliance is inconsequential because "rings with a minimal volume of 2.75 cubic inches, will not expedite the spread of a fire." In petitioners experience, vehicle fires are most likely to originate in the lower portions of a cab, either in the firewall area or on the floor; the speaker grille retaining rings at issue are located in the sleeper box, in the upper portion of the cab behind the driver's head, and by the time flames reached it the entire cab might be in flames. The risk of a fire originating in the speaker area is considered low due to the low level electrical current running through the related wiring in that area.

Interested persons are invited to submit written data, views and arguments on the petitions described above. Comment should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date January 2, 1985.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued: November 27, 1984.

**Barry Felrice,**

*Associate Administrator for Rulemaking.*

[FR Doc. 84–31554 Filed 11–30–84; 8:45 am]

**BILLING CODE 4910–59–M**

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## DEPARTMENT OF THE TREASURY

### Public Information Collection Requirements Submitted to OMB for Review

Dated: November 28, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue NW., Washington, D.C. 20220.

**Internal Revenue Service**

*OMB No.:* 1545–0152
*Form No.:* IRS Form 3115
*Type of Review:* Revision
*Title:* Economic Performance Requirement
Clearance Officer: Garrick Shear, (202) 566–6254, Room 5571, 1111 Constitution Avenue NW., Washington, D.C. 20224
OMB Reviewer: Norman Frumkin, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

**Bureau of Alcohol, Tobacco and Firearms**

*OMB No.:* 1512–0130
*Form No.:* ATF F 4473, Part II
*Type of Review:* Revision
*Title:* Firearms Transcations Records, Contigous State, Non-Over the Counter
Clearance Officer: Howard Hood, (202) 566–7077, Bureau of Alcohol, Tobacco and Firearms, Room 2228, Federal Building, 1200 Pennsylvania Avenue NW., Washington, D.C. 20226
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

**Joseph F. Maty,**

*Departmental Reports, Management Office.*

[FR Doc. 84–31531 Filed 11–30–84; 8:45 am]

**BILLING CODE 4810–25–M**

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**Fiscal Service**

### Intent to Establish a Fee Schedule for the Transfer of U.S. Treasury Book-Entry Securities Held at Federal Reserve Banks

**AGENCY:** Department of the Treasury, Fiscal Service, Bureau of the Public Debt.

**ACTION:** Fee schedule.

**SUMMARY:** The Department of the Treasury has determined that fees imposed for the transfer of book-entry

Treasury securities between depository institutions maintaining accounts therefor at Federal Reserve Banks should be identified and collected as Treasury fees. This determination has resulted in the formation of a proposed Treasury book-entry fee schedule, which is herein published for comment.

**EFFECTIVE DATE:** The fee schedule set out in this notice will be effective on March 28, 1985, subject to any changes the Department may deem appropriate as a result of comments received. Final notice of the adoption of the fee schedule will be provided no later than thrity (30) days prior to the above effective date.

**DATES:** Comments must be received on or before January 16, 1985.

**ADDRESSES:** Comments should be directed to the Office of Financing, Bureau of the Public Debt, Room 310 Washington Building, Washington, D.C. 20239.

**FOR FURTHER INFORMATION CONTACT:** Carl M. Locken, Jr., Acting Assistant Commissioner (Financing), Bureau of the Public Debt, Washington, D.C. 20239, telephone (202) 376–0319, or.

Anne M. Meister, Federal Reserve Liaison Officer, Bureau of the Public Debt, Washington, D.C. 20239, telephone (202) 376–0249.

**SUPPLEMENTARY INFORMATION:** The Federal Reserve Banks are authorized, as fiscal agents of the United States, to maintain Treasury book-entry securities in accounts for depository institutions and to transfer such securities between accounts held at the same Bank, or at different Banks.

Until 1981, the Treasury charged a fee for the transfer of Treasury securities between Federal Reserve Banks. Since that time, the Federal Reserve System's schedule of fees for Securities Services has included charges for both the maintenance by Reserve Banks of book-entry accounts and for the transfer of securities between accounts.

As a result of a recent review, the Treasury has determined that:

(1) Any fees charged in conjunction with book-entry activities performed on behalf of the Treasury by the Federal Reserve Banks should be clearly identified as Treasury fees;

(2) The Treasury would continue to impose a fee on depository institutions for transfers of book-entry Treasury securities conducted by the Federal Reserve Banks, as fiscal agents of the United States, between accounts held at the same, or different, Federal Reserve Banks.

(3) The fee for account maintenance heretofore imposed would be terminated.

As the proposed fee schedule shown below indicates, the Treasury plans to charge a fee to depository institutions for each on-line transfer originated, each off-line transfer originated, and each off-line transfer received. The fee will be established on a national basis, with no variance for the time of day a security is transferred. No fee shall be assessed for transfers to and from collateral accounts supporting borrowings from the Federal Reserve or Treasury deposits.

The Treasury fee relates only to the transfer of the securities. The Federal Reserve will assess an additional fee for the processing of payments associated with a securities transfer transaction where securities are transferred against payment. The Federal Reserve fee for handling such payments is set out in a separate notice being published by the Board of Governors of the Federal Reserve System. Treasury fees for securities transfers will be collected by the Federal Reserve Banks, as fiscal agents of the United States, for deposit to the Treasury.

The following is the proposed Treasury fee schedule for Treasury securities transfers:

**Fee Schedule**

On-line transfers originated, $1.50 per transfer
Off-line transfers received, $6.25 per transfer
Off-line transfers received, $6.25 per transfer

**Carole Jones Dineen,**

*Fiscal Assistant Secretary.*

[FR Doc. 84–31358 Filed 11–30–84; 8:45 am]

**BILLING CODE 4810–40–M**

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## Internal Revenue Service

**[Delegation Order No. 77 (Rev. 18)]**

## Delegation of Authority

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Delegation of authority.

**SUMMARY:** The authority granted to the Commissioner of Internal Revenue and District Directors, by CFR 301.7701–9, 26 U.S.C. 6212, 26 CFR 301.6212–1, Treasury Department Order 150–37, and 26 CFR 301.6861–1 to sign and send to the taxpayer by registered or certified mail any notice of deficiency is delegated to other Internal Revenue Service employees. The text of the delegation order appears below.

**EFFECTIVE DATE:** October 29, 1984.

**FOR FURTHER INFORMATIOIN CONTACT:** Edward A. Wahl, OP:EX:I:E, 1111 Constitution Avenue, N.W., Room 2116, Washington, D.C. 20224, 202–566–6466 (not a toll free telephone number).

**SUPPLEMENTARY INFORMATION:** This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

**Robert J. Sweeney,**

*Director, Office of IRP, Service Center and Support Programs (Examination).*

**Order No. 77 (Rev. 18)**

Effective date: October 29, 1984.

**Authority To Issue Notices of Deficiency**

1. The authority granted to the Commissioner of Internal Revenue and District Directors, by 26 CFR 301.7701–9, U.S.C. 6212, 26 CFR 301.6212–1, Treasury Department Order 150–37, and 26 CFR 301.6861–1 to sign and send to the taxpayer by registered or certified mail any notice of deficieny is hereby delegated to the following officials:

a. Chief Counsel;
b. Regional Counsel;
c. Regional Directors of Appeals;
d. Chiefs and Associate Chiefs of Appeals Offices;
e. Appeals Team Chiefs as to their respective cases;
f. Service Center Directors;
g. Reviewers (grade GS–12 and higher), in Employee Plans and Exempt Organizations Divisions;
h. Revenue Agents, and Tax Auditors (Reviewers) (grade GS–6 and higher), in the Examination Divisions;
i. Revenue Agents (grade GS–11 and higher), in streamlined districts Examination Sections and/or groups;
j. Chiefs of Correspondence and Processing Sections;
k. Examination Tax Examiners/ Revenue Agents (grade GS–6 and higher), in Service Center Compliance Divisions;
l. Tax Examiners (grade GS–5 and higher), in Service Center Processing and Tax Accounts Divisions; and
m. Tax Examiners (Reviewers) (grade GS–6 and higher) Quality Assurance and Management Support Division, Service Centers.

2. Delegation Order No. 77 (Rev. 17), effective July 14, 1983, is superseded.

Dated: October 29, 1984.

**James I. Owens,**

*Deputy Commissioner.*

[FR Doc. 84–31560 Filed 11–30–84; 8:45 am]

**BILLING CODE 4830–01–M**

# Sunshine Act Meetings

Federal Register
Vol. 49, No. 233
Monday, December 3, 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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**OVERSEAS PRIVATE INVESTMENT CORPORATION**

Meeting of the Board of Directors.

**TIME AND DATE:** 10 a.m. (closed portion). 11 a.m. (open portion), Thursday, December 13, 1984.

**PLACE:** Offices of the Corporation, seventh floor Board Room 1129 20th Street NW., Washington, D.C.

**STATUS:** The first part of the meeting from 10 a.m. to 11 a.m. will be closed to the public. The open portion of the meeting will start at 11 a.m.

**MATTERS TO BE CONSIDERED:** (Closed to the public 10 a.m. to 11 a.m.)

1. Insurance Project in East Asian Country.
2. 1985 Legislative Renewal.
3. Claims Report.
4. Information Report: Finance Projects.
5. Information Reports: General.
6. China Projects Report.

**FURTHER MATTERS TO BE CONSIDERED:** (Open to the public 11 a.m.).

1. Approval of the Minutes of the two Previous meetings.
2. Confirmation of Scheduled Board Meetings.
3. OPIC Program Results: FY 1984.
4. Financial Summary for the Twelve Months ended September 30, 1984.
5. Information Reports.

**CONTACT PERSON FOR INFORMATION:** Information with regard to this meeting may be obtained from the Secretary of the Corporation at (202) 653-2925.

November 29, 1984.

**Elizabeth A. Burton,**

*Corporate Secretary.*

[FR Doc. 84-31569 Filed 11-29-84; 9:14 am]

BILLING CODE 11-29-M

federal register

Monday
December 3, 1984

Part II

# Department of Transportation

## Federal Aviation Administration

14 CFR Part 25

Special Review; Transport Category Airplane Airworthiness Standards; Notice of Proposed Rulemaking

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 25**

**[Docket No. 24344; Notice No. 84-21]**

## Special Review; Transport Category Airplane Airworthiness Standards

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice proposes to amend the airworthiness standards contained in Part 25 applicable to transport category airplanes to: (1) Update Part 25 for clarity and accuracy, (2) ensure the standards are appropriate and practicable for the smaller transport category airplanes common to regional air carrier operation, and (3) relieve the regulatory burden wherever possible. The second objective would take into account the regulatory studies already accomplished for the formerly proposed Part 24, which has since been withdrawn. The proposed changes also implement the President's regulatory reform program by simplifying a number of technical requirements, eliminating unnecessary applicability of rules where appropriate, and removing unnecessary administrative burdens on those regulated by this Part to the extent possible without lowering the prevailing level of safety.

**DATES:** Comments must be received on or before April 4, 1985.

**ADDRESS:** Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 24344, 800 Independence Avenue, SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 24344.

Comments may be inspected in Room 916 weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. In addition, the FAA is maintaining an information docket of comments in the Office of the Regional Counsel (ANM-7), Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments in the information docket may be inspected in the Office of the Regional Counsel weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Gary L. Killion, Manager, Regulations Branch (ANM-112), Regulations and Policy Office, Aircraft Certification Division, FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2112.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of proposals contained in this notice are invited. Substantive comments should be accompanied by cost estimates. Commenters should identify the regulatory docket or notice number and submit comments in duplicate to the Rules Docket address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rulemaking. The proposals contained in this notice may be changed in the light of comments received. All comments will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested persons. A report summarizing each substantive public contact concerned with this proposal will be filed in the the docket. Each proposal is numbered separately. Each comment should be identified by the proposal number or Section of the regulations to which it relates. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24344." The postcard will be date/time stamped and returned to the commenter.

### Availability of NPRM

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

### Historical Background

Although the scope was subsequently expanded, this review was originally initiated to ensure that the type certification standards presently contained in Part 25 are appropriate and practicable for the smaller transport category airplanes. In order to place this aspect of the review in proper perspective, it is also necessary to review the evolution of the type certfication standards applicable to such airplanes.

Type certification standards for two basic classes of airplanes have existed for approximately three decades: Part 23 and predecessor regulations for small airplanes, which are defined as those having maximum certificated takeoff weights (MCTW) of 12,500 pounds or less; and Part 25 and predecessor regulations for transport category airplanes. The International Civil Aviation Organization (ICAO) and the airworthiness authorities of many other countries make a similar distinction. When this distinction in weight was established, civil airplanes were either well above 12,500 pounds, as typified by the Douglas DC-3 (25,200 pounds MCTW, 21 passengers), or well below, as typified by the Beech D18S (8,750 pounds MCTW, 8 passengers). This was due primarily to a lack of powerplants suitable for airplanes with an MCTW of approximately 12,500 pounds. Similarly, powerplant availability inherently limited small airplanes to a passenger capacity of approximately 9 or less at that time. Furthermore, the abundance of relatively inexpensive, military surplus Douglas DC-3 and Beech 18 airplanes, spares therefore, and the engines used in these airplanes inhibited the development of airplanes in the 12,500 pounds MCTW class for some time.

The eventual advent of turbopropeller engines in the 600 to 1,000 horsepower class facilitated the development of airplanes with an MCTW of up to 12,500 pounds that were suitable for air taxi and commercial operations. The lighter weight of turbopropeller engines and other components, combined with the increased MCTW, made feasible the design of small airplanes with a passenger capacity of 20 or more, as typified by the de Havilland Twin Otter and Swearingen Metro. The FAA recognized such airplanes were well beyond the intended scope of Part 23 and that Part 23 did not provide an adequate level of safety for such airplanes when used in air taxi and commercial operations. In response to this situation, greater levels of safety

were provided in three steps: (1) Special Federal Aviation Regulation (SFAR) No. 23 (34 FR 189; January 7, 1969) provided interim standards for such airplanes when intended for use in air taxi and commercial operations; (2) SFAR No. 23 was, in turn, superseded by the definitive standards contained in Appendix A to Part 135 and § 135.144 was concurrently added to Part 135 to implement the standards from an air taxi and commercial operations standpoint (35 FR 10101; June 19, 1970); and (3) Part 23 was amended (Amendment 23–10; 36 FR 2863; February 11, 1971) to limit the applicability of that Part to small airplanes having a passenger seating capacity of 9 or less. By virtue of this last change, future small airplanes having a passenger capacity of 10 or more were required to be type certificated as transport category airplanes in accordance with Part 25. Part 135 did, however, permit such airplanes that had been previously type certificated in accordance with Part 23 and SFAR No. 23, or with Part 23 and Appendix A to Part 135, to continue in air taxi and commercial operations.

The FAA included a proposal in Notice No. 77–17 (42 FR 43490; August 29, 1977), which specified certain dates beyond which reciprocating engine or turbopropeller powered small airplanes having a capacity of 10 passengers or more could not be used in air taxi or commercial operations, unless they were type certificated as transport category airplanes. For reasons stated in Notice No. 77–17A (42 FR 56740; October 27, 1977), that proposal was later withdrawn. Had the proposal been adopted, such airplanes type certificated prior to Amendment 23–10, in accordance with Part 23 and SFAR No. 23, or with Part 23 and Appendix A to Part 135, would have been ineligible for air taxi or commercial operations after a specified date unless an extensive recertification program were undertaken.

Part 25 was considered by some persons to be unduly restrictive and costly as a type certification standard for certain small airplanes used by air taxi and commercial operators. The FAA, therefore, issued Advance Notice of Proposed Rulemaking (ANPRM) No. 77–25 (42 FR 56702; October 27, 1977) in which recommendations concerning possible changes in type certification requirements for such airplanes were requested. As a result of recommendations received and other considerations, the FAA initiated the Light Transport Airplane Airworthiness Review Program. The original scope of this review included airplanes having a capacity of 30 passengers or less and an MCTW of 35,000 pounds or less; however, the scope was later expanded to include airplanes having a capacity of 60 passengers or less and an MCTW of 50,000 pounds or less.

As an interim measure, SFAR No. 41, "Airworthiness Standards: Reciprocating and Turbopropeller Powered Small Multi-engine Airplanes—Increase in Approved Takeoff Weights and Passenger Seating Capacities," (44 FR 52723; September 17, 1979) was issued to provide standards for the recertification of small, multi-engine airplanes to a maximum zero fuel weight of 12,500 pounds, contrary provisions in Part 23 notwithstanding. Although SFAR No. 4 expired October 17, 1981, it was later reinstated (47 FR 35150; August 12, 1982) with certain changes in applicability.

Meanwhile, the Light Transport Airplane Airworthiness Review continued, and airworthiness standards specifically applicable to such airplanes were studied in depth. It was originally anticipated that these standards would be issued as a new Part 24; however, based on information developed from the review, the FAA determined that the economic benefits expected to result from the new airworthiness standards would not be realized. Accordingly, the FAA issued Notice No. 78–17E (45 FR 85600; December 29, 1980) terminating the review. In the termination notice, the FAA stated that it intended to study the technical information developed during the Light Transport Airplane Airworthiness Review for possible rulemaking action to improve Part 25.

Concurrent with this review of Part 25, the FAA has proposed in Notice No. 83–17 (48 FR 52010; November 15, 1983) to amend Part 23 of this Chapter to provide standards for type certification of propeller-driven airplanes with a maximum passenger capacity of 19 and an MCTW of up to 19,000 pounds. If this proposal is adopted, applicants will have a choice of certificating such airplanes under either Part 23 or Part 25.

After this current review of Part 25 was begun, the scope was expanded to include relieving the regulatory burden wherever possible without compromising the existing standards. In this regard, improvement of government regulations was recognized as a prime goal with the issuance of Executive Order (E.O.) 12044 (43 FR 12661; March 24, 1978). It was deemed essential that there be no more regulations than necessary, and that those which are necessary be comprehensible and present the least possible burden to those affected. It was further deemed that regulations should not be issued without involvement of the public and that once issued should be periodically reviewed and revised, as needed, to assure they continue to meet the needs for which they were originally designed. The intent of E.O. 12044 was implemented, insofar as FA regulatory activities are concerned, with the issuance of a Department of Transportation Order entitled "Regulatory Policies and Procedures" (44 FR 11034; February 26, 1979). The philosophy of improving government regulations has been continued and given further emphasis with the issuance of E.O. 12291 (46 FR 13193; February 19, 1981). In order to maximize the net benefits to society in all regulatory activities, this E.O. requires special attention to alternatives involving the least net cost, taking into consideration, among other things, the condition of the particular industries affected by the regulations.

Finally, this review has provided an excellent opportunity to update Part 25 for clarity and accuracy, and the scope of the review has been further expanded accordingly. As the review progressed, relatively few changes were found to be warranted with respect to type certification of the smaller transport category airplanes or relieving the regulatory burden. Consequently, updating Part 25 for clarity and accuracy has become the dominant reason for the changes proposed in this notice.

**Regulatory Objectives**

The objectives of the rulemaking proposed in this notice are threefold:

1. *To update Part 25 for clarity and accuracy.* This notice contains numerous miscellaneous changes to clarify rules that have been shown to be confusing, to correct editorial errors, to reflect current terminology and to conform the rules to actual certification practice. These changes are considered particularly necessary because Part 25 is used as a basis for certification of transport airplanes by many foreign airworthiness authorities, some of whom may not be familiar with the overall intent of the rules. Some of the proposed changes were, in fact, prompted by inquiries from foreign airworthiness authorities. In those instances where experience has shown a rule to be unclear, a change has been proposed to state the requirement in more specific terms.

2. *To ensure the airworthiness standards are appropriate for the smaller transport airplanes common to regional air carrier operation.* Part 25

and predecessor regulations have been amended periodically to keep pace with changing technology in transport airplane design. In some instances, Part 25 rules address areas that are of vital interest in the certification of large transport airplanes but are of no concern for the smaller transport category airplanes due to inherent characteristics of such airplanes. Similar conditions exist with respect to other parameters, such as airspeed or passenger capacity. This notice, therefore, contains changes that would restrict the applicability of certain rules to only those airplanes that are not inherently free from concern. No change is proposed that would adversely affect the level of safety afforded any transport category airplane.

3. *To relieve the regulatory burden wherever possible.* This notice contains changes to relieve or delete certain rules considered unnecessary. These are rules that are now considered unnecessary due to subsequent service experience or changing technology. Part 25 has become a model for type certification of transport airplanes for a majority of the civil aviation authorities of other counties due to the high level of safety afforded by this Part. While relieving the regulatory burden is considered to be of utmost importance, no change is proposed that would adversely affect this high level of safety.

**Economic Evaluation**

The majority of the 100 proposals in this NPRM are editorial changes which clarify the current regulation. While the editorial changes generate an administrative saving associated with the clarification, this saving cannot be readily determined. Only 9 of the 100 proposals have a clear economic impact. In each of these 9, there is only an economic benefit associated with the proposal. The 9 proposals generally provide relief to aircraft certification applicants, such as allowing more efficient test programs or design requirements. The benefits of some of the proposals cannot be quantified.

Table 1 summarizes the economic effects and benefits associated with the 9 relieving proposals. There are no increased requirements or costs associated with the proposals. The benefit associated with all of the changes totals over $100,000 for certification of the smaller transport category airplanes and over $400,000 for certification of the larger transport category airplanes.

The proposals were reviewed to meet the requirements of the Regulatory Flexibility Act of 1980; and the FAA has determined that the proposals, if adopted, would not have a significant economic impact on a substantial number of small entities. Only five firms in the U.S., Boeing, Cessna, Gates Learjet, Lockheed, and McDonnell Douglas, have manufactured large transport category airplanes and certificated them under Part 25 of the FAR. Each of these companies far exceeds the 1,500 employee standard of the Small Business Administration for small manufacturers. Thus, it is clear that those U.S. firms directly regulated today by Part 25 are large entities.

TABLE 1.—SUMMARY OF BENEFITS DUE TO PROPOSALS

| Proposal No. | Economic effect | Estimate of benefits |
|---|---|---|
| 2 | Places specific tolerances in advisory circular; simpler test program. | Two hours of flight test time plus associated analysis and reporting; $41,600 to $201,600 per certification program. |
| 10 | Reduces test burdens. | Do. |
| 11 | ....do.... | Ten minutes of flight test time; $3,300 to $16,700 per certification program. |
| 13 | ....do.... | Five hours of flight test time for slower, lower altitude aircraft, plus associated analysis and reporting; $103,200 per relevant aircraft certification program. |
| 27 | Eliminates a test condition for propeller aircraft. | Not quantifiable. |
| 28 | Relaxes probability basis of tests. | Do. |
| 36 | Increases analysis allowed in lieu of testing. | Do. |
| 38 | Deletes certain required analysis. | One day of analysis time or about $160,000 whenever engine thrust ratings are increased. |
| 41 | Allows alternative to an opening cockpit window. | Variable, depending on production. |

The proposed rules comply in their entirety with the President's directive (E.O. 12291) that existing regulations be evaluated periodically under criteria that consider the degree to which technology, economic conditions, and other factors have changed in the subject area affected by the regulations. List of Subjects in 14 CFR Part 25: Air transportation, Aircraft, Aviation, safety, Safety, Tires.

**The Proposed Amendment**

## PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

Accordingly, the FAA proposes to amend Part 25 of the Federal Aviation Regulations (FAR) (14 CFR Part 25) as follows:

1. By revising § 25.2 to read as follows:

**§ 25.2 Special retroactive requirements.**

The following special retroactive requirements are applicable to an airplane for which the regulations incorporated by reference in the type certificate predate the sections specified below—

(a) Irrespective of the date of application, each applicant for a supplemental type certificate (or an amendment to a type certificate) involving an increase in passenger seating capacity to a total greater than that for which the airplane has been type certificated must show that the airplane concerned meets the requirements of:

(1) Sections 25.72(d), 25.783(g), 25.785(c), 25.803(c)(2) through (9), 25.803(d) and (e), 25.807(a), (c) and (d), 25.809(f) and (h), 25.811, 25.812, 25.813(a), (b) and (c), 25.815, 25.817, 25.853(a) and (b), 25.855(a), 25.993(f), and 25.1359(c) in effect on October 24, 1967, and

(2) Sections 25.803(b)— and 25.803(c)(1) in effect on April 23, 1969.

(b) Compliance with subsequent revisions to the sections specified in paragraph (a) above may be elected in accordance with § 21.101(b) of this chapter.

**Explanation.** Section 25.2 was adopted in 1967 to require compliance with then current crashworthiness requirements for certain aircraft already in service. If taken literally, § 25.2 precludes compliance with later rules, either voluntary in accordance with § 21.101(a)(2) or mandatorily due to a subsequent date of application, because of an editorial error. The proposed revision would clarify the intent of this rule. The reference to an application for a type certificate is no longer pertinent, as such an application is effective for only 5 years, and more than 15 years have elapsed since the date § 25.2 was adopted. This unnecessary reference would, therefore, be delegated for clarity.

2. By amending § 25.21 by removing paragraph (b) and marking it "reserved" and revising paragraph (d) to read as follows:

**§ 25.21 Proof of compliance.**

* * * * *

(b) [Reserved]

* * * * *

(d) Parameters critical for the test being conducted, such as weight, loading (center of gravity and inertia), airspeed, power and wind, must be maintained within acceptable tolerances of the critical values during flight testing.

* * * * *

**Explanation:** Section 25.21(a)(1) specifies the investigation of each probable combination of weight and center of gravity if compliance cannot be reasonably determined from combinations investigated. Basing flying qualities on rearward center of gravity speeds is considered unnecessary as Airplane Flight Manual reference speeds are based on the more conservative forward center of gravity stalling speeds. Notwithstanding, § 25.21(b) currrently provides that the flying qualities may be based on the forward center of gravity stalling speeds only if the difference between the forward and rearward stalling speeds is less than 2 knots. As § 25.21(b) unnecessarily requires the testing of airplanes with a difference greater than 2 knots to be based on the rearward center of gravity stalling speeds, it would be removed. The specific tolerances currently outlines in § 25.21(d) would be removed, updated to reflect current practice, and published in the Engineering Flight Test Guide for Transport Airplanes. (This document is presently published as Order No. 8110.8; however, it will be reissued in the near future as an advisory circular.)

3. By revising § 25.29, paragraph (a)(3)(iii), to read as follows:

**§ 25.29 Empty weight and corresponding center of gravity.**

(a) * * *

(3) * * *

(iii) Other fluids required for normal operation of airplane systems, except potable water, lavatory precharge water, and fluids intended for injection in the engine.

* * * * *

**Explanation:** Section 25.29 currently specifies "water intended for injection in the engine"; however, the fluid may be other than water, e.g., a water-alcohol solution. This paragraph has previously been interpreted to include all fluids intended for injection in the engines. This proposal, which reflects the accepted interpretation, would ensure uniformity of application.

4. By revising § 25.33, paragraph (c), to read as follows:

**§ 25.33 Propeller speed and pitch limits.**

* * * * *

(c) The means used to limit the low pitch position of the propeller blades must be set so that the engine does not exceed 103 percent of the maximum allowable engine r.p.m. or 99 percent of an approved maximum overspeed, whichever is greater, with —

(1) The propeller blades at the low pitch limit and governor inoperative;

(2) The airplane stationary under standard atmospheric conditions with no wind; and

(3) The engines operating at the takeoff manifold pressure limit for reciprocating engine power airplanes or the maximum takeoff torque limit for turbopropeller engine powered airplanes.

**Explanation:** Turbopropeller engine torque is analogous to reciprocating engine manifold pressure in the context of propeller pitch settings. This paragraph has been interpreted to mean "torque" for turbopropeller engines, and the proposed revision would reflect accepted practice by specifying manifold pressure or torque as applicable. This revision would also reflect the possibility that an engine may have an approved maximum overspeed limit greater than 103 percent of the maximum engine r.p.m. allowed for normal operation. The term, "standard atmospheric conditions," has been interpreted to include no wind because a forward or rearward wind component would render the test results meaningless. The term "no wind" would, therefore, be added for clarification and consistency with the wording of the corresponding section in Part 23 of this Chapter.

**§ 25.111 [Amended]**

5. By amending § 25.111, paragraph (a)(1), by removing the regulatory reference "§ 25.101(c)" and inserting "§ 25.101(f)" in its place.

**Explanation:** This change would correct an editorial error that was inadvertently introduced during the recodification of §§ 4T.111 and 4T.116 of Special Civil Air Regulation No. SR-422B into §§ 25.101 and 25.111, respectively, of Part 25.

6. By revising § 25.121, paragraph (b)(1), to read as follows:

**§ 25.121 Climb: One-engine-inoperative.**

* * * * *

(b) * * *

(1) The critical engine inoperative and the remaining engines at the takeoff power or thrust available at the time the landing gear is fully retracted, as determined under § 25.111, or the lesser power or thrust if a reduction of power or thrust greater than 0.5 percent occurs prior to the point at which the airplane reaches a height of 400 feet above the takeoff surface; and

* * * * *

**Explanation:** Section 25.121(b)(1) is a recodification of § 4T.120(a)(1) of Special Civil Air Regulation No. SR-422B and, as indicated in the preamble to SR-422B, is intended, in part, to account for only significant power or thrust reductions, e.g., exhausting a wet takeoff power or thrust rating, and not those associated with normal lapse with altitude. The proposed change would clarify the intent of this paragraph in this regard and reflect actual certification practice.

**§ 25.125 [Amended]**

7. By amending § 25.125, paragraph (a)(2) by removing the words "steady gliding" and inserting the word "stabilized" in their place.

**Explanation:** As presently written, § 25.125(a)(2) indicates that landings must be accomplished by approaching at idle power or thrust, a procedure that is inappropriate for transport category airplanes. The proposed change would clarify this section and reflect accepted practice.

8. By amending § 25.146, by revising paragraph (a) introductory text and by removing and reserving paragraph (b)(2) to read as follows:

**§ 25.147 Directional and lateral control.**

(a) *Directional control; general.* It must be possible, with the wings level, to yaw into the inoperative engine and to safely make a reasonably sudden change in heading of up to 15 degrees in the direction of the critical inoperative engine. This must be shown at $1.4V_{S1}$ for heading changes up to 15 degrees (except that the heading change at which the rudder pedal force is 150 pounds need not be exceeded), and with—

* * * * *

(b) * * *

(2) [Reserved]

* * * * *

**Explanation:** As presently worded, § 25.147(a) specifies that it must be possible to make reasonably sudden changes in heading of up to 15 degrees in either direction with the critical engine inoperative and the wings "approximately level." Many certificated transport category airplanes are not in literal compliance with this section in that they cannot be yawed more than a few degrees toward the operative engine(s) with the wings "approximately level." Such airplanes do, however, comply with the intent of § 25.147(a), which is to ensure that there are no unsafe characteristics if a sudden change in heading is made with asymmetric power or thrust and that some directional control toward the operative engine remains. As proposed, the wording of § 25.147(a) would reflect the intent of the rule more accurately and conform to actual type certification

practice. Due to the editorial structure of § 25.147, paragraph (a)(3) currently specifies that directional control must be demonstrated at the most unfavorable center of gravity position for all airplanes except those with four or more engines. Paragraph (b)(2) currently specifies that such airplanes must be tested with the center of gravity in the most forward position, although it is actual certification practice to test all airplanes, including those with four or more engines, at the most unfavorable center of gravity position. Paragraph (b)(2) would, therefore, be deleted to eliminate this inconsistency and refect actual certification practice.

9. By amending § 25.149 by revising paragraph (b), and the introductory texts of paragraphs (e), (f), and (g) to read as follows:

**§ 25.149 Minimum control speed.**

* * * * *

(b) $V_{MC}$ is the calibrated airspeed at which, when the critical engine is suddenly made inoperative, it is possible to maintain control of the airplane with that engine still inoperative and maintain straight flight with an angle of bank of not more than 5 degrees.

* * * * *

(e) $V_{MCG}$, the minimum control speed on the ground, is the calibrated airspeed during the takeoff run at which, when the critical engine is suddenly made inoperative, it is possible to maintain control of the airplane on the critical runway surface using the rudder control, as limited by 150 pounds of force, and the lateral control to the extent of keeping the wings level to enable the takeoff to be safely continued using normal piloting skill. In the determination of $V_{MCG}$, assuming that the path of the airplane accelerating with all engines operating is along the centerline of the runway, its path from the point at which the critical engine is made inoperative to the point at which recovery to a direction parallel to the centerline is completed may not deviate more than 30 feet laterally from the centerline at any point. $V_{MCG}$ must be established with—

* * * * *

(f) $V_{MCL}$, the minimum control speed during landing approach with all engines operating, is the calibrated airspeed at which, when the critical engine is suddenly made inoperative, it is possible to maintain control of the airplane with the engine still inoperative and maintain straight flight with an angle of bank of not more than 5 degrees. $V_{MCL}$, must be established with—

* * * * *

(g) For airplanes with three or more engines, $V_{MCL\text{-}2}$, the minimum control speed during landing approach with one critical engine inoperative, is the calibrated airspeed at which, when a second critical engine is suddenly made inoperative, it is possible to maintain control of the airplane with both engines still inoperative and maintain straight flight with an angle of bank of not more than 5 degrees. $V_{MCL\text{-}2}$, must be established with—

* * * * *

**Explanation:** The term "sideslip would be used in paragraphs (b), (f), and (g) in lieu of "yaw" to conform to current terminology. Paragraph (e) would be revised to clarify the extent to which lateral control may be used in controlling the heading during the test. The reference to nosewheel steering has been removed to allow credit for nosewheel steering if testing is conducted on critical runway surfaces. The word "recover" would be removed because it incorrectly implies that the airplane would be allowed to go out of control before corrective action is taken.

10. By revising § 25.177 to read as follows:

**§ 25.177 Static directional and lateral stability.**

(a)–(b) [Reserved]

(c) In straight, steady sideslips, the aileron and rudder control movements and forces must provide positive stability and be substantially proportional to the angle of sideslip in a stable sense; and the factor of proportionality must lie between limits found necessary for safe operation throughout the range of sideslip angles appropriate to the operation of the airplane. At greater angles, up to the angle at which full rudder control is used or a rudder force of 180 pounds is obtained, the rudder pedal forces may not reverse; and increased rudder deflection must produce increased angles of sideslip. Compliance with this paragraph must be demonstrated for all landing gear and flap positions and symmetrical power conditions at speeds from 1.2 $V_{SI}$ to $V_{FE}$, $V_{LE}$, or $V_{FC}/M_{FC}$, as appropriate.

(d) The rudder gradients must meet the requirements of paragraph (c) at speeds between $V_{FC}/M_{FC}$ and $V_{MO}/M_{MO}$ except that the dihedral effect (aileron deflection opposite the corresponding rudder input) may be negative provided the divergence is gradual, easily recognized, and easily controlled by the pilot.

**Explanation:** It is not considered necessary to define directional and lateral stability parameters as separate entities to determine that an airplane has satisfactory directional-lateral stability. By evaluating the force and deflection of the ailerons and rudder, and the bank and yaw angles required to maintain steady heading sideslips, the lateral-directional characteristics of an airplane may be determined. Section 25.177 would, therefore, be revised accordingly to eliminate the present requirement for unnecessary testing.

**§ 25.181 [Amended]**

11. By amending § 25.181, paragraphs (a) and (b), by removing the words "stalling speed" and inserting "1.2 $V_S$" in their place.

**Explanation:** This change would eliminate unnecessary testing between stalling speed and 1.2 stalling speed. (Flying qualities in this range are covered by §§ 25.143 and 25.203)

**§ 25.205 [Removed]**

12. By removing § 25.205

**Explanation:** Current § 25.205 requires demonstration of stall recovery from a pilot induced sideslip with the airplane in a cruise configuration with asymmetric thrust and resultant large control deflections. This has been found to be an unrealistic test that does not contribute to the safe operation of the airplane because the unusual configuration tested would seldom, if ever, be achieved in service. Section 25.205 would, therefore, be deleted as impractical and unnecessary.

13. By revising § 25.251, paragraph (e), to read as follows:

**§ 25.251 Vibration and buffeting.**

* * * * *

(e) For an airplane with $M_D$ greater than .6 or with a maximum operating altitude greater than 25,000 feet, the positive maneuvering load factors at which the onset of perceptible buffeting occurs must be determined with the airplane in the cruise configuration for the ranges of airspeed or Mach number, weight, and altitude for which the airplane is to be certificated. The envelopes of load factor, speed, altitude, and weight must provide a sufficient range of speeds and load factors for normal operations. Probable inadvertent excursions beyond the boundaries of the buffet onset envelopes may not result in unsafe conditions.

**Explanation:** Section 25.251(e) currently requires determination of the positive maneuvering load factors at which the onset of perceptible buffet

occurs under various specified conditions. The testing required for compliance with this paragraph is not justified for slower airplanes operating at lower altitudes as they have not been found critical in this regard. The applicability of this paragraph would, therefore, be limited to airplanes with $M_D$ greater than .6 and to those with a maximum operating altitude greater than 25,000 feet.

14. By revising § 25.253, paragraph (a)(3), to read as follows:

**§ 25.253 High-speed characteristics.**

(a) * * *

(3) There must be no reversal of the response of the airplane to control input by the pilot about any axis at any speed up to $V_{DF}/M_{DF}$. Any reversal of elevator control force gradient or tendency of the airplane to pitch, roll, or yaw must be mild and readily controllable, using normal piloting techniques.

* * * * *

**Explanation:** Section 25.253(a)(3) would be revised to clarify the intent of the term "control reversal" currently used in that section.

**§ 25.307 [Amended]**

15. By amending § 25.307 by removing paragraphs (b) and (c) and marking them [Reserved].

**Explanation:** Sections 25.307 (b) and (c) currently serve only to reference §§ 25.571, 25.573 and 25.601. Section 25.573 no longer exists, and it is considered redundant to specify compliance with §§ 25.571 and 25.601. This proposed revision to § 25.307 would, therefore, remove the contents of paragraphs (b) and (c) in the interest of simplicity.

**§ 25.331 [Amended]**

16. By amending § 25.331, paragraph (c)(2)(i), by removing the expression "A to D" following the word "Points" and inserting the expression "$A_1$ to $D_1$" in its place and, paragraph (c)(2)(ii), by removing the expression "A to D" following the word "Points" and inserting the expression "$A_2$ to $D_2$" in its place.

**Explanation:** Subscripts that were inadvertently omitted in a prior amendment would be replaced.

**§ 25.341 [Amended]**

17. By amending § 25.341, paragraph (b)(1), by moving the closing parenthesis following the expression "1-cos" in the formula to the end of the formula and, by redesignating paragraph (b)(3) as paragraph (c), and by removing the letter "p" from each place it appears as a mathematical symbol and inserting the lower case Greek letter rho in its place.

**Explanation:** This change would correct existing editorial errors by moving a parenthesis in § 25.341(b)(1) to the correct location and substituting the lower case Greek letter rho for the letter "p." Note that paragraph (c) has been misidentified as subparagraph (b)(3) in some printings of Part 25.

18. By revising § 25.345, paragraph (c)(1), to read as follows:

**§ 25.345 High lift devices.**

* * * * *

(c) * * *

(1) Maneuvering to a positive limit load factor as prescribed in § 25.337(b); and

* * * * *

**Explanation:** This proposal is related to a change made previously to § 25.337. Prior to Amendment 25–23, § 25.337 specified a positive limit maneuvering load factor "not less than 2.5." Similarly, § 25.345(c) specified a positive limit maneuvering load factor of 2.5 for high lift devices used in enroute conditions. Section 25.337 was changed by Amendment 25–23 to specify the greater of 2.5 or the value derived from the formula

$$2.1+\frac{24{,}000}{W+10{,}000}$$

As "W" was the maximum design weight, this change meant that airplanes of less than 50,000 pounds had to be designed to positive limit maneuvering load factors greater than 2.5. The corresponding change to § 25.345(c) was inadvertently omitted at that time. This proposal would eliminate the conflict that now exists for airplanes of less than 50,000 pounds.

19. By amending § 25.361 by revising paragraph (a) introductory text, (a)(2) and paragraph (c) introductory text to read as follows:

**§ 25.361 Engine torque.**

(a) Each engine mount and its supporting structure must be designed for the effects of—

* * * * *

(2) A limit torque corresponding to the maximum continuous power and propeller speed, acting simultaneously with the limit loads from flight condition A of § 25.333(b); and

* * * * *

(c) The limit engine torque to be considered under paragraph (a) of this section must be obtained by multiplying mean torque for the specified power and speed by a factor of—

* * * * *

**Explanation:** This revision would correct an editorial error that was introduced during the recodification of § 4b.216 of the Civil Air Regulations into § 25.361 of the FAR. Section 4b.216 required, in part, design of the engine mount and supporting structure to withstand the effects of limit engine torque corresponding to maximum continuous power and speed combined with specified limit flight loads and the effects of limit engine torque corresponding to takeoff power and speed combined with 75% of the specified limit flight loads. Section 4b.216 further defined limit torque as the mean torque multiplied by a factor appropriate for the type of engine used. This factor, which was used to account for peak excursions above the mean torque, was applicable to the torque corresponding to maximum continuous power and speed and that corresponding to takeoff power and speed. Although the recodification program was not intended to introduce any substantive change, the wording of § 25.361 inadvertently limited the applicability of this factor to the torque corresponding to maximum continuous speed. This inadvertence, which has been perpetuated by subsequent revisions to § 25.361, left the limit torque corresponding to takeoff power and speed undefined. In the absence of such definition, it would be necessary for an applicant to conduct additional testing to determine the limit torque corresponding to takeoff power and speed for the specific engine involved. The proposed change to § 26.361 would correct this error and reflect actual certification practice.

**§ 25.365 [Amended]**

20. By amending the introductory sentence of § 25.365 by removing the words "for occupants."

**Explanation:** Pressurization loads apply to the entire pressure vessel. As presently worded, § 25.365 could be construed to apply only to those compartments to be occupied by passengers and crewmembers and not to other pressurized compartments, such as baggage, etc, This proposal, which reflects accepted practice, would clarify the intent of § 25.365.

21. By revising § 25.373, paragraph (a), to read as follows:

**§ 25.373 Speed control devices.**

* * * * *

(a) The airplane must be designed for the symmetrical maneuvers and gusts prescribed in §§ 25.333, 25.337 and 25.341, and the yawing maneuvers and

laterial gusts in § 25.351, at each setting and the maximum speed associated with that setting; and

* * * * *

**Explanation:** This proposal would clarify § 25.373 (a) to ensure design at each setting and the maximum speed associated with that setting.

22. By amending § 25.395 revising paragraph (b) and adding a new paragraph (c) to read as follows:

**§ 25.395 Control system.**

* * * * *

(b) The system limit loads, except the loads resulting from ground gusts, need not exceed the loads that can be produced by the pilot (or pilots) and by automatic or power devices operating the controls.

(c) The loads must not be less than those resulting from application of the minimum forces prescribed in § 25.397(c).

**Explanation:** This proposal would clarify § 25.395 by removing the reference to a "rugged system" and substituting therefor a reference to the values specified in § 25.397(c). These values have previously been determined to be the minimum necessary to ensure a "rugged system."

**§ 25.397 [Amended]**

23. By amending Footnote 3 to § 25.397 by removing the word "most" and inserting the words "must be" in its place.

**Explanation:** This would be a clarifying change to correct an editorial error.

24. By revising § 25.415, paragraph (a)(2), to read as follows:

**§ 25.415 Ground gust conditions.**

(a) * * *

(2) The control system stops nearest the surfaces, the control system locks, and the parts of the systems (if any) between these stops and locks and the control surface horns, must be designed for limit hinge moments H obtained from the formula,

$H = Kc_{s}q$,

where—

H = limit hinge moment (ft. lbs.);

c = mean chord of the control surface aft of the hinge line (ft.);

$S_{s}$ = area of the control surface aft of the hinge line (sq. ft.);

q = dynamic pressure (p.s.f.) based on a design speed not less than $14.6(W/S)^{1/2}+14.6$ (f.p.s.), except that the design speed need not exceed 88 f.p.s. (W/S is wing loading based on maximum airplane weight and wing area); and

K = limit hinge moment factor for ground gusts derived in paragraph (b) of this section.

* * * * *

**Explanation:** The symbol "W/S" is not defined in § 25.415, and the use of the symbol "S" in another context in the same rule has led to much confusion. This proposal would preclude further confusion by reidentifying the control surface area aft of the hinge line as "$S_s$" and by adding the parenthetical definition of "W/S."

**§ 25.459 [Amended]**

25. By amending § 25.459 by inserting the word "slats," after the word "slots," before the words "and spoilers."

**Explanation:** Although slats are not specifically mentioned, § 25.459 is presently applicable to slats because they are "special devices using aerodynamic surfaces." This proposal would provide clarification by ensuring that slats are not overlooked in determining compliance with this section.

**§ 25.563 [Removed]**

26. By removing § 25.563.

**Explanation:** Section 25.563 merely cross references § 25.801(e). As the cross reference is unnecessary, § 25.563 would be deleted for simplicity.

27. By amending § 25.571 by revising the heading of paragraph (b) and by revising paragraphs (b)(2), (e)(1), and (e)(2) to read as follows:

**§ 25.571 Damage-tolerance and fatigue evaluation of structure.**

* * * * *

(b) *Damage-tolerance evaluation.*

* * *

(2) The limit gust condition specified in §§ 25.305(d), 25.341 and 25.351(b) at the specified speed up to $V_C$, and in § 25.345.

* * * * *

(e) * * *

(1) Impact with a 4-pound bird at $V_C$ at sea level;

(2) Uncontained fan blade impact;

* * * * *

**Explanation:** The parenthetical expression "fail-safe" would be deleted from the heading of § 25.571(b) as fail-safe is not synonymous with damage-tolerance. Section 25.571(b)(2) would be revised to clarify that the condition of § 25.305(c) applies to all flight and ground loading conditions where structural response to any rate of load application might produce transient stresses appreciably higher than those corresponding to static loads. It has been the practice to substantiate structures to the discrete gust requirements for both health structure and for structure in the fail-safe mode considering both static and dynamic loads. With the advent of continuous turbulence loads (PSD), required by § 25.305(d), analysis of dynamic response to discrete gust loads required by § 25.305(c) was discontinued based on the assumption that PSD loads account for the dynamic response to rate of load application required by § 25.305(c). Since the PSD analysis is accepted as showing compliance with the discrete gust dynamic analysis, the PSD loads must be accounted for in the fail-safe analysis. This revision to § 25.571(b)(2) would reflect accepted industry practice of substituting the continuous turbulence requirements for the dynamic discrete gust requirements. Section 25.571(e)(1) would be changed to specify impact with a 4-pound bird at "$V_C$ at sea level" in lieu of "likely operational speeds up to 8,000 feet" for consistency with the bird strike requirements of related §§ 25.631 and 25.775 and to eliminate confusion concerning the applicability of § 91.70(a) of this Chapter. Section 91.70(a) limits the operational speed to 250 KIAS at altitudes below 10,000 feet MSL; however, § 91.70(a) applies only to operation within the continental U.S. Thus "likely operational speeds" at low altitudes include any speed up to $V_C$, not just to 250 KIAS. As presently worded, § 25.571(e)(2), which was introduced with Amendment 25–42 effective December 1, 1978, specifies that the structure must withstand the effect of a propeller blade impact. The worst possible trajectory must be considered, and no consideration may be given to improbability of blade failure. Service experience has shown that compliance with § 25.571(e)(2) would be impossible for any economically viable propeller driven airplane, and five exemptions from compliance have been granted to date. Due to the recent adoption of § 25.571(e)(2) and the exemptions granted, compliance with this section has never been demonstrated for any airplane. The reference to propeller blades presently contained in § 25.571(e)(2) would, therefore, be deleted and replaced by proposed § 25.905(d). (See proposal No. 61.) Section 25.905(d), which would specify that "Design precautions must be taken to minimize the hazards to the airplane . . .," would be more realistic and consistent with the philosophy of § 25.903(d)(1) pertaining to engine rotor failures. This change would also specifically state that damage to vital systems and hazards due to extreme unbalance must also be considered.

Previously, vital systems and hazards were addressed only in general terms in §§ 25.671 and 25.1309.

28. By amending § 25.613 by revising paragraphs (b) and (e) to read as follows:

**§ 25.613 Material strength properties and design values.**

* * * * *

(b) Design values must be chosen to minimize the probability of structural failure due to material variability. Except as provided in paragraph (e) of this section, compliance with this paragraph must be shown by selecting design values which assure material strength with the following probability:

(1) Where applied loads are eventually distributed through a single member within an assembly, the failure of which would result in loss of structural integrity of the component, 99 percent probability with 95 percent confidence. (2) For redundant structure, in which the failure of individual elements would result in applied loads being safely distributed to other load carrying members, 90 percent probability with 95 percent confidence.

* * * * *

(e) Greater design values may be used if a "premium selection" of the material is made in which a specimen of each individual item is tested before use to determine that the actual strength properties of that particular item will equal or exceed those used in design.

**Explanation:** The probability bases contained in MIL–HDBK–5 for establishing allowables are currently incorporated by reference in §§ 25.613 and 26.615. Section 25.613 would be changed to state these bases directly. This change would make § 25.615 redundant except for the requirement of § 25.615(b) which is being transferred to § 25.613 for clarity. The references to MIL–HDBK–5, –17 and –23, and ANC–18 would no longer be necessary or appropriate and would be deleted accordingly.

**§ 25.615 [Removed]**

29. By removing § 25.615.

**Explanation:** See proposal No. 28.

30. By revising § 25.625, paragraph (d), to read as follows:

**§ 25.625 Fitting factors.**

* * * * *

(d) For each seat, berth, safety belt, and harness, the fitting factors specified in § 25.785(f)(3) apply.

**Explanation:** See proposal No. 45.

31. By amending § 25.629 by revising paragraphs (b)(1) and (d)(1)(ii) to read as follows:

**§ 25.629 Flutter, deformation, and fail-safe criteria.**

* * * * *

(b) * * *

(1) The airplane must be designed to be free from flutter and divergence (unstable structural distortion due to aerodynamic loading) for all combinations of altitude and speed encompassed by the $V_D/M_D$ versus altitude envelope enlarged at all points by an increase of 20 percent in equivalent airspeed at both constant Mach number and constant altitude, except that Mach numbers greater than 1.0 need not be included when $M_D$ is less than 1.0 at all design altitudes and the following is established—

* * * * *

(d) * * *

(1) * * *

(ii) Any other combination of failures, malfunctions, or adverse conditions not shown to be extremely improbable.

* * * * *

**Explanation:** Section 25.629, as written, could be interpreted to require flutter clearance above Mach 1.0 without accounting for Mach effects, such as compressibility. This revision would replace the standard speed margin with a damping margin determined by § 25.629(b)(1) (i) and (ii). When the damping margin is established, no flutter clearance would be required above Mach 1.0 if $M_D$ is less than 1.0. Section 25.629(d)(1)(ii) would be amended to correct an editorial error by adding the words "malfunctions, or adverse conditions," which were inadvertently removed with Amendment 25–46.

**§ 25.673 [Removed]**

32. By removing § 25.673.

**Explanation:** Due to the present scope of §§25.671 and 25.1309, § 25.673 is redundant and would be removed to preclude possible confusion.

33. By revising § 25.693 to read as follows:

**§ 25.693 Joints.**

Control system joints (in push-pull systems) that are subject to angular motion, except those in ball and roller bearing systems, must have a special factor of safety of not less than 3.33 with respect to the ultimate bearing strength of the softest material used as a bearing. This factor may be reduced to 2.0 for joints in cable control systems. For ball or roller bearings, the approved ratings may not be exceeded.

**Explanation:** The reference to MIL–HDBK–5 would be removed as that document does not contain approved ratings for bearings.

**§ 25.697 [Amended]**

34. By amending § 25.697, paragraph (a), by removing the reference "§ 25.47," and inserting the reference "§ 25.101(d)" in its place.

**Explanation:** This would be a conforming change to reflect the prior transfer of certain requirements from § 25.47 to § 25.101(d) by Amendment 25–38.

35. By revising § 25.701 to read as follows:

**§ 25.701 Flaps and slats.**

(a) Unless the airplane has safe flight characteristics with the flaps or slats retracted on one side and extended on the other, the motion of flaps or slats on opposite sides of the plane of symmetry must be synchronized by a mechanical interconnection or approved equivalent means.

(b) If a wring flap or slat interconnection is used, it must be designed to account for the applicable unsymmetrical loads, including those resulting from flight with the engines on one side of the plane of symmetry inoperative and the remaining engines at takeoff power.

(c) For airplanes with flaps or slats that are not subjected to slipstream conditions, the structure must be designed for the loads imposed when the wing flaps or slats on one side are carrying the most severe load occurring in the prescribed symmetrical conditions and those on the other side are carrying not more than 80 percent of that load.

(d) The interconnection must be designed for the loads resulting when the surfaces on one side of the plane of symmetry are jammed and immovable while the surfaces on the other side are free to move and the full power of the surface actuating system is applied.

**Explanation:** The consequences of asymmetrical slat retraction can be the same as those of asymmetrical flap retraction. This revision would ensure that asymmetrical slat retraction is not overlooked.

**§ 25.723 [Amended]**

36. By amending § 25.723, paragraph (a), by removing the word "identical" and inserting "similar" in its place.

**Explanation:** Traditionally, energy absorption tests were conducted to substantiate landing gear systems for increases in maximum takeoff and landing weight. With the development of

improved analytical methods, analyses were accepted for such increases under the equivalent level of safety provisions of § 21.21(b) of this chapter. Section 25.723 was subsequently amended to permit the use of an analysis in lieu of a test, provided the analysis was based on tests conducted on a landing gear system with identical energy absorption characteristics. This change failed, however, to provide the relief intended because weight increases invariably necessitate minor design changes, such as changes in metering characteristics of tire ratings. These changes, in turn, result in slightly altered energy absorption characteristics. As analytical methods can account for such changes as well as weight increases, § 25.723 would be further amended to specify "similar" in lieu of "identical" energy absorption characteristics. The proposed change would provide more latitude in accepting analyses and would be consistent with the previous acceptance of analyses under the equivalent level of safety provisions of § 21.21(b).

**§ 25.731 [Amended].**

37. By amending § 25.731, paragraph (b)(1), by removing the word "takeoff" and inserting the word "maximum" in its place.

**Explanation:** Section 25.25 was amended to provide for weights that are in excess of takeoff weight, such as ramp weights, provided compliance with the applicable structural requirements, including wheel strength, is demonstrated at the higher weights. Section 25.731 would be revised to implement this relaxatory change to § 25.25.

38. By amending § 25.733 by revising paragraphs (a)(1), (c), and (c)(1) to read as follows:

**§ 25.733 Tires.**

(a) * * *

(1) The loads on the main wheel tire, corresponding to the most critical combination of airplane weight (up to maximum ramp weight) and center of gravity position, and

* * * * *

(c) When a landing gear axle is fitted with more than one wheel and tire assembly, such as dual or dual-tandem, each wheel must be fitted with a suitable tire of proper fit with a speed rating approved by the Administrator that is not exceeded under critical conditions, and with a load rating approved by the Administrator that is not exceeded by—

(1) The loads on each main wheel tire, corresponding to the most critical combination of airplane weight (up to maximum ramp weight) and center of gravity position, when multiplied by a factor of 1.07; and

* * * * *

**Explanation:** The effects of inertia on tire loading are momentary at the initiation of taxi. This load becomes negligible when a constant taxi speed is obtained or, in the case of takeoff, when lift takes over as the airplane gains airspeed. In either case, the relative effect on loading is transient and relatively small when distributed among the main landing gear wheels and tires. In addition, consideration of this inertia loading introduces an unnecessary burden into the tire loading requirements when engine thrust ratings are changed. For these reasons, the requirement to consider the effects of inertia would be deleted from § 25.733(a)(1). In addition, § 25.733(c)(1) would be changed from a reference to § 25.733(a)(1) to a direct statement of the loading conditions for the sake of clarity.

39. By revising § 25.735, paragraph (b), to read as follows:

**§ 25.735 Brakes.**

* * * * *

(b) The brake system and associated systems must be designed and constructed so that if any electrical, pneumatic, hydraulic, or mechanical connection or transmitting element (excluding the operation pedal or handle) fails, or if any single source of hydraulic or other brake operating energy supply is lost, it is possible to bring the airplane to rest under conditions specified in § 25.125, with a mean deceleration during the landing roll of at least 50 percent of that obtained in determining the landing distance as prescribed in that section. Subcomponents within the brake assembly, such as brake drum, shoes, and actuators (or their equivalents), shall be considered as connecting or transmitting elements, unless it is shown that leakage of hydraulic fluid resulting from failure of the sealing elements in these subcomponents within the brake assembly would not reduce the braking effectiveness below that specified in this paragraph.

* * * * *

**Explanation:** This would be a conforming change to clarify the intent of the last sentence in existing § 25.735(d).

40. By revising § 25.772 to read as follows:

**§ 25.772 Pilot compartment doors.**

For an airplane that has a maximum passenger seating configuration of more than 20 seats and that has a lockable door installed between the pilot compartment and the passenger compartment:

(a) The emergency exit configuration must be designed so that neither crewmembers nor passengers need use that door in order to reach the emergency exists provided for them; and

(b) Means must be provided to enable flight crewmembers to directly enter the passenger compartment from the pilot compartment if the cockpit door becomes jammed.

**Explanation:** Section 25.772 presently applies to certain airplanes with a lockable door installed ". . . to comply with § 121.313(f) of this Chapter . . ." While compliance with § 121.313(f) would generally be the reason for installing a lockable door, there is nothing to preclude the installation of a lockable door for other reasons, such as compliance with an anticipated similar foreign air carrier operating requirement. Because the need for emergency egress is not limited to operations under Part 121, the reference to § 121.313(f) is inappropriate and would be deleted. Other nonsubstantive editorial changes would be made for clarity. The exception for airplanes of 20 seats or less presently contained in § 25.772 is not altered by this proposal. It must be noted, however, that the presence of a lockable door installed between the pilot compartment and the passenger compartment must be considered in determining compliance of such airplanes with § 25.805 (which would become § 25.807(f) under proposal No. 50).

41. By amending § 25.773, by revising paragraphs (b)(1)(i) and (b)(2), to read as follows:

**§ 25.773 Pilot compartment view.**

* * * * *

(b) * * *

(1) * * *

(i) Heavy rain at speeds up to 1.6 $V_{S1}$ with lift and drag devices retracted; and

(ii) * * *

(2) The first pilot must have—

(i) A window that is openable under the conditions prescribed in paragraph (d)(1) of this section when the cabin is not pressurized, provides the view specified in that paragraph, and gives sufficient protection from the elements against impairment of the pilot's vision; or

(ii) An alternate means to maintain a clear view under the conditions

specified in paragraph (b)(1) of this section, considering the probable damage due to a severe hail encounter.

* * * * *

**Explanation:** Section 25.773(b)(1)(i) would be revised for clarity and consistency with actual certification practice by specifying that all lift and drag devices, e.g., slats and spoilers as well as flaps, must be retracted. Section 25.773(b)(2) currently requires an openable clear vision window; however, other means of compliance, such as the use of a side window positioned to provide adequate forward vision without being subject to obscuration, have been found acceptable under the equivalent level of safety provisions of § 21.21(b)(2) of this chapter. Section 25.773(b)(2) would, therefore, be amended to allow alternate means of maintaining clear vision.

**§ 25.779 [Amended]**

42. By amending § 25.779, paragraph (b)(1), by removing the word "Throttles" and inserting the words "Power or thrust" in its place.

**Explanation:** The words "Power or thrust" would be substituted for "Throttles," which is a misnomer when applied to turbine engines.

**§ 25.781 [Amended]**

43. By amending § 25.781 by removing the diagram caption "THROTTLE CONTROL KNOB" and inserting the term "POWER OR THRUST CONTROL KNOB" in its place, and removing the diagram caption "RPM CONTROL KNOB" and inserting the term "PROPELLER CONTROL KNOB" in its place.

**Explanation:** The words "POWER or THRUST" would be substituted for "THROTTLE," which is a misnomer when applied to turbine engines. The word "PROPELLER" would be substituted for "RPM" for consistency with § 25.779.

44. By revising § 25.783, paragraph (g), to read as follows:

**§ 25.783 Doors**

* * * * *

(g) Cargo and service doors not suitable for use as emergency exists need only meet paragraphs (e) and (f) of this section and be safeguarded against opening in flight as a result of mechanical failure of a single structural element.

* * * * *

**Explanation:** As a result of adverse service experience with certain external doors, including cargo doors in particular, Amendment 25–24 introduced requirements that external doors must have provisions to prevent pressurization of the airplane to an unsafe level if the door is not fully closed and locked and that it be shown by analysis that inadvertent opening is extremely improbable. These requirements were introduced as new § 25.783(f), and existing § 25.783(f) was reidentified as new § 25.783(g). Due to the editorial structure of existing § 25.783(f) and new § 25.783(g), cargo and service doors were inadvertently exempted from compliance with the new requirements even though the new requirements were largely prompted by such doors. Section 25.783(g) would, therefore, be amended to correct this inadvertence.

45. By revising § 25.785 to read as follows:

**§ 25.785 Seats, berths, safety belts, and harnesses.**

(a) A seat (or berth for a nonambulant person) must be provided for each occupant who has reached his or her second birthday.

(b) Each seat, berth, safety belt, harness, and adjacent part of the airplane at each station designated as occupiable during takeoff and landing must be designed so that a person making proper use of these facilities will not suffer serious injury in an emergency landing as a result of the inertia forces specified in § 25.561.

(c) Each seat or berth must be approved.

(d) Each occupant of a seat that makes more than an 18 degree angle with the vertical plane containing the airplane centerline must be protected from head injury by a safety belt and an energy absorbing rest that will support the arms, shoulders, head, and spine, or by a safety belt and shoulder harness that will prevent the head from contacting any injurious object. Each occupant of any other seat must be protected from head injury by a safety belt and, as appropriate to the type, location, and angle of facing of each seat, by one or more of the following:

(1) A shoulder harness that will prevent the head from contacting any injurious object.

(2) The elimination of any injurious object within striking radius of the head.

(3) An energy absorbing rest that will support the arms, shoulders, head, and spine.

(e) Each berth must be designed so that the forward part has a padded end board, canvas diaphragm, or equivalent means, that can withstand the static load reaction of the occupant when subjected to the forward inertia force specified in § 25.561. For berths, the forward inertia force need not be considered with respect to the safety belt. Berths, must be free from corners and protuberances likely to cause injury to a person occupying the berth during emergency conditions.

(f) Each seat or berth, and its supporting structure, and each safety belt or harness must be designed for an occupant weight of 170 pounds, considering the maximum load factors, inertia forces, and reactions among the occupant, seat, safety and harness for each relevant flight and ground load condition (including the emergency landing conditions prescribed in § 25.561). In addition—

(1) The structural analysis and testing of the seats, berths, and their supporting structures may be determined by assuming that the critical load in the forward, sideward, downward, and rearward directions (as determined from the prescribed flight, ground, and emergency landing conditions) acts separately and using selected combinations of loads if the required strength in each specified direction is substantiated.

(2) Each pilot seat must be designed for the reactions resulting from the application of the pilot forces prescribed in § 25.395.

(3) The inertia forces specified in § 25.561 must be multiplied by a factor of 1.33 (instead of the fitting factor prescribed in § 25.625) in determining the strength of the attachment of each seat to the structure and each belt or harness to the seat or structure.

(g) Each seat at a flight deck station must have a restraint system consisting of a combined safety belt and shoulder harness with a single-point release that permits the flight deck occupant, when seated with the restraint system fastened, to perform all of the occupant's necessary flight deck functions. There must be a means to secure each combined restraint system when not in use to prevent interference with the operation of the airplane and with rapid egress in an emergency.

(h) Each seat located in the passenger compartment and designated for the use of a flight attendant during takeoff and landing must be:

(1) Near a required floor level emergency exit, except that another location is acceptable if the emergency egress of passengers would be enhanced with that location. A flight attendant seat must be located adjacent to each Type A emergency exit. Other flight attendant seats must be evenly distributed among the required floor level emergency exits to the extent feasible.

(2) To the extent possible, without compromising proximity to a required floor level emergency exit, located to provide a direct view of the cabin area for which the flight attendant is responsible.

(3) Positioned so that the seat will not interfere with the use of a passageway or exit when the seat is not in use.

(4) Located to minimize the probability of the occupants suffering injury by being struck by items dislodged from service areas or service equipment.

(5) Either forward or rearward facing with an energy absorbing rest that is designed to support the arms, shoulders, head and spine.

(6) Equipped with a restraint system consisting of a combined safety belt and shoulder harness unit with a single point release. There must be means to secure each restraint system when not in use to prevent interference with rapid egress in an emergency.

(i) Each safety belt must be equipped with a metal to metal latching device.

(j) If the seat backs do not provide a firm handhold, there must be a handgrip or rail along each aisle to enable persons to steady themselves while using the aisles in moderately rough air.

(k) Each projecting object that would injure persons seated or moving about the airplane in normal flight must be padded.

(l) Each forward observer's seat required by the operating rules must be shown to be suitable for use in conducting the necessary enroute inspection.

**Explanation:** A number of changes would be made to this section for clarity and editorial improvement. In addition, the requirement presently contained in § 25.1307 to provide a seat for each occupant would be transferred to this section for editorial convenience and relaxed to allow use of a berth in lieu of a seat for a nonambulant occupant. Although § 25.1307 states that a seat must be provided for "each occupant", the section has not been interpreted to require seats for infants. This section would, therefore, be clarified by specifically stating that it applies only to persons that are two years of age or older for consistency with actual certification practice and corresponding § 121.311 of this chapter. Section 25.785(h) would be amended to permit placing a flight attendant seat at a location other than near a floor level emergency exit if the emergency egress of passengers would be enhanced by that location. In addition, § 25.785(h) (new) would be rearranged for clarity. The strength requirements presently contained in § 25.1413(b) and (c) for safety belts and harnesses would be transferred to § 25.785 and combined with the same requirements for seats and berths. A corresponding conforming change would also be made to § 25.625. The contents of § 25.1413(d) concerning belts with metal to metal latching devices would also be transferred to § 25.785 for editorial improvement.

46. By revising § 25.791 to read as follows:

**§ 25.791 Passenger information signs and placards.**

(a) If smoking is to be prohibited, there must be a placard so stating that is legible to each person seated in the cabin. If smoking is to be allowed, and if the crew compartment is separated from the passenger compartment, there must be at least one sign notifying when smoking is prohibited. Signs which notify when smoking is prohibited must be operable from either pilot seat and, when illuminated, must be legible under all probable conditions of cabin illumination to each person seated in the cabin.

(b) Signs that notify when seat belts should be fastened and that are installed to comply with the operating rules of this chapter must be operable from either pilot seat and, when illuminated, must be legible under all probable conditions of cabin illumination to each person seated in the cabin.

(c) A placard must be located on or adjacent to the door of each receptacle used for the disposal of flammable waste materials to indicate that use of the receptacle for disposal of cigarettes, etc., is prohibited.

(d) Lavatories must have placards conspicuously located on or adjacent to each side of the entry door to indicate that smoking in the lavatory is prohibited.

(e) Symbols that clearly express the intent of the sign or placard may be used in lieu of letters.

**Explanation:** Section 25.853 contains type certification requirements for "no smoking signs" and signs indicating that disposal of cigarettes in receptacles intended for flammable waste is prohibited. The requirements for such signs would be transferred from § 25.853 to § 25.791 for editorial improvement and would be stated in objective terms. Alternate means of compliance would be provided by the addition of § 25.791(e) which would allow the use of acceptable symbols in lieu of letters.

**§ 25.801 [Amended]**

47. By amending § 25.801, paragraph (a), by removing the regulatory reference "§ 25.807(d)" and inserting "§ 25.807(e)" in its place.

**Explanation:** See proposal No. 50.

48. By amending § 25.803 by removing paragraphs (b) and (d) and marking them [Reserved] and revising paragraphs (a) and (c) to read as follows:

**§ 25.803 Emergency evacuation.**

(a) Each crew and passenger area must have emergency means to allow rapid evacuation in crash landings, with the landing gear extended as well as with the landing gear retracted, considering the possibility of the airplane being on fire.

(b) [Reserved]

(c) For airplanes having a seating capacity of more than 44 passengers, it must be shown that the maximum seating capacity, including the number of crewmembers required by the operating rules for which certification is requested, can be evacuated from the airplane to the ground under simulated emergency conditions within 90 seconds. Compliance with this requirement must be shown by actual demonstration using the test criteria outlined in Appendix I of this part unless the Administrator finds that a combination of analysis and testing will provide data equivalent to that which would be obtained by actual demonstration.

(d) [Reserved]

* * * * *

**Explanation:** The emergency evacuation test criteria presently contained in paragraph (c) would be transferred to new Appendix I for clarity and editorial consistency with the corresponding requirements of Part 121 of this chapter. Current § 25.803(b) would be removed, and nonredundant material from that section would be transferred to § 25.807 for consistency and clarity.

**§ 25.805 [Removed]**

49. By removing § 25.805.

**Explanation:** See Proposal No. 50.

50. By revising § 25.807 to read as follows:

**§ 25.807 Emergency exits.**

(a) *Type.* For the purpose of this Part, the types of exits are defined as follows:

(1) *Type I.* This type is a floor level exit with a rectangular opening of not less than 24 inches wide by 48 inches

high, with corner radii not greater than one-third the width of the exit.

(2) *Type II.* This type is a rectangular opening of not less than 20 inches wide by 44 inches high, with corner radii not greater than one-third the width of the exit. Type II exits must be floor level exits unless located over the wing, in which case they may not have a step-up inside the airplane of more than 10 inches nor a step-down outside the airplane of more than 17 inches.

(3) *Type III.* This type is a rectangular opening of not less than 20 inches wide by 36 inches high, with corner radii not greater than one-third the width of the exit, and with a step-up inside the airplane of not more than 20 inches. If the exit is located over the wing, the step-down outside the airplane may not exceed 27 inches.

(4) *Type IV.* This type is a rectangular opening of not less than 19 inches wide by 26 inches high, with corner radii not greater than one-third the width of the exit, located over the wing, with a step-down inside the airplane of not more than 29 inches and a step-down outside the airplane of not more than 36 inches.

(5) *Ventral.* This type is an exit from the passenger compartment through the pressure shell and the bottom fuselage skin. The dimensions and physical configuration of this type of exit must allow at least the same rate of egress as a Type I exit with the airplane in the normal ground attitude, with landing gear extended, and at least the same rate of egress as a Type III exit with the airplane in the most adverse exit opening condition that would result from the collapse of one or more legs of the landing gear.

(6) *Tail cone.* This type is an aft exit from the passenger compartment through the pressure shell and through an openable cone of the fuselage aft of the pressure shell. The dimensions and physical configuration of this type of exit must allow at least the same rate of egress as a Type III exit with the airplane in the most adverse exit opening condition that would result from the collapse of one or more legs of the landing gear. The means of opening the tail cone must be simple and obvious and must employ a single operation.

(7) *Type A.* This type is a floor level exit with a rectangular opening of not less than 42 inches wide by 72 inches high with corner radii not greater than one-sixth of the width of the exit.

(b) *Step down distance.* Step down distance, as used in this section, means the actual distance between the bottom of the required opening and a usable foot hold, extending out from the fuselage, that is large enough to be effective without searching by sight or feel.

(c) *Over-sized exits.* Openings larger than those specified in this section, whether or not of rectangular shape, may be used if the specified rectangular opening can be inscribed within the opening and the base of the inscribed rectangular opening meets the specified step-up and step down heights.

(d) *Passenger emergency exits.* Except as provided in paragraphs (3) through (5) of this paragraph, the minimum number and type of passenger emergency exits is as follows:

(1) For passenger seating configurations of 1 through 299 seats:

| Passenger seating configuration (crewmember seats not included) | Emergency exits for each side of the fuselage | | | |
|---|---|---|---|---|
| | Type I | Type II | Type III | Type IV |
| 1 through 9 | | | | 1 |
| 10 through 19 | | | 1 | |
| 20 through 39 | | 1 | 1 | |
| 40 through 79 | 1 | | 1 | |
| 80 through 109 | 1 | | 2 | |
| 110 through 139 | 2 | | 1 | |
| 140 through 179 | 2 | | 2 | |

Additional exits are required for passenger seating configurations greater than 179 seats in accordance with the following table:

| Additional emergency exits (each side of fuselage) | Increase in passenger seating configuration allowed |
|---|---|
| Type A | 110 |
| Type I | 45 |
| Type II | 40 |
| Type III | 35 |

(2) For passenger seating configurations greater than 299 seats, each emergency exit in the side of the fuselage must be either a Type A or Type I. A passenger seating configuration of 110 seats is allowed for each pair of Type A exits and a passenger seating configuration of 45 seats is allowed for each Type I exits.

(3) If a passenger ventral or tail cone exit is installed, an increase in the passenger seating configuration beyond the limits specified in paragraph (d) (1) or (2) of this section may be allowed as follows:

(i) For a ventral exit, 12 additional passenger seats.

(ii) For a tail cone exit incorporating a floor level opening of not less than 20 inches wide by 60 inches high, with corner radii not greater than one-third the width of the exit, in the pressure shell and incorporating an approved assist means in accordance with § 25.809(h), 25 additional passenger seats.

(iii) For a tail cone exit incorporating an opening in the pressure shell which is at least equivalent to a Type III emergency exit with respect to dimensions, step-up and step-down distance, and with the top of the opening not less than 56 inches from the passenger compartment floor, 15 additional passenger seats.

(4) For airplanes on which the vertical location of the wing does not allow the installation of overwing exits, an exit of at least the dimensions of a Type III exit must be installed instead of each Type IV exit required by paragraph (d)(1) of this section.

(5) An alternate emergency exit configuration may be approved in lieu of that specified in paragraph (d) (1) or (2) of this section provided the overall evacuation capability is shown to be equal to or greater than that of the specified emergency exit configuration.

(6) The following must also meet the applicable emergency exit requirements of §§ 25.809 through 25.813:

(i) Each emergency exit in the passenger compartment in excess of the minimum number of required emergency exits.

(ii) Any other floor level exit that is accessible from the passenger compartment and is as large or larger than a Type II exit, but less than 46 inches wide.

(iii) Any other passenger ventral or tail cone exit.

(e) *Ditching emergency exits for passengers.* Ditching emergency exits must be provided in accordance with the following requirements whether or not certification with ditching provisions is requested:

(1) For airplanes that have a passenger seating configuration of nine seats or less, excluding pilots seats, one exit above the waterline in each side of the airplane, meeting at least the dimensions of a Type IV exit.

(2) For airplanes that have a passenger seating configuration of 10 seats or more, excluding pilots seats, one exit above the waterline in a side of the airplane, meeting at least the dimensions of a Type III exit for each unit (or part of a unit) of 35 passenger seats, but no less than two such exits in the passenger cabin, with one on each side of the airplane. The passenger seat/exit ratio may be increased through the use of larger exits, or other means, provided it is shown that the evacuation capability during ditching has been improved accordingly.

(3) If it is impractical to locate side exits above the waterline, the side exits must be replaced by an equal number of readily accessible overhead hatches of not less than the dimensions of a Type III exit, except that for airplanes with a

passenger configuration of 35 seats or less, excluding pilots seats, the two required Type III side exits need be replaced by only one overhead hatch.

(f) *Flightcrew emergency exits.* For airplanes in which the proximity of passenger emergency exits to the flightcrew area does not offer a convenient and readily accessible means of evacuation of the flightcrew, and for all airplanes having a passenger seating capacity greater than 20, flightcrew exits shall be located in the flightcrew area. Such exits shall be of sufficient size and so located as to permit rapid evacuation by the crew. One exit shall be provided on each side of the airplane, or, alternatively, a top hatch shall be provided. Each exit must encompass an unobstructed rectangular opening of at least 19 by 20 inches unless satisfactory exit utility can be demonstrated by a typical crewmember.

**Explanation:** The following changes would be made for consistency, clarity and editorial improvement: The requirements of § 25.805 would be reworded and transferred to new § 25.807(f). The requirements of § 25.807(a)(7)(iii), (iv) and (v) would be transferred to § 25.813(a). The requirement of § 25.807(a)(7)(vi) would be transferred to § 25.785(h)(1). The requirement of § 25.807(a)(7)(vii) would be deleted because it is covered by existing § 25.813(b). The requirements of § 25.807(a)(7)(viii) would be transferred to § 25.809(f) and (h). The requirement of § 25.807(a)(7)(ix) would be transferred to § 25.809(f). The closing statement of § 25.807(a) concerning stepdown distance, which has erroneously been shown as part of § 25.807(a)(7)(ix) in some printings of Part 25, would be reidentified as new § 25.807(b). The introductory sentence of current § 25.807(b) and the introductory paragraph of § 25.807(c) would be transferred to § 25.813. The remainder of current § 25.807(b) would be reidentified as new § 25.807(c), and the balance of current § 25.807(c) would be reidentified as new § 25.807(d). New § 25.807(d)(5) would be added to provide for alternate emergency exit configurations. Such alternate configurations have previously been approved under the equivalent level of safety provisions of § 21.21(b)(1) of this Chapter. The requirements of current § 25.803(b) would be transferred to § 25.807 and combined with those of new § 25.807(d)(6) because the intent of the two paragraphs is similar. In an emergency situation, passengers will tend to use any exit that appears to be available and not just those designated for compliance with the minimum number of emergency exits specified in § 25.807. In order to assure the unhampered egress of any passengers attempting to use such exits, §§ 25.803(b) and current 25.807(c)(6) (which would become new § 25.807(d(6)) require excess emergency exits and certain other exits to meet the same standards as those designated for compliance with the minimum number specified in § 25.807. The requirements of the two paragraphs would, therefore, be combined for consistency and clarity.

51. By amending § 25.809 by revising paragraph (h), and the introductory text of paragraph (f) and by revising (f)(1) and by adding (f)(3) and (f)(4) to read as follows:

**§ 25.809 Emergency exit arrangement.**

* * * * *

(f) Except as provided in subparagraphs (3) and (4) of this paragraph, each landplane emergency exit more than 6 feet from the ground with the airplane on the ground and the landing gear extended must have an approved means to assist the occupants in descending to the ground.

(1) The assisting means for each passenger emergency exit must be a self supporting slide or equivalent; and, in the case of a Class A exit, it must be capable of carrying simultaneously two parallel lines of evacuees. In addition, the assisting means must be designed to meet the following requirements:

* * * * *

(3) Assist means are not required for Type I through IV exits that are located above the wing nor for Type A exits that are located above the wing and have no stepdown.

(4) Assist means are required for each type A exit located above the wing and having a stepdown unless the exit without an assist means can be shown to have a rate of passenger egress at least equal to that of the same type of non-over-wing exit.

* * * * *

(h) If the place on the airplane structure at which the escape route required in § 25.803(c) terminates is more than 6 feet from the ground with the airplane on the ground and the landing gear extended, means to reach the ground must be provided to assist evacuees who have used the escape route. If the escape route is over a flap, the height of the terminal edge must be measured with the flap in the takeoff or landing position, whichever is higher from the ground. The assisting means must be usable and self-supporting with one or more landing gear legs collapsed and under the most adverse anticipated wind conditions. The assisting means provided for each escape route leading from a Type A emergency exit must be capable of carrying simultaneously two parallel lines of evacuees.

* * * * *

**Explanation:** The present reference in paragraph (h) to § 25.803(e) would be changes to § 25.803(d) to conform to the proposed change to § 25.803. (See proposal No. 48.) The requirements of current § 25.807(a)(7)(viii) would be transferred to § 25.809 (f) and (h) for consistency and editorial improvement. The requirement of § 25. 807(a)(7)(ix) would also be transferred to § 25.807(f) for consistency and editorial improvements.

52. By amending § 25.813 by adding a new introductory paragraph and by revising paragraph (a) to read as follows:

**§ 25.813 Emergency exist access.**

Each required emergency exit must be acessible to the passengers and located where it will afford an effective means of evacuation. Emergency exit distribution must be as uniform as practical, taking passenger distribution into account; however, the size and location of exits on both sides of the cabin need not be symmetrical. If only one floor level exit per side is prescribed, and the airplane does not have a tail cone or ventral emergency exit, the floor level exit must be in the rearward part of the passenger compartment, unless another location affords a more effective means of passenger evacuation. Where more than one floor level exit per side is prescribed, at least one floor level exit per side must be located near each end of the cabin, except that this provision does not apply to combination cargo/passenger configurations. In addition—

(a) There must be a passageway leading from each main aisle to each Type I, Type II, or Type A emergency exit and between individual passenger areas. If two nor more main aisles are provided, there must be a cross aisle leading directly to each passageway between the exit and the nearest main aisle. Each passageway leading to a Type A exit must be unobstructed and at least 36 inches wide. Other passageways and cross aisles must be unobstructed and at least 20 inches wide. Unless there are two or more main aisles, each Type A exit must be located so that there is passenger flow along the main aisle to that exit from both the forward and aft direction.

* * * * *

**Explanation:** The requirements of current § 25.807(a)(7) and certain portions of those of § 25.807 (b) and (c)

would be transferred to this section for consistency and editorial improvement. (See proposal No. 50.)

53. By revising § 25. 833 to read as follows:

**§ 25.833 Combustion heating systems.**

Combustion heaters must be approved.

**Explanation:** Redundant material would be removed in the interest of simplicity. The title would also be revised to reflect the revised scope of § 25.833. (The term "approved" when used in Part 25 in this context, means that the product must comply with an applicable Technical Standard Order or, in lieu thereof, be approved in conjunction with the type certification process for the airplane on which it is to be installed.)

54. By amending § 25.851 by revising paragraphs (a) and (b)(1) to read as follows:

**§ 25.851 Fire extinguishers.**

(a) Hand fire extinguishers. (1) the following minimum number of hand fire extinguishers must be conveniently located in passenger compartments:

| Passenger capacity | Number of extinguishers |
|---|---|
| 7 through 30 | 1 |
| 31 through 60 | 2 |
| 61 or more | 3 |

(2) At least one hand fire extinguisher must be conveniently located in the pilot compartment.

(3) A readily accessible hand fire extinguisher must be available for use in each Class A or Class B cargo compartment.

(4) Each hand fire extinguisher must be approved.

(5) The types and quantities of each extinguishing agent used must be appropriate to the kinds of fires likely to occur where used.

(6) Each extinguisher for use in a personnel compartment must be designed to minimize the hazard of toxic gas concentration.

(b) * * *

(1) The capacity must be adequate for any fire likely to occur in the compartment where used, considering the volume of the compartment and the ventilation rate; and

* * * * *

**Explanation:** Due to an apparent editorial error, § 25.851(b) implies that the requirements of that paragraph do not apply to fire extinguishment systems installed in addition to those required by the minimum standards of Part 25. Whether or not a fire extinguishment system is "required" is obviously irrelevant insofar as the potential hazards to the occupants that may be created by that system are concerned. This change would state the requirements of the rule more clearly. Other nonsubstantive changes would also be made for clarity.

55. By revising § 25.853 to read as follows:

**§ 25.853 Compartment interiors.**

(a) For each compartment occupied by the crew or passengers, the following apply:

(1) Materials must meet the applicable test criteria prescribed in Appendix F of this part.

(2) If smoking is to be allowed:

(i) An adequate number of self-contained, removable ashtrays must be provided for all seated occupants, and

(ii) Lavatories must have self-contained removable ashtrays located conspicuously on or near the entry side of each lavatory door, except that one ashtray may serve more than one lavatory door if the ashtray can be seen readily from the cabin side of each lavatory served.

(3) Each receptacle used for the disposal of flammable waste material must be fully enclosed, constructed of at least fire resistant materials, and must contain fires likely to occur in it under normal use. The ability of the receptacle to contain those fires under all probable conditions of wear, misalignment, and ventilation expected in service must be demonstrated by test.

(b) For each cargo and baggage compartment not occupied by crew or passengers, the following apply:

(1) Materials must meet the applicable test criteria prescribed in Appendix F of this part.

(2) No compartment may contain any controls, wiring, lines, equipment, or accessories whose damage or failure would affect safe operation, unless those items are protected so that—

(i) They cannot be damaged by the movement of cargo in the compartment, and

(ii) Their breakage or failure will not create a fire hazard.

(3) There must be means to prevent cargo or baggage from interfering with the functioning of the fire protective features of the compartment.

(4) Sources of heat within the compartment must be shielded and insulated to prevent igniting the cargo.

(5) Cargo compartments must meet one of the class requirement of § 25.857.

(6) Flight tests must be conducted to show compliance with the provisions of § 25.857 concerning—

(i) Compartment accessibility,

(ii) The entries of hazardous quantities of smoke or extinguishing agent into compartments occupied by the crew or passengers, and

(iii) The dissipation of the extinguishing agent in Class C compartments.

(7) During the above tests, it must be shown that no inadvertent operation of smoke or fire detectors in any compartment would occur as a result of fire contained in any other compartment, either during or after extinguishment, unless the extinguishing system floors each compartment simultaneously.

**Explanation:** The test criteria presently contained in §§ 25.853, 25.855, and 25.1359 would be transferred to Appendix F for editorial improvement and consistency. (See proposal No. 98.) The requirement for "no smoking" signs would be transferred to § 25.791 for consistency with other passenger information sign requirements. The remaining nonredundant portions of § 25.855 for cargo and baggage compartments would be transferred to § 25.853 and combined with those for crew or passenger compartments. Section 25.853 presently requires lavatory ashtrays for airplanes in which smoking is not allowed as well as for those in which smoking is allowed. The presence of lavatory ashtrays in airplanes in which smoking is not allowed appears to be a counterproductive invitation to smoke even though smoking is not allowed anywhere in the airplane.

Section 25.853 would, therefore, be amended to require lavatory ashtrays only if smoking is to be allowed in other portions of the airplane.

**§ 25.855 [Removed]**

56. By removing § 25.855.

**Explanation:** See proposal No. 55.

**§ 25.867 [Removed]**

57. By removing § 25.867.

**Explanation:** Section 25.867 and predecessor regulations require certain surfaces aft of the nacelles to be fire resistant. Section 25.1193(e) and predecessor regulations cover the same subject in a more comprehensive and objective manner. As § 25.867 could be misleading if not read in context with § 25.1193(e), it would be removed.

58. By adding a new § 25.869 as follows:

**§ 25.869 Fire protection: Systems.**

(a) Electrical system components:

(1) Components of the electrical system must meet the applicable fire and smoke protection requirements of §§ 25.831(c) and 25.863.

(2) Electrical cables, terminals, and equipment in designated fire zones, that are used during emergency procedures, must be at least fire resistant.

(3) Main power cables (including generator cables) in the fuselage must be designed to allow a reasonable degree of deformation and stretching without failure and must be—

(i) Isolated from flammable fluid lines; or

(ii) Shrouded by means of electrically insulated, flexible conduit, or equivalent, which is in addition to the normal cable insulation.

(4) Insulation on electrical wire and electrical cable installed in any area of the fuselage must be self-extinguishing when tested in accordance with the applicable portions of Appendix F.

(b) Each vacuum air system line and fitting on the discharge side of the pump that might contain flammable vapors or fluids must meet the requirements of § 25.1183 if the line or fitting is in a designated fire zone. Other vacuum air systems components in designated fire zones must be at least fire resistant.

(c) Oxygen equipment and lines must—

(1) Not be located in any designated fire zone,

(2) Be protected from heat that may be generated in, or escape from, any designated fire zone, and

(3) Be installed so that escaping oxygen cannot cause ignition of grease, fluid, or vapor accumulations that are present in normal operation or as a result of failure or malfunction of any system.

**Explanation:** This would be a clarifying editorial change in which all fire protection requirements for systems would be combined and transferred to subpart D as new § 25.869 under the heading "Fire protection." Section 25.1359 would become § 25.869(a) except for test acceptance criteria which would be transferred to Appendix F. Sections 25.1433 (b) and (c) would be combined as § 25.869(b), and § 25.1451 would become § 25.869(c). Both would incorporate minor editorial changes.

59. By revising § 25.901, paragraph (c), to read as follows:

**§ 25.901 Installation.**

* * * * *

(c) For each powerplant and auxiliary power unit installation, it must be established that no single failure or malfunction or probable combination of failures will jeopardize the safe operation of the airplane except that the failure of structural elements need not be considered if such failure is extremely improbable.

* * * * *

**Explanation:** This would be a clarifying change to substitute current probability terminology. Use of the term "extremely improbable" in this context does not imply that a numerical analysis of failure rates is required.

60. By amending § 25.903 by adding a new paragraph (f) to read as follows:

**§ 25.903 Engines.**

* * * * *

(f) *Auxiliary Power Unit.* Each auxiliary power unit must be approved or meet the requirements of the category for its intended use.

**Explanation:** Requirements for auxiliary power units (APU) are, for the most part, presented with the corresponding requirements for propulsion engines in Part 25. This would be a nonsubstantive editorial change to present the requirement for APU qualification in § 25.901 along with the analogous requirement for propulsion engine certification.

61. By amending § 25.905 by adding a new paragraph (d) to read as follows:

**§ 25.905 Propellers.**

* * * * *

(d) Design precautions must be taken to minimize the hazards to the airplane in the event a propeller blade fails or is released by a hub failure.

**Explanation:** See proposal No. 27.

**§ 25.925 [Amended]**

62. By amending § 25.925, paragraph (a), by removing the word "tire" in the last sentence and inserting the word "tire(s)" in its place.

**Explanation:** The requirement to show positive clearance with the critical tire deflated and the corresponding strut deflated was introduced into both Parts 3 and 4b of the Civil Air Regulations (CAR) during the late 1940's. (Parts 3 and 4b of the CAR are predecessors of Parts 23 and 25 of the FAR, respectively.) Although "tire" is singular, it was interpreted at that time to mean "tires" in the case of airplanes with dual wheels. This was well understood at the time; however, preoccupation with turbojet aircraft over the past two decades has resulted in confusion. This change would clarify the intent of § 25.925(a) and ensure that it is applied correctly.

63. By revising § 25.933 to read as follows:

**§ 25.933 Reversing systems.**

(a) For turbojet reversing systems—

(1) Each system intended for ground operation only must be designed so that during any reversal in flight the engine will produce no more than flight idle thrust. In addition, it must be shown by analysis or test, or both, that—

(i) Each operable reverser can be restored to the forward thrust position; and

(ii) The airplane is capable of continued safe flight and landing under any possible position of the thrust reverser.

(2) Each system intended for inflight use must be designed so that no unsafe condition will result during normal operation of the system, or from any failure (or reasonably likely combination of failures) of the reversing system, under any anticipated condition of operation of the airplane including ground operation. Failure of structural elements need not be considered if the probability of this kind of failure is extremely improbable.

(3) Each system must have means to prevent the engine from producing more than idle thrust when the reversing system malfunctions, except that it may produce any greater forward thrust that is shown to allow directional control to be maintained, with aerodynamic means alone, under the most critical reversing condition expected in operation.

(b) For propeller reversing systems—

(1) Each system intended for ground operation only must be designed so that no single failure (or reasonably likely combination of failures) or malfunction of the system will result in unwanted reverse thrust under any expected operating condition. Failure of structural elements need not be considered if this kind of failure is extremely improbable.

(2) Compliance with this section may be shown by failure analysis or testing, or both, for propeller systems that allow propeller blades to move from the flight low-pitch position to a position that is substantially less than that at the normal flight low-pitch position. The analysis may include or be supported by the analysis made to show compliance with the requirements of § 35.21 of this chapter for the propeller and associated installation components.

**Explanation:** Unwanted, inflight deployments of thrust reversing systems have occurred on turbojet powered transport airplanes, sometimes with catastrophic results. To preclude further catastrophic occurrences of this nature, §25.933 was amended to require showing that the reverser can be restored to the forward flight position *or*

that the airplane is capable of continued safe flight and landing under any possible position of the thrust reverser. Shortly after § 25.933 was amended, it was recognized that the change failed to achieve the intended level of safety due to the use of the word "or." An unwanted, inflight deployment is generally accompanied by damage to the reversing system due to the dynamic nature of the deployment, particularly at high speed. Although it might be demonstrated that an undamaged reverser could be restored to the forward thrust position, there is no assurance that the reverser could be restored in an actual unwanted, inflight deployment due to the possibility of unpredictable damage. It is, therefore, essential that the airplane be capable of continued safe flight and landing under any possible position of the thrust reverser. Conversely, it is also essential that an operable reverser be restored to the forward thrust position whenever possible. In view of the above, the word "or" would be replaced with the word "and" to require showing that the reverser can be restored to the forward thrust position, if undamaged, *and* that the airplane is capable of continued safe flight and landing under any possible position of the thrust reverser. With this change, § 25.933 would be consistent with the original intent of this rule and with industry practice, and would, therefore, introduce no additional burden. Prior to the amendment of § 25.933, paragraph (a) clearly applied to all reversing systems intended for ground use only, including reversible pitch propellers. Due to an inadvertence, § 25.933(a) can now be erroneously interpreted to apply only to turbojet airplanes. The proposed change would clarify the applicability of this section. Certain other editorial changes would also be made for the sake of clarity. The use of the term "extremely improbable" in this context does not mean that a numerical analysis of failure rates is required.

**§ 25.937 [Amended]**

64. By amending § 25.937 by inserting the word "of" after the word "any" in the first sentence and by removing the word "remote" in the second sentence and inserting the word "improbable" in its place.

**Explanation:** This would be a clarifying change to correct an editorial error and utilize current probability terminology. The use of the term "extremely improbable" in this context does not mean that a numerical analysis of failure rates is required.

**§ 25.945 [Amended]**

65. By amending § 25.945 by removing paragraph (b)(4) and marking it [Reserved].

**Explanation:** The requirement for marking the augmentation system tank filler openings would be transferred from § 25.945 to § 25.1557 for editorial convenience and clarity.

**§ 25.973 [Amended]**

66. By amending § 25.973 by removing paragraph (a) and marking it [Reserved].

**Explanation:** The reference to § 25.1557(c) for fuel filler opening markings is erroneous, and a corrected reference to § 25.1557(b)(1) would be redundant. Section 25.973(a) would, therefore, be removed in its entirety.

67. By revising § 25.979, paragraph (b)(2), to read as follows:

**§ 25.979 Pressure fueling system.**

* * * * *

(b) * * *

(2) Provide indication at each fueling station of failure of the shutoff means to stop the fuel flow at the maximum quantity approved for that tank.

* * * * *

**Explanation:** The term "desired level" presently contained in § 25.979(b)(2) has been misinterpreted to mean a chosen intermediate quantity of fuel. This change would clarify the intent by substituting the phrase "maximum quantity approved for that tank."

68. By revising § 25.1013, paragraph (c), to read as follows:

**§ 25.1013 Oil tanks.**

* * * * *

(c) *Filler connection.* Each recessed oil tank filler connection that can retain any appreciable quantity of oil must have a drain that discharges clear of each part of the airplane. In addition, each oil tank filler cap must provide an oil-tight seal.

* * * * *

**Explanation:** Section 25.1013(c)(2) contains an unnecessary reference to § 25.1557(b)(2). This reference would be removed for consistency with action proposed with regard to fuel and augmentation system fluids. (See proposals Nos. 65 and 66, respectively.)

69. By revising § 25.1093, paragraph (b)(1), to read as follows:

**§ 25.1093 Induction system deicing and anti-icing provisions.**

* * * * *

(b) *Turbine engines.* (1) Each turbine engine must operate throughout the flight power range of the engine (including idling), without the accumulation of ice on the engine, inlet system components, or airframe components that would adversely affect engine operation or cause a serious loss of power or thrust—

(i) Under the icing conditions specified in Appendix C, and

(ii) In falling and blowing snow within the limitations established for the airplane for such operation.

* * * * *

**Explanation:** Historically, turbine engine induction systems, as well as analogous reciprocating engine carburetor heat rise systems, have been required to meet specified standards regardless of whether the airplane is approved for operation in icing conditions. An airplane may inadvertently enter unseen icing conditions, and any difficulty experienced due to the accumulation of ice on the airframe must not be compounded due to a loss of power or thrust caused by engine icing. Due to an editorial error introduced with Amendment 25–40, the phrase, "within the limitations established for the airplane," implies that an operational limitation may be accepted in lieu of providing the capability to operate the engines safely in icing conditions. The proposed change would correct this editorial error by clarifying that the phrase, "within the limitations established for the airplane," applies only to operation in snow. Due to the difference in the standard of ice protection required for the engines and that required by § 25.1419 for the airplane in general, the term "inlet system components" is interpreted to include any portion of the airframe from which accumulated ice could be ingested. Section 25.1093(b)(1) would be amended to ensure that such airframe components are not overlooked during the evaluation of the engine installation.

70. By adding § 25.1141, paragraph (e), to read as follows:

**§ 25.1141 Powerplant controls: General.**

* * * * *

(e) The portion of each powerplant control located in the engine compartment that is required to be operated in the event of fire must be at least fire resistant.

* * * * *

**Explanation:** A new paragraph (e) is proposed to clarify the requirement that the powerplant controls located in the engine compartment be at least fire resistant if those controls are required to be operated in the event of fire. This requirement is presently contained in

§ 25.863(b)(5), but it is proposed to specifically address it in this section for consistency with the conrresponding paragraph in Part 23 of this chapter and to ensure that the requirement will not be overlooked.

71. By amending § 25.1165 by adding a new paragraph (h) to read as follows:

**§ 25.1165 Engine ignition systems.**

* * * * *

(h) Each engine ignition system of a turbine powered airplane must be considered an essential electrical load.

**Explanation:** Compliance with § 25.1309(e) presently requires such ignition systems to be considered essential electrical loads. This change would ensure that the requirement is not overlooked.

**§ 25.1181 [Amended]**

72. By amending § 25.1181, paragraph (b), by removing the reference to "§ 25.1205" and inserting "§ 25.1203" in its place.

**Explanation:** This would be a nonsubstantive change to correct an editorial error. The referenced § 25.1205 was previously recodified as § 25.867. Because § 25.1205 no longer exists and § 25.867 would be deleted, the reference to § 25.1205 would simply be removed. (See proposal No. 57.)

**§ 25.1305 [Amended]**

73. By amending § 25.1305 by removing paragraph (e)(3).

**Explanation:** Prior to Amendment 25–23, a means to indicate reverse pitch was required for reciprocating powered airplanes, and a means to indicate blade angle below the flight low pitch position (Beta) was required for turbopropeller airplanes. Due to an apparent editorial error, this section was revised to require both indicating means for turbopropeller aircraft. As the additional reverse indication serves no useful purpose for turbopropeller airplanes, § 25.1305 would be amended to specify that only Beta indication is required for turbopropeller airplanes.

**§ 25.1307 [Amended]**

74. By amending § 25.1307 by removing paragraph (a) and marking it [Reserved], and by removing paragraphs (f), (g) and (h).

**Explanation:** The contents of paragraph (a) would be transferred to § 25.785 for editorial improvement. Paragraph (f) would be removed because the requirement is already appropriately expressed in § 25.773(b)(1). Paragraph (g) would be removed because the requirement is already stated in § 25.1145. Paragraph (h) would be removed as it is an unnecessary reference to § 25.851(a) (5) and (6). (See proposals Nos. 43 and 54.)

75. By amending § 25.1351 by revising paragraphs (d) (1) and (2) to read as follows and by removing paragraph (d)(3):

**§ 25.1351 General.**

* * * * *

(d) * * *

(1) A single malfunction, including a wire bundle or junction box fire, cannot result in loss of both the part turned off and the part turned on; and

(2) The parts turned on are electrically and mechanically isolated from the parts turned off.

**Explanation:** Section 25.1351(d)(3) is misleading in that it implies that compliance with § 25.1359(d) is optional. As § 25.1359(d) is self-supporting, § 25.1351(d)(3) is unnecessary and would be removed. Nonsubstantive, related editorial changes would be made to § 25.1351(d) (1) and (2). Note that § 25.1359(d) would become new § 25.869(a)(4) in accordance with proposals Nos. 58 and 76.

**§ 25.1359 [Removed]**

76. By removing § 25.1359.

**Explanation:** See proposals Nos. 58 and 98.

77. By revising § 25.1381, paragraph (a)(1), to read as follows:

**§ 25.1381 Instrument lights.**

(a) * * *

(1) Provide sufficient illumination to make each instrument, switch, and other device necessary for safe operation easily readable; and

* * * * *

**Explanation:** The recodification of § 4b.630(a) of the Civil Air Regulations into § 25.1381(a)(1) of the FAR was not intended to result in any substantive change; however, due to the wording selected, § 25.1381(a) has been misinterpreted to mean that the illumination must make each instrument, switch, or other device readable only if there is any illumination provided for that instrument, switch, or other device. This change would clarify that sufficient illumination must be provided for each instrument, switch, and other device necessary for safe operation and not just those arbitrarily chosen for illumination.

**§ 25.1403 [Removed]**

78. By removing § 25.1403.

**Explanation:** See proposal No. 83.

**§ 25.1411 [Amended]**

79. By amending § 25.1411 by removing paragraphs (d), (e), (f) and (g).

**Explanation:** See proposal No. 81.

**§ 25.1413 [Removed]**

80. By removing § 25.1413.

**Explanation:** The requirements of § 25.1413(a) are an unnecessary duplication of § 25.791. The strength requirements of §§ 25.1413 (b) and (c) would be transferred to § 25.785 and combined with the same requirements for seats and berths. The contents of § 25.1413(d) concerning belts with metal to metal latching devices would also be transferred to § 25.785 for editorial improvement. (See proposals Nos. 45 and 46.)

81. By revising § 25.1415 to read as follows:

**§ 25.1415 Ditching equipment.**

(a) The following are required if certification with ditching provisions is requested:

(1) An approved life preserver stowed within easy reach of each occupant while seated.

(2) Approved life rafts with sufficient rated capacity to accommodate all occupants. In addition:

(i) Unless excess rafts are provided, the buoyancy and seating capacity beyond the rated capacity of the rafts must accommodate all occupants in the event of a loss of one raft of the largest capacity.

(ii) Rafts must be stowed near exits through which they can be launched during an unplanned ditching.

(iii) The stowage provisions for each portable raft must allow rapid detachment and removal of the raft for use at other than the intended exists.

(iv) Each raft must have a trailing line and a static line designed to hold the raft near the airplane, but to release it if the airplane becomes totally submerged. A raft that is automatically or remotely released outside the airplane must be attached to the airplane by the static line. Means must be provided to attach any other raft to the airplane by the static line.

(3) Provisions to store life lines that—

(i) Allow one life line to be attached to each side of the fuselage, and

(ii) Are arranged to allow the life lines to be used to enable the occupants to stay on the wing after ditching, if the exists are located such that the occupants may egress to the wing surface.

(4) Approved survival equipment attached to each liferaft.

(5) A survival type emergency locator transmitter for use in one liferaft that meets the requirements of TSO–C91 and that is stowed near in exit available during an unplanned ditching.

(b) If certification with ditching provisions is not requested and if approved life preservers are not provided, there must be an approved flotation means for each occupant. This means must be within easy reach of each seated occupant and must be readily removable from the airplane.

**Explanation:** The provisions of § 25.1411 (d) through (g) would be transferred and combined with those of § 25.1415 for consistency and clarity. Other changes would be made for clarity and to state the requirements in a more objective manner.

**§ 25.1416 [Removed]**

82. By removing § 25.1416.

**Explanation:**
See proposal No. 83.

83. By revising § 25.1419 to read as follows:

**§ 25.1419 Ice protection.**

(a) If fluids subject to freezing may be drained overboard in flight or during ground operation, the drains must be designed and located to prevent the formation of hazardous quantities of ice on the airplane as a result of the drainage.

(b) If certification with ice protection provisions is desired, the airplane must be able to safely operate in the continuous maximum and intermittent maximum icing conditions of Appendix C. To establish that the airplane can operate within the continuous maximum and intermittent maximum conditions of Appendix C:

(1) An analysis must be performed to establish that the ice protection for the various components of the airplane is adequate, taking into account the various airplane operational configurations; and

(2) To verify the ice protection analysis, to check for icing anomalies, and to demonstrate that the ice protection system and its components are effective, the airplane or its components must be tested in the various operational configurations, in measured natural atmospheric icing conditions and by one or more of the following tests, as found necessary:

(i) Laboratory dry air or simulated icing tests, or a combination of both, of the components or models of the components.

(ii) Flight dry air tests of the ice protection system as a whole, or of its individual components.

(iii) Flight tests of the airplane or its components in measured simulated icing conditions.

(3) Caution information, such as an amber caution light or equivalent, must be provided to alert the flightcrew when the anti-ice or deice system is not functioning normally.

(4) Unless operations at night in known or forecast icing conditions are prohibited by an operating limitation, a means must be provided for illuminating or otherwise determining the formation of ice on the parts of the wings that are critical from the standpoint of ice accumulation. Any illumination that is used must be of a type that will not cause glare or reflection that would handicap crewmembers in the performance of their duties.

(5) For turbine engine powered airplanes, the ice protection provisions of this section are considered to be applicable primarily to the airframe. For the powerplant installation, certain additional provisions of Subpart E of this Part may be found applicable.

**Explanation:** Sections 25.1403, 25.1416, and 25.1455 would be transferred to § 25.1419 clarification and editorial improvement. In addition to this consolidation, the contents of present § 25.1416(c) would be revised to allow use of the "dark cockpit concept," i.e., a warning when failure occurs rather than continual pilot monitoring of a healthy system. The "dark cockpit concept" has been found acceptable previously under the equivalent level of safety provisions of § 21.21(b)(1) of this chapter.

**§ 25.1421 [Removed]**

84. By removing § 25.1421.

**Explanation:** Section 25.1421 specifies that megaphones must be restrained when subject to the ultimate forces specified in § 25.561(b)(3). Paragraphs 25.561 (a) and (c), however, require such restraint for all such items of mass, including megaphones. Section 25.1421 would, therefore, be deleted to remove this redundancy.

**§ 25.1433 [Amended]**

85. By amending § 25.1433 by removing paragraphs (b) and (c) and by redesignating paragraph (a) as the whole of § 25.1433.

**Explanation:** See proposal No. 58.

86. By amending § 25.1435 by revising paragraphs (a) and (b) to read as follows:

**§ 25.1435 Hydraulic systems.**

(a) *Design.* (1) Each element of the hydraulic system must be designed to withstand, without deformation that would prevent it from performing its intended function, the design operating pressure loads in combination with limit structural loads which may be imposed.

(2) Each element of the hydraulic system must be able to withstand, without rupture, the design operating pressure loads multiplied by a factor of 1.5 in combination with ultimate structural loads that can reasonably occur simultaneously. Design operating pressure is maximum normal operating pressure, excluding transient pressure.

(b) *Tests and Analysis.* (1) A complete hydraulic system must be static tested to show that it can withstrand 1.5 times the design operating pressure without a deformation of any part of the system that would prevent it from performing its intended function. Clearance between structural members and hydraulic system elements must be adequate and there must be no permanent detrimental deformation. For the purpose of this test, the pressure relief valve may be made inoperable to permit application of the required pressure.

(2) Compliance with § 25.1309 for hydraulic systems must be shown by functional tests, endurance tests, and analyses. The entire system, or appropriate subsystems, must be tested in an airplane or in a mock-up installation to determine proper performance and proper relation to other aircraft systems. The functional tests must include simulation of hydraulic system failure conditions. Endurance tests must simulate the repeated complete flights that could be expected to occur in service. Elements which fail during the tests must be modified in order to have the design deficiency corrected and, where necessary, must be sufficiently retested. Simulation of operating and environmental conditions must be completed on elements and appropriate portions of the hydraulic system to the extent necessary to evaluated the environmental effects. Compliance with § 25.1309 must take into account the following:

(i) Static and dynamic loads including flight, ground, pilot, hydrostatic, inertial and thermally induced loads, and combinations thereof.

(ii) Motion, vibration, pressure transients and fatigue.

(iii) Abrasion, corrosion and erosion.

(iv) Fluid and material compatability.

(v) Leakage and wear.

* * * * *

**Explanation:** The requirements of § 25.1435(a)(2), which pertain to crew indication, are adequately covered by § 25.1309. Section 25.1435(a) would, therefore, be deleted as redundant. Sections 25.1435(a)(4) (i) and (ii)

presently establish pressure limits expressed in terms of pump average discharge pressure; however, with proper system design, as required by § 25.1309, greater pressures are acceptable. Sections 25.1435(a)(4) (i) and (ii) would, therefore, be deleted to allow flexibility in design. In addition, current subparagraphs (a) (5), (6), (7), and (8) have been replaced by the proposed subparagraphs (b)(2)(i) through (b)(2)(v). The current subparagraphs do not specify limits and are considered vague and to general. The proposed § 25.1435(b)(2) (i) through (v) would only require limits to be established as necessary to meet the safety requirements of § 25.1309.

**§ 25.1451 [Removed]**

87. By removing § 25.1451.

**Explanation:** See proposal No. 58.

**§ 25.1455 [Removed]**

88. By removing § 25.1455.

**Explanation:** See proposal No. 83.

89. By revising § 25.1521 to read as follows:

**§ 25.1521 Powerplant limitations.**

(a) *General.* The powerplant limitations prescribed in this section must be established so that they do no exceed the corresponding limits for which the engines and propellers are type certificated and do not exceed the values on which compliance with any other requirement of this part is based.

(b) *Reciprocating engine installations.* Operating limitations relating to the following are established for reciprocating engine installations:

(1) Horsepower or torque, r.p.m., manifold pressure, and time at critical pressure altitude and sea level pressure altitude for—

(i) Maximum continuous power (relating to unsupercharged operation or to operation in each supercharger mode as applicable); and

(ii) Takeoff power (relating to unsupercharged operation or to operation in each supercharger mode as applicable).

(2) Fuel grade or specification.

(3) Cylinder head and oil temperatures.

(4) Any other parameter for which a limitation has been established as part of the engine type certificate except that a limitation need not be established for a parameter that cannot be exceeded during normal operation due to the design of the installation or to another established limitation.

(c) *Turbine engine installations.* Operating limitations relating to the following are established for turbine engine installations:

(1) Horsepower, torque or thrust, r.p.m., gas temperature, and time for—

(i) Maximum continuous power or thrust (relating to augmented or unaugmented operation as applicable).

(ii) Takeoff power or thrust (relating to augmented or unaugmented operation as applicable).

(2) Fuel designation or specification.

(3) Any other parameter for which a limitation has been established as part of the engine type certificate except that a limitation need not be established for a parameter that cannot be exceeded during normal operation due to the design of the installation or to another established limitation.

(d) *Ambient temperature.* An ambient temperature limitation (including limitations for winterization installations, if applicable) must be established as the maximum ambient atmospheric temperature established in accordance with § 25.1043(b).

**Explanation:** Section 25.903 requires each engine to be type certificated. Any limitation established as a condition of the engine type certificate is, therefore, a limitation on the airplane by reference regardless of whether the parameter is specified in § 25.1521. This change would clarify the applicability of such limitations to the airplane and ensure that they are not overlooked during airplane certification. The basic format would be changed for clarity and consistency with § 33.7 of this chapter, which pertains to the engine type certificate.

90. By revising § 25.1522 to read as follows:

**§ 25.1522 Auxiliary power unit limitations.**

If an auxiliary power unit is installed in the airplane, limitations established for the auxiliary power unit, including categories of operation, must be specified as operating limitations for the airplane.

**Explanation:** Section 25.1522 presently specifies that limitations must be established if an auxiliary power unit (APU) meets the requirements of TSO–C77, implying that such limitations need not be established for those APU's that are approved in conjunction with the type certification process for the airplanes on which they are installed and do not have TSO–C77 authorization. Such limitations are, in fact, required for APU's that do not have TSO–C77 authorization by §§ 25.1301 and 25.1309. This change would place the requirement for limitations for all APU's in the same section for clarity. This change would also delete an obsolete reference to § 37.183, which no longer exists.

91. By revising § 25.1533, paragraph (a)(2), to read as follows:

**§ 25.1533 Additional operating limitations.**

(a) * * *

(2) The maximum landing weights must be established as the weights at which compliance is shown with the applicable provisions of this Part (including the landing and approach climb provisions of §§ 25.119 and 25.121(d) for altitudes and ambient temperatures).

* * * * *

**Explanation:** This would correct an editorial error that has existed in this Section and predecessor regulations for a number of years. Due to the editorial structure of the section, this correction would introduce no additional burden.

92. By revising § 25.1543, paragraph (b), to read as follows:

**§ 25.1543 Instrument markings: General.**

* * * * *

(b) Each instrument marking must be clearly visible to the appropriate crewmember.

**Explanation:** Section 25.1543 currently specifies that instrument markings must be visible to the pilot when, in fact, the instrument may be required for another crewmember, such as the flight engineer. This change would substitute the term "appropriate crewmember" for "pilot." Also, specific reference to "arc and line" would be deleted to reflect that symbols, such as diamonds or triangles, are frequently used in addition to lines and arcs.

93. By revising § 25.1551 to read as follows:

**§ 25.1551 Oil quantity indication.**

Each oil quantity indicating means must be marked to indicate the quantity of oil readily and accurately.

**Explanation:** The wording of present § 25.1551 was written to accommodate the traditional dipsticks. The phrase "with enough increments" would be deleted to accommodate other indication means, such as sight glasses. The term "indicating means" would be used in lieu of "indicator" because the latter has sometimes been misinterpreted to mean an indicator in the cockpit.

94. By amending § 25.1557, by revising the heading of paragraph (b), and adding a new paragraph (b)(3) to read as follows:

**§ 25.1557 Miscellaneous markings and placards.**

* * * * *

(b) *Powerplant fluid filler openings.*

(1) * * *

(2) * * *

(3) Augmentation fluid filler openings must be marked at or near the filler cover to identify the required fluid.

* * * * *

**Explanation:** See proposal No. 65.

95. By amending § 25.1581 by adding a new paragraph (a)(3) to read as follows:

**§ 25.1581 General.**

(a) * * *

(3) Any limitation established as a condition of compliance with the applicable noise standards of Part 36 of this chapter.

* * * * *

**Explanation:** Section 36.1581(c) currently requires certain weight limitations established in compliance with Part 36 to be included in the limitations section of the Airplane Flight Manual. This would be a conforming editorial change for consistency with § 36.1581(c).

96. By amending § 25.1583, by revising paragraphs (b)(1), (f) and (i) to read as follows and by removing paragraph (b)(3):

**§ 25.1583 Operating limitations.**

* * * * *

(b) * * *

(1) Limitations required by §§ 25.1521 and 25.1522.

* * * * *

(f) *Altitudes.* The altitude established under § 25.1527.

* * * * *

(i) *Maneuvering flight load factors.* The positive maneuvering limit load factors for which the structure is proven, described in terms of accelerations, must be furnished.

**Explanation:** Section 25.1583(b)(1) would be amended to conform to the previous addition of § 25.1522 which pertains to auxiliary power unit limitations. It is not considered necessary to furnish information concerning instrument markings in the Airplane Flight Manual because such information is contained in other required documents. Section 25.1583(b)(3) would, therefore, be deleted. It is also considered unnecessary to explain the altitude limiting factors in the Airplane Flight Manual. Section 25.1583(f) would, therefore, be revised to delete this requirement. The statement that the accelerations limit the angle of bank in turns and limit the severity of pull-up maneuvers presently required by § 25.1583(i) has been a source of confusion and is not considered necessary. Accordingly, § 25.1583(i) would be amended to delete the requirement for this statement.

97. By revising § 25.1587, paragraph (b) introductory text, to read as follows:

**§ 25.1587 Performance information.**

* * * * *

(b) Each Airplane Flight Manual must contain the performance information computed under the applicable provisions of this Part within the operational limits of the airplane, and must contain the following:

* * * * *

**Explanation:** The parenthetical phrase, "include §§ 25.115, 25.123, and 25.125 for the weights, altitudes, temperatures, wind components, and runway gradients, as applicable," presently contained in § 25.1587(b) has created confusion because some of the items cited (wind, slope, etc.) are not consistent with those mentioned in the specified paragraphs. The parenthetical phrase would, therefore, be deleted.

98. By revising Appendix F to read as follows:

**Appendix F—Test Criteria and Procedures for Showing Compliance With § 25.853.**

(a) *Material test criteria*—(1) *Interior compartments occupied by crew or passengers:*

(i) Interior ceiling panels, interior wall panels, partitions, galley structure, large cabinet walls, structural flooring, and materials used in the construction of stowage compartments (other than underseat stowage compartments and compartments for stowing small items such as magazines and maps) must be self-extinguishing when tested vertically in accordance with the applicable portions of this Appendix. The average burn length may not exceed 6 inches and the average flame time after removal of the flame source may not exceed 15 seconds. Drippings from the test specimen may not continue to flame for more than an average of 3 seconds after falling.

(ii) Floor covering, textile (including draperies and upholstery), seat cushions, padding, decorative and nondecorative coated fabrics, leather, trays and galley furnishings, electrical conduit, thermal and acoustical insulation and insulation covering, air ducting, joint and edge covering, cargo compartment liners, insulation blankets, cargo covers and transparencies, molded and thermoformed parts, air ducting joints, and trim strips (decorative and chafing), that are constructed of materials not covered in subparagraph (iv) below, must be self-extinguishing when tested vertically in accordance with the applicable portions of this Appendix. The average burn length may not exceed 8 inches, and the average flame time after removal of the flame source may not exceed 15 seconds. Drippings from the test specimen may not continue to flame for more than an average of 5 seconds after falling.

(iii) Motion picture film must be safety film meeting the Standard Specifications for Safety Photographic Film PH 1.25 (available from the American National Standards Institute, 1430 Broadway, New York, N.Y. 10018). If the film travels through ducts, the ducts must meet the requirements of subparagraph (ii) of this paragraph.

(iv) Clear plastic windows and signs, parts constructed in whole or in part or elastomeric materials, edge lighted instrument assemblies consisting of two or more instruments in a common housing, seat belts, shoulder harnesses, and cargo and baggage tiedown equipment, including containers, bins, pallets, etc., used in passenger or crew compartments, may not have an average burn rate greater than 2.5 inches per minute when tested horizontally in accordance with the applicable portions of this Appendix.

(v) Except for small parts (such as knobs, handles, rollers, fasteners, clips, grommets, rub strips, pulleys, and small electrical parts) that would not contribute significantly to the propagation of a fire and for electrical wire and cable insulation, materials in items not specified in subparagraphs (i), (ii), (iii), or (iv) of this paragraph may not have a burn rate greater than 4.0 inches per minute when tested horizontally in accordance with the applicable portions of this Appendix.

(2) *Cargo and baggage compartments not occupied by crew or passengers:* (i) Thermal and acoustic insulation (including coverings) used in each cargo and baggage compartment must be constructed of materials that meet the requirements set forth in paragraph (a)(1)(ii) of this Appendix.

(ii) Cargo or baggage compartments defined in § 25.857 as Class B through E must have a liner constructed of materials that meet the requirements of paragraph (a)(1)(ii) of this Appendix and separated from the airplane structure (except for attachments). Such liners must be subject to the 45° angle test. The flame may not penetrate (pass through) the material during application of the flame or subsequent to its removal. The average flame time after removal of the flame may not exceed 15 seconds, and the average glow time may not exceed 10 seconds.

(iii) Insulation blankets and covers used to protect cargo must be constructed of materials that meet the requirements of paragraph (a)(1)(ii) of this Appendix. Tiedown equipment (including containers, bins, and pallets) used in each cargo and baggage compartment must be constructed of materials that meet the requirements of paragraph (a)(1)(v) of this Appendix.

(3) *Electrical system components:* Insulation on electrical wire or cable installed in any area of the fuselage must be self-extinguishing when subjected to the 60° test specified in this Appendix. The average burn length may not exceed 3 inches, and the average flame time after removal of the flame source may not exceed 30 seconds. Drippings from the test specimen may not continue to

flame for more than an average of 3 seconds after falling.

(b) *Test Procedures*—(1) *Conditioning:* Specimens must be conditioned to 70° ±5° F., and at 50 percent ±5 percent relative humidity until moisture equilibrium is reached or for 24 hours. Each specimen must remain in the conditioning environment until it is subjected to the flame.

(2) *Specimen configuration:* Except for small parts and electrical wire and cable insulation, materials must be tested either as section cut from a fabricated part as installed in the airplane or as a specimen simulating a cut section, such as a specimen cut from a flat sheet of the material or a model or the fabricated part. The specimen may be cut from any location in a fabricated part; however, fabricated units, such as sandwich panels, may not be separated for test. Except as noted below, the specimen thickness must be no thicker than the minimum thickness to be qualified for use in the airplane. Test specimens of thick foam parts, such as seat cushions, must be ½-inch in thickness. Test specimens of materials that must meet the requirements of paragraph (a)(1)(v) of this Appendix must be no more than ⅛-inch in thickness. Electrical wire and cable specimens must be the same size as used in the airplane. In the case of fabrics, both the warp and fill direction of the weave must be tested to determine the most critical flammability condition. Specimens must be mounted in a metal frame so that the two long edges and the upper edge are held securely during the vertical test prescribed in subparagraph (4) of this paragraph and the two long edges and the edge away from the flame are held securely during the horizontal test prescribed in subparagraph (5) of this paragraph. The exposed area of the specimen must be at least 2 inches wide and 12 inches long, unless the actual size used in the airplane is smaller. The edge to which the burner flame is applied must not consist of the finished or protected edge of the specimen but must be representative of the actual cross-section of the material or part as installed in the airplane. The specimen must be mounted in a metal frame so that all four edges are held securely and the exposed area of the specimen is at least 8 inches by 8 inches during the 45° test prescribed in subparagraph (6) of this paragraph.

(3) *Apparatus:* Except as provided in subparagraph (7) of this paragraph, test must be conducted in a draft-free cabinet in accordance with Federal Test Method Standard 191 Model 5903 (revised Method 5902) for the vertical test, or Method 5906 for horizontal test (available from the General Services Administration, Business Service Center, Region 3, Seventh & D Streets, SW., Washington, D.C. 20407). Specimens which are too large for the cabinets must be tested in similar draft-free conditions.

(4) *Vertical test:* A minimum of three specimens must be tested and results averaged. For fabrics, the direction of weave corresponding to the most critical flammability conditions must be parallel to the longest dimension. Each specimen must be supported vertically. The specimen must be exposed to a Bunsen or Tirrill burner with a nominal ⅜-inch I.D. tube adjusted to give a flame of 1½ inches in height. The minimum flame temperature measured by a calibrated thermocouple pyrometer in the center of the flame must be 1550 °F. The lower edge of the specimen must be ¾-inch above the top edge of the burner. For materials covered by paragraph (a)(1)(i) of this Appendix, the flame must be applied for 60 seconds and then removed. For materials covered by paragraph (a)(1)(ii) of this Appendix, the flame must be applied for 12 seconds and then removed. Flame time, burn length, and flaming time of drippings, if any, may be recorded. The burn length determined in accordance with subparagraph (7) of this paragraph must be measured to the nearest tenth of an inch.

(5) *Horizontal test:* A minimum of three specimens must be tested and the results averaged. Each specimen must be supported horizontally. The exposed surface, when installed in the aircraft, must be face down for the test. The specimen must be exposed to a Bunsen or Tirrill burner with a nominal ⅜-inch I.D. tube adjusted to give a flame of 1½ inches in height. The minimum flame temperature measured by a calibrated thermocouple pyrometer in center of the flame must must be 1550 °F. The specimen must be positioned to that edge being tested is centerd ¾-inch above top of the burner. The flame must be applied for 15 seconds and then removed. A minimum of 10 inches of specimen must be used for timing purposes, approximately 1½ inches must burn before the burning front reaches the timing zone, and the average burn rate must be recorded.

(6) *Forty-five degree test:* A minimum of three specimens must be tested and the results averaged. The specimens must be supported at an angle of 45° to a horizontal surface. The exposed surface when installed in the aircraft must be face down for the test. The specimens must be exposed to a Bunsen or Tirrill burner with a nominal ⅜-inch I.D. tube adjusted to give a flame of 1½ inches in height. The minimum flame temperature measured by a calibrated thermocouple pyrometer in the center of the flame must be 1550 °F. Suitable precautions must be taken to avoid drafts. The flame must be applied for 30 seconds with one-third contacting the material at the center of the specimen and then removed. Flame time, glow time, and whether the flame pentrates (passes through) the specimen must be recorded.

(7) *Sixty degree test:* A minimum of three specimens of each wire specification (make and size) must be tested. The specimen of wire or cable (including insulation) must be placed at an angle of 60° with the horizontal in the cabinet specified in subparagraph (3) of this paragraph with the cabinet door open during the test, or must be placed within a chamber approximately 2 feet high by 1 foot by 1 foot, open at the top and at one vertical side (front), and which allows sufficient flow of air for complete combustion, but which is free from drafts. The specimen must be paralled to and approximately 6 inches from the front of the chamber. The lower end of the specimen must be held rigidly clamped. The upper end of the specimen must pass over a pulley or rod and must have an appropriate weight attached to it so that the specimen is held tautly throughout the flammability test. The test specimen span beween lower clamp and upper pulley or rod must be 24 inches and must be marked 8 inches from the lower end to indicate the central point for flame applications. A flame from Bunsen or Tirrill burner must be applied for 30 seconds at the test mark. The burner must be mounted underneath the test mark on the specimen, perpendicular to the specimen and at an angle of 30° to the vertical plane of the specimen. The burner must have a nominal bore of ⅜-inch and be adjusted to provide a 3-inch high flame with an inner cone approximately one-third of the flame. The minimum temperature of the hottest portion of the flame, as measured with a calibrated thermocouple pyrometer, may not be less than 1750 °F. The burner must be positioned so the hottest portion of the flame is applied to the test mark on the wire. Flame time, burn length, and flaming time, burn length, and flaming time of dripings, if any, must be recorded. The burn length determined in accordance with paragraph must be measured to the nearest tenth of an inch. Breaking of the wire specimens is not considered a failure.

(8) *Burn length:* Burn length is the distance from the original edge to the farthest evidence of damage to the test specimen due to flame impingement, including areas of partial or complete consumption, charring, or embrittlement, but not including areas sooted, stained, warped, or discolored, nor areas where material has shrunk or melted away from the heat source.

**Explanation:** The test criteria presently contained in §§ 25.853, 25.855, and 25.1359, would be transferred to Appendix F for editoral improvement and consistency. The term "acrylic" would be replaced by the generic term "clear plastic" to clarify the applicability to all nonglass window materials.

**Appendix G—[Amended]**

99. By amending Appendix G, paragraph (b)(2), by removing the lower case Greek letter Beta where defined as the root-mean-square gust velocity, and inserting a lower case Greek Letter sigma in its place.

**Explanation:** This would be a conforming change to correct an editorial error.

100. By adding a new Appendix I to read follows:

**Appendix I—Emergency Demonstration**

The following test criteria and procedures must be used for showing compliance with § 25.803:

(a) The emergency evacuation must be conducted either during the dark of the night or during daylight with the dark of night simulated. If the demonstration is conducted indoors during daylight hours, it must be conducted with each window covered and each door closed to minimize the daylight effect. Illumination on the floor or ground

may be used, but it must be kept low and shielded against shining into the airplane's windows or doors.

(b) The airplane must be in a normal attitude with landing gear extended.

(c) Standards or ramps may be used for descent from the wing to the ground, and safety equipment such as mats or inverted life rafts may be placed on the floor or ground to protect participants. No other equipment that is not part of the airplane's emergency evacuation equipment may be used to aid the participants in reaching the ground.

(d) Except as provided in paragraph (a) of this Appendix, only the airplane's emergency lighting system may provide illumination.

(e) All emergency equipment required for the planned operation of the airplane must be installed.

(f) Each external door and exit, and each internal door or curtain, must be in the takeoff configuration.

(g) Each crewmember must be seated in the normally assigned seat for takeoff and must remain in the seat until receiving the signal for commencement of the demonstration. Each crewmember must be a person having knowledge of the operation of exits and emergency equipment and, if compliance with § 121.291 is also being demonstrated, a member of a regularly scheduled line crew.

(h) A representative passenger load of persons in normal health must be used as follows:

(1) A minimum of 25 percent of the participants must be over 50 years of age, with at least 40 percent female. Participants over 60 years of age need not be used.

(2) The remaining 75 percent may be 50 years of age or younger, with at least 30 percent female. Participants under 18 years of age need not be used.

(3) Three life-size dolls, not included as part of the total passenger load, must be carried by passengers to simulate live infants 2 years old or younger.

(4) Crewmembers, mechanics, and training personnel, who maintain or operate the airplane in the normal course of their duties, may not be used as passengers.

(i) No passenger may be assigned a specific seat except as the Administrator may require. Except as required by subparagraph 1 of this paragraph, no employee of the applicant may be seated next to an emergency exit.

(j) Seat belts and shoulder harnesses (as required) must be fastened.

(k) Before the start of the demonstration, approximately one-half of the total average amount of carry-on baggage, blankets, pillows, and other similar articles must be distributed at serveral locations in aisles and emergency exit access ways to create minor obstructions.

(l) Each crewmember must be seated in his normally assigned seat for takeoff and must remain in the seat until receiving the signal for commencement of the demonstration.

(m) No prior indication may be given to any crewmember or passenger of the particular exits to be used in the demonstration.

(n) The applicant may not practice, rehearse, or describe the demonstration for the participants nor may any participant have taken part in this type of demonstration within the preceding 6 months.

(o) The pretakeoff passenger briefing required by § 121.571 may be given. The passengers may also be advised to follow directions of crewmembers but not be instructed on the procedures to be followed in the demonstration.

(p) If safety equipment as allowed by paragraph (c) of this paragraph is provided, either all passenger and cockpit windows must be blacked out or all of the emergency exits must have safety equipment in order to prevent disclosure of the available emergency exits.

(q) Not more than 50 percent of the emergency exits in the sides of the fuselage of an airplane that meets all of the requirements applicable to the required emergency exits for that airplane may be used for the demonstration. Exits that are not to be used in the demonstration must have the exit handle deactivated or must be indicated by red lights, red tape, or other acceptable means placed outside the exits to indicate fire or other reason why they are unusable. The exits to be used must be representative of all of the emergency exits on the airplane and must be designated by the applicant, subject to approval by the Administrator. At least one floor level exit must be used.

(r) All evacuees, except those using an over-the-wing exit, must leave the airplane by a means provided as part of the airplane's equipment.

(s) The applicant's approved procedures must be fully utilized during the demonstration.

(t) The evacuation time period is completed when the last occupant has evacuated the airplane and is on the ground. Provided that the acceptance rate of the stand or ramp is no greater than the acceptance rate of the means available on the airplane for descent from the wing during an actual crash situation, evacuees using stands or ramps allowed by paragraph (c) of this Appendix are considered to be on the ground when they are on the stand or ramp.

**Explanation:** See proposal No. 48.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.45)

**Note.**—These proposed amendments are generally relieving, clarifying, or editorial in nature and would have minimal economic impact based upon the assessment discussed more fully in the Section entitled "Economic Evaluation." In those instances in which alternative means of compliance are provided for, no additional burden would be imposed. As that assessment also indicates, no small entities, within the meaning of the Regulatory Flexibility Act, would be affected. The FAA has therefore determined that this notice involves a rulemaking action which is not a "major rule" under Executive Order 12291 and is not a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, for the reasons stated above, it is certified that the proposals, if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT**.

Issued in Seattle, Washington, on September 21, 1984.

**Frederick M. Isaac,**

*Acting Director, Northwest Mountain Region.*

[FR Doc. 84-31246 Filed 11-30-84; 8:45 am]

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Monday, December 3, 1984

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## LIST OF PUBLIC LAWS

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A new table will be published in the first issue of each month.

| Dates of FR publication | 15 days after publication | 30 days after publication | 45 days after publication | 60 days after publication | 90 days after publication |
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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1984. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).

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