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I-4

Selected Subjects

Administrative Practice and Procedure

Administrative Conference of United States

Air Carriers

Civil Aeronautics Board

Air Pollution Control

Environmental Protection Agency

Aviation Safety

Federal Aviation Administration

Bridges

Coast Guard

Communications Common Carriers

Federal Communications Commission

Employee Benefit Plans

Pension Benefit Guaranty Corporation

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Veterans Administration

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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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Part 305

Recommendations of the Administrative Conference Regarding Administrative Practice and Procedure

AGENCY: Administrative Conference of the United States.

ACTION: Recommendations.

SUMMARY: The Administrative Conference of the United States, at its Twenty-Ninth Plenary Session, adopted three recommendations. Recommendation 84-5, Preemption of State Regulation by Federal Agencies, addresses the subject of preemption of state laws by federal regulatory actions. Recommendation 84-6, Disclosure of Confidential Information Under Protective Order in International Trade Commission Proceedings, concerns the protection of confidential business information disclosed to counsel in antidumping and countervailing duty proceedings. Recommendation 84-7, Administrative Settlement of Tort and Other Monetary Claims Against the Government, offers guidance to agencies on the administrative handling and settlement of claims against the Government under the Federal Tort Claims Act and other claims statutes.

Recommendations of the Administrative Conference are published in full text in the *Federal Register* upon adoption. Complete lists of recommendations and statements, together with the texts of those deemed to be of continuing general interest, are published in the Code of Federal Regulations (1 CFR Parts 305 and 310).

DATES: These recommendations were adopted December 6-7, 1984 and issued December 19, 1984.

FOR FURTHER INFORMATION CONTACT: Richard K. Berg, General Counsel (202-254-7065).

SUPPLEMENTARY INFORMATION: The Administrative Conference of the United States was established by the Administrative Conference Act, 5 U.S.C. 571-576. The Conference studies the efficiency, adequacy and fairness of the administrative procedures used by federal agencies in carrying out administrative programs, and makes recommendations for improvements to the agencies, collectively or individually, and to the President, Congress, and the Judicial Conference of the United States. (5 U.S.C. 574(1).)

At its Twenty-Ninth Plenary Session, held December 6-7, 1984, the Assembly of the Administrative Conference of the United States adopted three recommendations.

In Recommendation 84-5, the Conference addresses the subject of preemption of state laws and regulations by federal agencies. The Conference urges that Congress unambiguously state its intention regarding preemption whenever a regulatory statute is enacted. In those instances where federal agencies must deal with preemption issues, the Conference recommends that the agencies (i) establish procedures that will ensure adequate and explicit consideration of preemption matters in agency policy-making, (ii) avoid conflict between state and federal regulatory requirements through the use of informal dialog with state authorities, and (iii) provide to states notice and an adequate opportunity to participate in agency proceedings that may result in preemption of the states' laws or rules.

Recommendation 84-6 concerns the disclosure to counsel, under protective order, of confidential business information submitted to the International Trade Commission (ITC) in antidumping and countervailing duty injury proceedings. To make its findings in these proceedings, the ITC depends heavily on voluntary submission of information by American companies; however, the risk that such information may be "leaked" to the companies' competitors when it is disclosed under protective order may discourage such voluntary cooperation. The Conference recommends various measures to limit the exposure of confidential business

information and to strengthen the obligation of attorneys receiving the information under protective order to prevent unauthorized disclosures. The recommendation also proposes that the ITC (and, in one case, the Court of International Trade) afford greater protection to the interests of submitters of confidential information, by providing greater notice of the likelihood and extent of possible disclosure and by assuring appropriate opportunities for submitters to object to such disclosure. In addition, the Conference identifies certain areas in which the ITC might consider increasing the information disclosed under protective order.

Recommendation 84-7 sets forth guidance for agency claims officers and attorneys regarding the presentation, investigation and administrative assessment of monetary claims against the Government under the Federal Tort Claims Act, meritorious claims statutes, and similar laws. The recommendations call for minor adjustments in the FTCA, certain agency practices, and the Department of Justice's regulations in order to enhance usage of the administrative claims process by encouraging a perception among claimants that it is fair and effective.

The Conference's recommendations call on agencies to provide greater guidance to claimants about their rights, to help claimants to avoid running afoul of technical requirements, to promote mutual access to relevant information, to determine the merits and monetary value of a claim fairly and objectively, and to avoid reliance on technical defenses that do not affect the merits. In addition, the Conference calls for Congress to make several changes in the FTCA's statute of limitations in order to avoid injustice, and systematically to adjust ceilings on agencies' authority for settling claims where inflation has rendered present limits obsolete.

The transcript of the Plenary Session will be available for public inspection at the Conference offices at Suite 500, 2120 L Street, NW., Washington, D.C.

Lists of Subjects in 1 CFR Part 305

Administrative practice and procedure, Preemption, of State law, Foreign trade, Tort claims.

PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1. The table of contents to Part 305 of Title 1 CFR is amended to add the following new sections:

- Sec.
305.84-5 Preemption of State Regulation by Federal Agencies (Recommendation No. 84-5).
305.84-6 Disclosure of Confidential Information Under Protective Order in International Trade Commission Proceedings (Recommendation No. 84-6).
305.84-7 Administrative Settlement of Tort and Other Monetary Claims Against the Government (Recommendation No. 84-7).

2. Section 305.84-5 is added to Part 305 as follows:

§ 305.84-5 Preemption of State Regulation by Federal Agencies (Recommendation No. 84-5).

States have the power to regulate many forms of conduct. Each state must have broad power to regulate in ways that it believes to be in the best interests of its citizens, subject to the limitations stated in the federal and state constitutions. The nature and magnitude of the problems that require regulatory action vary substantially among the states, and state governments are normally in a better position than the federal government to determine the types of regulations that will serve the interests of the states' citizens. States sometimes have an incentive, however, to impose regulations that advance state interests at the expense of other states' interests or of national interests.

Federal courts have applied the Commerce Clause to limit state power to affect national interests only in those few cases where the state action clearly discriminates against interstate commerce or protects in-state economic interests from out-of-state competition. Institutionally, however, courts are ill-suited to attempt to limit state power to harm national interests when state regulation furthers in-state interests of one type while it simultaneously frustrates a national interest of a different type.

Congress can limit state power to harm national interests by (i) expressing in a statute a congressional intent to occupy a field completely, (ii) explicitly preempting the specific type of state regulation at issue, or (iii) imposing a federal regulatory duty directly in conflict with a duty imposed by a state. The conflict, delay, and uncertainty of outcome that occurs when preemption questions must be resolved by the judiciary can be avoided if Congress addresses preemption issues clearly and explicitly when enacting regulatory statutes. The congressional agenda is so crowded, however, that Congress cannot be expected to consider explicitly and in detail all of the forms of state regulation that may harm the national interest. Congress experiences particular difficulty anticipating and resolving directly the many arguable conflicts between the national interest and new state regulations issued in the aftermath of a

federal decision to deregulate an area of conduct.

Because of the limited ability of Congress and the judiciary to act as checks on state regulation that harms the national interest, states possess, in practice, the power to make regulatory choices that produce net benefits within the state but that produce substantial net detriments on a national level. Without an additional federal constraint on state regulatory power, states can be expected to regulate in this manner frequently.

Federal agencies can play a valuable role in supplementing judicial and congressional constraints on state regulation. Courts regularly affirm federal agency actions that preempt state regulations when the preemptive effect of the federal action is no broader than can be justified by the evidence of need for preemption. Federal agencies sometimes consider preemption of a state law or regulation, however, without providing affected states notice and an opportunity to participate effectively in the agencies' proceedings.

A federal agency considering a regulatory action—whether to expand or reduce regulatory constraints—should be sensitive both to the need to preempt state laws that seriously disrupt the federal program, and to the need to take into account the states' special needs and circumstances.

Recommendation

1. Congress should address foreseeable preemption issues clearly and explicitly when it enacts a statute affecting regulation or deregulation of an area of conduct.

2. Each federal agency should establish procedures to ensure consideration of the need to preempt state laws or regulations that harm federally protected interests in the areas of regulatory responsibility delegated to that agency by Congress, and each agency should clearly and explicitly address preemption issues in the course of regulatory decision-making. Particularly in the circumstances where a federal regulatory program is being reduced or eliminated (deregulation), an agency needs to be alert to the form and magnitude of state regulation that may exist—or may be quickly adopted to fill a perceived void left by the diminished federal regulation.

3. When a federal agency foresees the possibility of a conflict between a state law or regulation and federally protected interests within the federal agency's area of regulatory responsibility, the agency should, when practicable, engage in informal dialogue with state authorities in an effort to avoid such a conflict.

4. When a federal agency proposes to act through agency adjudication or rulemaking to preempt a state law or regulation, the agency should attempt to provide all affected states, as well as other affected interests, notice and an

opportunity for appropriate participation in the proceedings.

3. Section 305.84-6 is added to Part 305 as follows:

§ 305.84-6 Disclosure of Confidential Information Under Protective Order in International Trade Commission Proceedings (Recommendation No. 84-6).

This recommendation concerns the protective orders practice of the United States International Trade Commission in antidumping and countervailing duty proceedings. Under the Trade Agreements Act of 1979, the Commission has authority to release to counsel, under protective order, certain confidential business and financial information that is submitted to it by parties in such proceedings.

The export to the United States of goods at less than their fair value (called "dumping") and the subsidization by foreign governments of exports of their countries' products to the United States are treated by American law as unfair methods of international trade. If dumped or subsidized imports are found to cause or threaten material injury to an industry in the United States, the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979, provides for imposition of a duty in an amount intended to offset the margin of dumping or subsidy.

There must be two determinations: (1) Whether the imports in question have been dumped or subsidized, which is decided by the International Trade Administration of the Department of Commerce ("ITA"), and (2) whether the imports are causing or threatening injury to an industry in the United States, which is decided by the International Trade Commission ("ITC").

The injury proceeding at the ITC is substantially the same for both types of cases, known respectively as antidumping and countervailing duty proceedings. The ITC conducts a preliminary investigation in which it must determine within 45 days whether there is a "reasonable indication" that the injury test will be met. If its determination is negative, the entire antidumping or countervailing duty proceeding (including the portion conducted by the ITA) is terminated. If the ITC's determination is affirmative, and the ITA has made an affirmative determination that the imports are being dumped or subsidized, the ITC conducts a final investigation to reach a determination, which usually must be made within 120 days, whether the imports are threatening or causing injury to an industry in the United States.

In both stages of the proceeding, the ITC gathers extensive information from American producers, importers, and purchasers of the products in question. The Trade Agreements Act of 1979 authorizes the ITC to make available, under protective order, confidential business information that it has received in these proceedings. Under this authority, the ITC releases the confidential data of one party to counsel for other parties. In almost all cases those other parties, to whose counsel the confidential information is disclosed, are business competitors of the

party that submitted the information. The only companies whose confidential information is disclosed are those American companies that complain of injury from the alleged unfair import practices. Confidential data concerning their prices and cost of production can be released to counsel for both their domestic competitors and their foreign competitors. In addition, all confidential information submitted to the ITC, regardless of the submitter's identity, may ultimately be disclosed, under judicial protective order, in proceedings to review ITC determinations before the Court of International Trade ("CIT").

Throughout its proceedings, the ITC devotes great care to maintaining the security of confidential business information which is submitted to it or is gathered in its investigations. Agency regulations provide procedures for requesting confidential treatment of proffered information, and the staff in practice accords confidential treatment without specific request to information acquired in response to questionnaires and other investigative inquiries. The record of each antidumping and countervailing duty injury proceeding is divided into public and nonpublic sections. Pleadings, staff documents, and ITC opinions are prepared and submitted under procedures designed to avoid the public disclosure of confidential information.

The principal concern here is not with the agency's internal procedures, but with the potential misuse of parties' information which has been received under protective order by lawyers or other parties. A particular concern is that such information will, willfully or inadvertently, be passed along by a lawyer to his client, who then can make competitive use of it against the American company that submitted it. Though there is little hard evidence of such improper disclosure, there is much suspicion that it occurs. It is believed that the perceived risk of wrongful disclosure generates a chilling effect which, by discouraging voluntary submission of essential information, hampers the International Trade Commission's ability to do its job. The ITC's responsibility is to determine whether the allegedly unfair imports are threatening or causing "injury"—not simply injury to individual American companies as such, but injury to the entire "industry" affected by competition from the imports. If American companies fear that their confidential business data will leak to their competitors, and for that reason refuse to submit such information, the Commission will be unable to assemble the complete industry figures it needs for a soundly-based determination of injury. Although the agency has the power to subpoena the necessary information, the short statutory deadlines it must meet and its own limited resources to procure enforcement of subpoenas make heavy reliance on voluntary cooperation a practical necessity.

Another area of concern arises from the circumstance the existing ITC practices do not adequately inform submitters of information of the high likelihood that confidential price and cost of production information will be disclosed, nor of the possibility that other confidential information

may be disclosed, without further warning, in review proceedings before the CIT.

These recommendations propose that the ITC (and, in one case, the CIT) establish a series of measures intended to reduce the risks of disclosure, protect submitters and safeguard the process of making disclosure of price and cost of production data. In some circumstances, these measures would preclude disclosures that are now permitted. No recommendation is made to reduce the categories of information that are required by statute to be disclosed. Indeed, the ITC might appropriately consider some enlargement of the classes of information it will release under protective order to facilitate more meaningful analysis of the information now disclosed. Any broader disclosure should be accompanied by the safeguards herein recommended, and should be provided only if the Commission's investigative and decisional processes will clearly be improved thereby.

Recommendations

A. Limiting the Exposure of Confidential Information

1. The International Trade Commission should provide for the disclosure of confidential information during the preliminary investigation phase of its antidumping and countervailing duty injury proceedings only in circumstances in which disclosure is important to achieving the limited purposes of the preliminary investigation itself.

2. Confidential information submitted by a domestic producer party should not be disclosed to counsel for any other domestic party (except a United States importer which is an interested party within 19 U.S.C. 1677(9)(A)).

3. The Commission by regulation or policy statement should define and specify the kinds of data which are disclosable as "information concerning the domestic price and cost of production of the like product."

B. Protection of Submitters' Interests

1. The Commission's questionnaires should more clearly inform petitioners and supporters of the petition about the likelihood that their confidential price and cost of production information (whether submitted in response to the questionnaire or otherwise) will be disclosed by the Commission under protective order to counsel for competitors of the submitter.

2. The Commission's questionnaires and other inquiries, by which confidential information is requested from parties and nonparties, should be accompanied by a statement that all such information of whatever kind (not merely that in the price and cost of production categories) is subject to disclosure by the Court of International Trade, under protective order, to counsel

for any party to a judicial review proceeding involving such information.

3. Although in practice the Commission does not require the submitters of responses to questionnaires and follow-up inquiries to make specific request that the information submitted be treated as confidential by the Commission, its regulations (19 CFR 201.6) do require such a specific request. The regulations should be modified to reflect the practice.

4. The Commission's regulations should be conformed to 19 U.S.C. 1677f(b), which requires the Commission to treat as confidential any information so designated by the submitter, unless the Commission requests an explanation and is unpersuaded by it, in which event it must return the information to the submitter.

5. The Commission should establish by regulation an informal procedure whereunder the submitter may object to disclosure of its information under protective order, except in cases of extraordinary urgency. Commission regulations should also provide that, when the submitter is given notice of an application for disclosure of its information, it also be advised specifically of the procedures whereunder it may object.

6. With respect to a requirement that the requester show a need for confidential information before it can be released under protective order, for the ordinary case the Commission should continue its present practice whereunder a simple statement of need, rather than a showing of need, suffices. Where extraordinary sensitivity or other unusual considerations are demonstrated by the submitter, the Commission should require an actual showing of substantial need before releasing the information. The Commission's regulation (19 CFR 207.7(a)), which purports to require the requester to "demonstrate[] a substantial need for the information in the preparation of his case" in all instances, should be modified accordingly. In all cases the statement of need should be accompanied by a statement of the requester's intent to participate actively in the proceeding.

7. The Court of International Trade should seek to provide in proceedings for judicial review of ITC injury determinations in antidumping and countervailing duty cases, that nonparty submitters be given notice and a meaningful opportunity to object to the release under protective order of any confidential information which they had

submitted to the International Trade Commission.

C. Counsel's Responsibilities Under Protective Orders

The Commission's regulations and protective orders should provide by specific language that the attorney who has received information under protective order may be personally liable to sanctions (1) for a breach of the protective order by other persons—such as attorneys, experts, and support staff working on the case—to whom the attorney, under the authority of the protective order, has divulged the confidential information or (2) where the attorney has been shown to have been negligent in the custody of such information and unauthorized disclosure has resulted.

D. Possible Broader Disclosures

1. Confidential price and cost of production information submitted to the Commission by importer and foreign parties to the investigation should be made available under protective order to counsel for domestic parties to the investigation, or at least to those who support the petition.

2. The Commission should consider disclosing under protective order further kinds of confidential information pertaining to price and cost production, beyond what is now disclosed, to the extent such further information can facilitate more meaningful analysis of the kinds of information that are now disclosed.

3. The Conference takes no position on whether or not the Commission should consider disclosing confidential information in categories other than price and cost of production. If the Commission does consider such disclosure, it should make such disclosure only (a) in categories where party analysis of such information is likely to assist the Commission's investigation without impeding its fulfillment of statutory deadlines, (b) in cases in which the requester shows a substantial need for access to the information and (c) under additional safeguards including as appropriate those recommended herein.

4. Section 305.84-7 is added to Part 305 as follows:

§ 305.84-7 Administrative Settlement of Tort and Order Monetary Claims Against the Government (Recommendation No. 84-7).

In the Federal Tort Claims Act and dozens of other statutes,¹ Congress has authorized

agencies to provide compensation for losses occasioned by a variety of agency actions. The FTCA, the centerpiece of this array, essentially waives the government's sovereign immunity to damage actions arising out of the negligent or otherwise wrongful acts committed by federal employees while acting within the scope of their employment. Previously Congress had been burdened by numerous private bills to redress government torts. The FTCA sought initially to shift to the courts primary responsibility for determining whether redress was warranted. In 1966 the FTCA was amended to transfer much of that load to agencies. At that time, Congress required claimants to present claims to the responsible agency as a prerequisite to suit and gave the agency a minimum of six months in which to act upon them. The agencies were also given an unprecedented degree of settlement autonomy. The FTCA requires that the exercise of this authority be "in accordance with regulations prescribed by the Attorney General," but does not subject it to detailed procedural mandates apart from the requirement that the Department of Justice approve large settlements.

This relatively inconspicuous administrative process has taken on considerable significance in dealings between agencies and individual claimants, and could gain even more if Congress acts to displace suits against individual federal officials by an expansion of the government's liability under the FTCA.² Available information suggests that the administrative process resolves a high proportion of claims worth paying at the same time as it exposes the unmeritorious character of many of the thousands of claims filed annually. In both ways, it effectively replaces litigation with a largely informal, relatively open, and potentially nonadversarial means of dispute resolution.

Although the present system seems generally to be serving Congress' purposes, it has not been without difficulties. In particular, the extent to which administrative settlement should be taken as an autonomous dispute resolution process, is unclear. In some agencies the claims officer approximates a neutral decisionmaker, objectively appraising something in the nature of an inchoate entitlement. Other agencies view their claims officers as adversaries of the claimant engaged in tactical maneuvers that are preludes to litigation or to bargaining for a financially advantageous settlement of sustainable claims.

The Conference, though not recommending any radical restructuring of the agency claims process, believes that this ambiguity has

fault can be shown, include the Military and Foreign Claims Acts and statutes covering certain actions of the Departments of Agriculture and Justice, NASA, the NRC, the Peace Corps, and the Postal Service. Other ancillary statutes, like the Suits in Admiralty Act, Public Vessels Act, Copyright Infringement Act, Trading with the Enemy Act, and Swine Flu Immunization Act, complement the FTCA, for instance by addressing claims likely to be exempt from that Act.

² See ACUS Recommendation 82-6, Federal Officials' Liability for Constitutional Violations.

sometimes produced undesirable results. Inappropriately adversarial responses to technical deficiencies, restrictive policies on information disclosure in connection with pending claim, and less than fully fair and objective approaches to determining the merits and monetary value of a claim do not serve the purposes of the FTCA, nor do they enhance confidence in claims officers' determinations. Claimants, who may obtain a trial *de novo* before a federal judge after a wait of only six months, are finding the judiciary to be increasingly sympathetic, perhaps in part because some of the judges doubt the fairness and efficiency of some of the agencies' claims handling. To further administrative effectiveness, the Conference recommends the following fine-tuning of the FTCA, of certain agency practices, and of the Department of Justice's regulations.

Recommendations

A. Agency Exercise of Settlement Authority

1. *Providing Guidance to Claimants.* (a) Agency claims officers, as part of their duties, should take reasonable steps to save a claimant who has come forward with a potentially deserving claim from innocently failing to perfect a valid statutory demand, committing technical error, or running afoul of a statute of limitations. Among other things, claims officers should promptly advise claimants of formal deficiencies so as to give claimants an opportunity to cure them. Further, in the case of deficiencies relating solely to the requirements of the Attorney General's or agency's regulations, as opposed to jurisdictional requirements of the FTCA itself, the agency should consider extending the claimant an opportunity to cure such deficiencies for a reasonable time beyond the ordinary limitations period.

(b) Each agency General Counsel's office should compile and publish in the CFR a list briefly describing statutes under which the agency is authorized to entertain monetary claims and the name and telephone number of the agency personnel in charge of each program. In appropriate circumstances, claims officers should make a copy of the list available to claimants.

2. *Filing the Claim.* (a) The Attorney General should amend his regulations to treat an FTCA administrative claim as still timely though received after expiration of the statute of limitations, provided that the claimant can demonstrate that he or she sent it by an ordinarily effective means of delivery before expiration of that period.

(b) Agencies should require claims officers to advise claimants that the absence of a sum certain for all categories of claims may preclude their

¹ "Meritorious claims" statutes allowing agencies to entertain some kinds of claims even where no

consideration by both agency and court, and that, subject to timely amendment and the existing statutory exceptions, the amount of the administrative claim constitutes a ceiling on the damages that may later be sought in court.

3. *Substantiation of Claims.* Where exchanges with a claimant reveal an insufficiency of information submitted in support of the claim, agency claims officers should promptly and clearly advise the claimant whether the continued nonproduction of designated information will, in the officer's view, warrant dismissal of the claim as invalid because of incomplete documentation.

4. *Access to Information.* Agencies should endeavor, particularly when a claimant seeks access to his or her claim file or to other information relating to a pending claim, to promote a mutually free and open exchange of relevant information. Agencies should consider release even when applicable statutes would not require it if more extensive disclosure might advance settlement. Specifically, agency claims officers should not routinely regard the information they assemble in connection with an administrative tort claim as falling within the government's executive privilege for deliberative materials, or the attorney-client, expert witness, or qualified attorney work product privileges, and in appropriate circumstances claims officers should be prepared to disclose information falling within those privileges.

5. *Claims Decisions.* (a) Agencies should give a brief statement of the grounds for denial whenever an FTCA or other claim is rejected.

(b) An agency claims officer's ultimate goal should be a fair and objective assessment of the merits of a claim and of its monetary worth. In addition, the Department of Justice should not exercise its statutory approval authority over large administrative settlements in a manner that would tend to discourage claims officers from making serious efforts to reach a fair and objective settlement with a deserving claimant.

6. *Reconsideration.* (a) Claim denial letters should inform claimants that they may request the agency's reconsideration of its denial, and that such a request extends the six month waiting period before suit may be filed in federal district court.

(b) In cases where the claimant communicates with the claims officer following final denial, the officer should promptly indicate whether or not, in his or her view, the communication constitutes a request for reconsideration and state specifically the procedural implications of that determination.

B. Statutory Changes

1. Congress should conduct a comprehensive reexamination of the meritorious and other ancillary claims statutes in force to ensure that each is warranted and that, together, they form a coherent whole both on their own terms and in relation to the FTCA. Congress should systematically raise ceilings on all agency authority to settle claims where inflation has rendered obsolete the present levels.

2. Congress should amend 28 U.S.C. 2401(b) to provide that, where a claim has been filed with the wrong agency in a timely manner and transferred to the appropriate agency, the original date of filing will be used for determining timeliness. To help ensure that agencies have an adequate and predictable length of time to investigate and consider claims, Congress should provide that the six-month period given the agencies for that purpose not commence until the claim has been received by the appropriate agency.

3. Congress should further amend 28 U.S.C. 2401(b) to provide that, where an otherwise timely damage action against a person for whose tortious conduct Congress has made the federal government exclusively liable is converted into a suit against the government under the FTCA and then dismissed for failure to file a prior administrative claim, the plaintiff shall have 60 days from the date of such dismissal or two years from the date the claim arose, whichever is later, in which to file such a prior claim.

(5 U.S.C. 571-576)

Dated: December 19, 1984.

Richard K. Berg,

General Counsel.

[FR Doc. 84-33356 Filed 12-21-84; 8:45 am]

BILLING CODE 6110-01-M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

Prevailing Rate Systems; Correction

AGENCY: Office of Personnel Management.

ACTION: Final rule; correction.

SUMMARY: The final regulations to update 5 CFR Part 532, Prevailing Rate Systems, published in the *Federal Register* on Friday, September 21, 1984, (49 FR 37055) omitted several key words that could cause agencies to misinterpret these instructions. The attached correction will rectify this matter.

DATE: Effective October 22, 1984.

FOR FURTHER INFORMATION CONTACT: Richard W. Newbold, (202) 632-7830.

Office of Personnel Management.

Donald J. Devine,

Director.

PART 5—[AMENDED]

Accordingly, OPM is correcting 5 CFR 532.511(c) published in the *Federal Register* of September 21, 1984 (49 FR 37055), to read as follows:

§ 532.511 Environmental differentials.

* * * * *

(c) *Basic pay.* Environmental differential pay is part of basic pay and shall be used to compute premium pay (pay for overtime, holiday, or Sunday work), the amount from which retirement deductions are made, and the amount on which group life insurance is based. It is not part of basic pay for purposes of lump-sum annual leave payments and severance pay nor is its loss an adverse action.

(5 U.S.C. 5343)

[FR Doc. 84-33389 Filed 12-21-84; 8:45 am]

BILLING CODE 6325-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

Export and Import of Nuclear Equipment and Material

Correction

In FR Doc. 84-31548, beginning on page 47191 in the issue of Monday, December 3, 1984, make the following corrections:

1. On page 47197, in the first column, in § 110.1, the second word in the fifth line of paragraph (a) should read "of".

2. Also on page 47197, in the second column, in § 110.2, the last word in the sixth line of the definition for "Person" should read "any".

3. On page 47199, in the third column, in § 110.25, the second word in the eleventh line of paragraph (b) (the ninth line of the third column) should read "machining".

4. On page 47202, in the second column, in § 110.50, the last word in the eighth line of paragraph (b)(3) should read "licensee".

5. Also on page 47202, in the third column, the last word in the heading of § 110.53 should read "inspections".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84-ASO-29]

Alteration of Transition Area, Eglin AFB, FL

AGENCY: Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule; request for comments.**SUMMARY:** This amendment alters the description of the Eglin AFB, Florida, transition area by revising the geographical coordinates of five airports and the designator of an off-shore warning area. These editorial corrections will not result in a significant change in airspace.**DATES:** Effective date: 0901 G.m.t., April 11, 1985. Comments must be received on or before March 11, 1985.**ADDRESSES:** Send comments on the rule in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.**SUPPLEMENTARY INFORMATION:**

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves editorial changes to correct deficiencies in the present description of the Eglin AFB, Florida, transition area, and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall

regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revise the geographical coordinates of five airports upon which the Eglin AFB, Florida, transition area is predicated. In addition, the designator of an off-shore warning area, which is excluded from the transition area, has been changed from W-151, to W-151A. This amendment will reflect this change also. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6 dated January 3, 1984.

Under the circumstances presented, the FAA concludes that there is a need to amend the description of the Eglin AFB, Florida, transition area so that it is technically correct. The changes are so minor and nonsubstantive, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Eglin AFB, Florida, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, as follows:

Eglin AFB, FL.—[Revised]

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Eglin AFB (Lat. 30°29'12"N., Long. 86°31'34"W.), Eglin AF Aux No. 3 (Duke Field) (Lat. 30°39'06"N., Long. 86°31'23"W.), and Eglin AF Aux No. 9 (Hurlburt Field) (Lat. 30°25'38"N., Long. 86°41'22"W.), within a 5-

mile radius of Destin-Fort Walton Beach Airport (Lat. 30°24'00"N., Long. 86°28'18"W.); excluding the portions within W-151A, the Crestview, FL, transition area, and a 1.5-mile radius of Fort Walton Beach Airport (Lat. 30°24'22"N., Long. 86°49'45"W.)

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

Issued in East Point, Georgia, on December 12, 1984.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 84-33292 Filed 12-21-84; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 271

[ER-1398; Economic Regs. Enactment of Part 271; Docket 39041]

Guidelines for Subsidizing Air Carriers Providing Essential Air Transportation

AGENCY: Civil Aeronautics Board.**ACTION:** Final rule.

SUMMARY: The CAB adopts guidelines to be used in establishing the amount of subsidy needed to ensure the continuation of essential air transportation at eligible points. The guidelines are required by the Small Community Air Service section of the Federal Aviation Act.

DATES: Adopted: November 28, 1984; Effective: January 25, 1985.

FOR FURTHER INFORMATION CONTACT: John R. Hokanson, Chief, Air Carrier Subsidy Need Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5368; or Joanne Petrie, Office of the Assistant General Counsel for Regulations and Enforcement, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-4723.

SUPPLEMENTARY INFORMATION:**Background**

Under section 419 of the Federal Aviation Act (49 U.S.C. 1389), communities that qualify as eligible points are guaranteed at least essential air transportation. Section 419 authorizes the Board to pay a subsidy to an airline to provide the required level of essential air service in cases where no carrier will provide that service subsidy-free. Paragraph (d) of section 419 directs the Board to issue guidelines for establishing subsidy rates.

By EDR-415, 45 FR 83254, December 18, 1980, the Board proposed the

guidelines required by section 419(d). These guidelines generally contemplated that the subsidy be established by subtracting the carrier's projected costs from its projected revenues, and then adding in a profit element. It was proposed that the profit element would usually be 10 percent of the carrier's projected operating costs, although this percentage might vary when there were interest or lease expenses associated with the provision of the essential air service.

The Board proposed two basic approaches to subsidizing air carriers: the fixed incentive rate and the shared incentive rate. Under both approaches, the expenses and revenues of the carrier from its provision of the essential air service would be projected. Under the fixed incentive rate, payments to the carrier would not change even if the carrier's actual revenues or expenses deviated from these projections. To the extent that the carrier did better than the projections, it would reap the benefits. To the extent that it did worse, it would have to bear the loss. This would provide an incentive to generate traffic at the community and to hold down its costs.

Under the shared incentive rate, the effect on the carrier of inaccurate projections is softened somewhat. Any costs above the target levels or revenues below the target levels would be partially absorbed by the Board according to a prearranged formula. Conversely, the Board would also be entitled to share in the benefits of any costs below or revenues above the target levels that the carrier realized under this approach. The prearranged formula would establish limits to the exposure of the Board and the carrier to both upward and downward variations from the target levels. The Board noted, however, that a shared incentive rate would be more difficult for the Board and the carrier to administer.

Regardless of which approach was followed in a particular case, the Board proposed to share in any unexpected increase in fuel costs. When EDR-415 was issued, fuel prices had been quite volatile, so it seemed important to help small carriers absorb large fuel price increases for the sake of program stability.

Comments on the Board's proposal were filed by Big Sky Airlines, Local Services Carriers (Frontier, Ozark, Piedmont, and Republic), and the States of Michigan and New York. None opposed the Board's proposal but each had some suggestions or modifications. On the basis of these comments, and the Board's experience with the subsidy program since the issuance of EDR-415,

the Board has decided to adopt the subsidy guidelines as proposed except for a few modifications that are explained below.

Carrier Costs

In projecting carrier costs for the purpose of establishing a subsidy rate, the Board proposed to evaluate four factors: direct carrier expenses (costs attributable to the carrier's flying operations), indirect carrier expenses, any unique circumstances of the carrier or the community involved, and the aircraft to be used to provide the essential air service. In evaluating the carrier's direct and indirect expenses, the Board stated that it would not merely accept the carrier's projections, but would compare those projections with representative industry costs as required by section 419(d) and with cost data supplied by the manufacturer of the carrier's aircraft. With respect to aircraft, the Board, in accordance with section 419(d), proposed to consider whether the aircraft that the carrier intended to use was appropriate for serving the community involved. The appropriateness of the aircraft would depend on the traffic levels, distance, and altitude to be flown.

The Board also proposed to share in differences in any actual fuel costs that deviated from the agreed-on fuel cost projections regardless of whether the carrier was on a fixed incentive or shared incentive rate. When this proposal was issued, fuel prices were rising rapidly and unpredictably. This made accurate projections very difficult and justified some sharing of the risk.

The Board did not propose to share in other cost overruns of the carrier unless the carrier was on a shared incentive rate (where sharing in some cost overruns was an inherent part of the rate) or such sharing appeared to be necessary.

The State of Michigan urged the Board to be sensitive to the inexact nature of forecasting costs, especially where small inexperienced carriers were involved, and to the unusual costs incurred due to bad weather in states such as Michigan. It also questioned the Board's proposal to evaluate the carrier's indirect expense projections by comparing them to costs that are representative of the industry as a whole. It suggested that these representative costs may not be applicable to costs experienced by carriers operating in Michigan.

The State of New York urged the Board to carefully scrutinize the expense projections of carriers. It charged that some have been overly optimistic. On the other hand, it was also concerned that competition could not always be

relied on to prevent carriers from inflating cost projections.

The Board is sensitive to the problems raised by Michigan and New York. Some provisions have been added to the rule to aid in evaluating cost projections. Section 271.4(a)(1) on direct expenses has been expanded. It now states that the Board will evaluate a carrier's direct expenses by comparing its projected costs with its historical direct operating costs in other markets with the same aircraft type. This comparison is in addition to those proposed and summarized above.

Section 271.4(a)(2) on indirect operating expenses has also been expanded. In addition to the comparisons that were proposed, the Board will also compare the carrier's projected indirect expenses with the ratio of indirect to direct costs that has been experienced by the carrier in other markets or to costs that are representative of the industry. This allows for the possibility that some characteristic of the carrier, or of similar markets in the vicinity of the community involved, may justify indirect expenses that are not representative of the industry as a whole. In addition, the rule now provides that indirect costs will be evaluated by comparing them to available cost surveys. The Board prepares and publishes a small aircraft costing survey that could be used as the basis for such comparisons. Furthermore, § 271.4(a)(2) now states that where indirect costs can be directly assigned to the essential air service operations or station, they will be.

No other changes seem to be necessary to meet the commenters' concerns, nor were any further specific changes requested by them. The potential for the submission of unrealistically low or unfairly high cost projections by subsidy applicants always exists. But the Board closely scrutinizes all proposals and works with applicants to ensure that their projections are realistic and proper.

The Board is making one change in § 271.4 on its own initiative. The reference to the sharing of unexpectedly high fuel costs in § 271.4(c) is being eliminated in favor of a more general statement. Since the issuance of the proposal, fuel costs have stabilized. There no longer appears to be any need to have a special provision covering them. As revised, § 271.4(c) commits the Board to share in cost overruns of carriers on a fixed rate only if the Board determines that the sharing of specific costs would be in the public interest. That is broad enough to cover fuel cost

overruns if fuel costs should again become volatile.

Carrier Revenues

The Board proposed to project the revenues that the carrier would receive from providing the essential air service by multiplying a reasonable, projected net fare by projected traffic. The net fare is the fare charged for service between the community and its designated hub, less any dilution caused by discount fares or joint fare arrangements. The projected traffic is based on Board and carrier estimates and on past experience in the essential service market. The Board also proposed to further evaluate the carrier's revenue projections by comparing its proposed fare to fares charged in other markets of similar distances and traffic densities and to the historical pricing practices by the carrier in other markets. As with costs, the Board proposed that it would not share in any revenue shortfall or windfall unless the carrier was on a shared incentive rate.

The State of New York raised the problem of overly optimistic projections with respect to revenues that it had raised with respect to costs. It also disagreed with the Board's statement in EDR-415 that "revenues may vary considerably from one market to another even when the type and level of operation are similar."

As noted above, the Board will closely scrutinize subsidy proposals in accordance with the guidelines adopted here. Any overly optimistic revenue projections will be corrected before the carrier's subsidy rate is finally set. The Board stands by its statement on the variation in revenues among markets. Experience has shown that passenger demand and fare levels vary from one market to another.

The Board is, however, making two changes in § 271.5 on revenues. A new paragraph (c) is added to take account of revenue from the carriage of freight. Although carrying freight is generally not required of carriers providing essential service, many do it. Revenue from that part of their service should therefore also figure in the overall subsidy calculations, because the entire costs of operations are included.

In addition, § 271.5(b)(2) is revised. An additional factor (any standard industry pricing guidelines that are available) has been added. It will be used in evaluating a carrier's revenue projections.

Profit Element

In EDR-415, the Board discussed four approaches for calculating the profit element of a carrier's subsidy rate. These were return on investment, return

on equity, return on sales, and return on expenses. The Board tentatively selected the return-on-projected-expenses approach because it considered that method to be the easiest to administer, and the method that would impose the least burden on the small carriers involved. The Board proposed that the profit element be 10% of projected expenses or, alternatively, 4% of projected expenses plus interest or lease expenses associated with the provision of the essential service.

Big Sky stated that it preferred the return-on-investment approach. It criticized the Board's return-on-expenses approach for creating a disincentive for a carrier to minimize its costs, failing to take into account the differences in carriers' capital structures that affect the actual return to the carrier, not assuring any return to the carrier's investors, and not providing a sufficient return to attract additional capital.

Big Sky cited several advantages to the return-on-investment approach. It stated that adopting this method would recognize differences in financing (debt v. equity) that affect the return, be as easy to apply as the return-on-expenses approach once the rate of return is established, and assure carriers of a return that would be sufficient to attract additional capital.

In addition, Big Sky claimed that a return-on-investment approach would not present difficulties because most of the necessary elements are already on the company's balance sheet. In its view, any burden on carriers would be outweighed by the assurance of an adequate return. The State of Michigan also favored the return-on-investment approach.

The Board has decided to stay with the return-on-expenses approach for calculating the profit element. This approach is simple for the Board to administer and easy for carriers to comply with, an important consideration when dealing with small businesses. The Board has decided, however, to move away from its proposal that the profit element be 10% of projected expenses for rates involving the use of owned aircraft and 4% of projected expenses for rates involving leased aircraft.

Implicit in the 10% proposal was the assumption that 6% was compensating the carrier for its long-term interest on flight equipment and the other 4% was pure profit. In practice, however, the Board has found that this amount of profit was not always an adequate return. Further, allowable interest on long-term debt has varied from 2% to 9% of applicable operating expenses for

most EAS carriers that own rather than lease aircraft, which renders the use of 6% a good average but an inaccurate standard.

To better compensate carriers, the Board has decided to treat interest separately in the profit element. Under § 271.6 as revised, the subsidized carrier will be reimbursed separately for its long-term interest payments on flight equipment. In addition, the carrier will receive a profit of 5% of its projected expenses. This is somewhat higher than the 4% that was implicit in the proposed profit element but is merited by the need to encourage carriers to participate in the program, the amount of risk inherent in prospective ratemaking, and by the substantially higher rates of return available in other investment contexts. A tax allowance, however, is not justified by these factors, and will not be included.

A significant number of carriers have, at rate conferences, expressed dissatisfaction with the profit element, pointing to an expanding number of profitable alternatives to subsidize service. Increasing the profit element to 5% recognizes these factors, while taking into account the fact that the widely varying capital structures of commuter carriers simply make it impractical to break down the profit element into its different components and to fine-tune each component to individual circumstances. Thus, although equity, risk factors, and profit alternatives will vary from carrier to carrier, the 5% markup will provide an overall satisfactory profit and, therefore, eliminate the need to negotiate individual parts of the profit element with carriers. The profit element based on 5% of expenses plus interest represent an upper limit, and carriers will be free to seek less if appropriate, as they occasionally do now.

The Board does not consider it likely that a carrier will be able to project higher-than-normal expenses in order to inflate its profit element. A carrier that attempted to do this would place itself at a disadvantage in competing with other carriers for the subsidy award. Even where there was only one subsidy applicant, the Board would not automatically accept the carrier's cost projections, but would negotiate with that carrier to bring those projections in line with representative industry costs, as explained above. If in spite of these steps, the Board is still unable to arrive at a rate it considers acceptable, it will not hesitate to reject the applicant's proposal and resolicit.

Subsidy Payout Formula

Under § 271.1, the Board will pay the subsidy to a carrier providing essential service on a monthly basis. The actual amount of each monthly payment may vary depending on any one of several factors that could be built into the carrier's subsidy rate. The factors include the number of aircraft miles or available seat miles flown, the number of flights completed during the month, or, if the carrier is on a shared rate, changes required by the difference between actual revenues or expenses and those that were projected. In most cases, a carrier's subsidy payout formula will be based on available seat miles flown so that variations in this statistic from month-to-month would affect its monthly payments.

The Board is adding available seat miles flown as an additional factor to the factors listed in EDR-415. This factor is being added to account for the situation where a carrier substitutes different sized aircraft than it proposed to operate. If a carrier's subsidy payout formula is based only on aircraft miles flown or the number of flights completed during the month, no adjustment would be made to the amount of subsidy paid if a carrier substitutes different sized aircraft. Basing the subsidy payout formula on available seat miles flown will automatically adjust subsidy payments downward when a carrier substitutes smaller aircraft than it proposed to operate. The substitution of larger equipment will not result in increased subsidy payments since the subsidy payment formula is based on the available seat miles projected to be flown with the aircraft that the carrier proposes to use and thus acts as a built-in ceiling on the amount of subsidy that will be paid.

The State of Michigan urged the Board to make payments to carriers at the beginning of each month to ease their cash-flow problems. It also favored front-end loading, paying the carrier more in the first few months than in the later ones, to help build traffic early.

The Board has decided not to pay the carrier at the beginning of the month or to front-end load as a general rule. The government cannot be in a position where it is paying for service that may never be provided. In an emergency, where the continued performance of the essential air service is at stake, the Board may consider making such advance payments. Such exceptions will be rare. The Board may also consider front-end loading for a use-it-or-lose-it test. See Order 84-1-112 where the Board requested comments on such a

test involving Beloit/Janesville, Wisconsin.

Rate Period

In EDR-415, the Board proposed to establish carriers' subsidy rate terms for not more than 2 years. A shorter period would be established in cases where the uncertainties of the market seemed to warrant it. During the established subsidy term, there would be a heavy presumption against any change in the carrier's subsidy rate. This was seen as necessary to ensure the integrity of the negotiating process and fixed-rate system, and to prevent the subsidy rate from becoming a cost-plus arrangement where the carrier would have no incentive to keep its costs in line or to attempt to develop traffic and revenues.

The State of Michigan considered the 2-year rate term to be too short. It suggested a 5-year term. In its view, the longer term would give the subsidized carrier time to improve its efficiency and dependability.

The Board is also, of course, committed to efficient and dependable small community air service. It does not appear, however, that longer rate terms are the way to accomplish this objective. The carriers that are likely to serve a small community are frequently in the early stages of growth and might be unwilling to serve at all if they had to commit for such a long time. It also does not seem fair to force them to make such a commitment when they are on a fixed rate, given the long-term uncertainties in costs and traffic levels. These uncertainties also make it difficult for the Board to project costs and revenues, and thereby establish the subsidy rate, so far in advance.

The reliability of essential air service can best be enhanced by periodic reviews. Before the end of the rate term, the Board reevaluates the community's essential air service needs and the carrier's subsidy needs, and solicits competitive proposals. Adjustments can be made as warranted, or a new carrier selected.

During the rate term, the carrier has every incentive to improve its efficiency and dependability. Under a fixed rate, an efficient, reliable operation will have lower costs and higher revenues, leading to higher-than-projected profits. This could result in a self-sustaining operation or, at the very least, an important advantage for the incumbent in the event that another carrier tries to compete for its subsidy at the end of its rate term. The ability of other carriers to bid for the route after one or two years encourages efficiency by simulating competition in EAS markets served by a single carrier.

As between 1- and 2-year rates, the Board will strive for 2-year fixed rates. Two basis reasons for this are the stronger carrier incentives to remain efficient with long-term rates and workload considerations. Unless the rate proves to be too low and the carrier files a termination notice, the Board avoids unnecessary rate activity with a 2-year rate. Two-year fixed rates are most practical when the Board is dealing with an incumbent carrier or with a carrier proposing service similar to that of the incumbent.

Nevertheless, fixed 2-year rates may not be advisable in a number of situations. A recent review of 419 rates shows that while revenue estimates are the most susceptible to error, cost projections can also be off significantly. One of the more common problems seems to be estimating block hours. Also, rate renewals which result in a reduction in essential air service often cause large subsidy reductions. Section 271.8(a) has been revised to indicate when the Board is likely to opt for the shorter rate period.

If a carrier's rate term expires before a new subsidy rate is established for it or its replacement, the carrier must continue to provide the essential air transportation. While its existing subsidy rate may be extended under § 385.14(e) of the Board's rules, we will adjust extended rates downward when it appears necessary to avoid overpayments.

Discrimination

There are several laws that prohibit discrimination by recipients of Federal financial assistance. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) prohibits discrimination on the grounds of race, color, or national origin. The Rehabilitation Act of 1973 (29 U.S.C. 794) prohibits discrimination on the basis of handicap. The Age Discrimination Act of 1975 (42 U.S.C. 6101) prohibits discrimination on the basis of age.

Since airlines receiving subsidy from the Board are thereby receiving Federal financial assistance, they are subject to these statutes. Section 271.9 of the rule adopted here sets forth their obligations under them, and under the Board rules implementing them. This section, as adopted, differs from that in the proposal in two respects. A reference to the Board's new rule on the handicapped at 14 CFR Part 382 has been added. Also, a reference to the rule on age discrimination (Part 378) has been removed. The new Part 378 has not been published in the CFR because it has not yet received the required

approval from the Department of Health and Human Services.

Miscellaneous

The Local Service Carriers urged the Board not to take into account "other revenue" in compensating carriers for losses under section 419(a)(7) of the Act (hold-in compensation) as it did under section 406 of the Act after January 1, 1983.

The rule adopted here is directed to the subsidy paid under section 419 (a)(5) and (b)(6) of the Act rather than to compensation for losses under section 419(a)(7). Nevertheless, our practice for recognizing or projecting revenue has been the same for both types of payments, so we will address the issue here. The Board has not been taking into account revenue from other routes in compensating carriers under section 419(a)(7). Nor will it do so under this rule. The concerns of the Local Service Carriers have therefore been met. Revenue from passengers flowing over the segment between the eligible point and the designated hub will be taken into account, however, even though these passengers are traveling beyond that segment.

List of Subjects in 14 CFR Part 271

Air carriers, Essential air service, Grant programs—Transportation.

Accordingly, the Civil Aeronautics Board amends Chapter II of 14 CFR by adding a new Part 271 to read:

PART 271—GUIDELINES FOR SUBSIDIZING AIR CARRIERS PROVIDING ESSENTIAL AIR TRANSPORTATION

Sec.

- 271.1 Purpose.
- 271.2 Definitions.
- 271.3 Carrier subsidy need.
- 271.4 Carrier costs.
- 271.5 Carrier revenues.
- 271.6 Profit element.
- 271.7 Subsidy payout formula.
- 271.8 Rate period.
- 271.9 Discrimination prohibited.

Authority: Secs. 204 and 419 of Pub. L. 85-726, as amended, 72 Stat. 743, 92 Stat. 1732, 49 U.S.C. 1324, 1389.

§ 271.1 Purpose.

This part establishes the guidelines required by section 419(d) of the Act to be used by the Board in establishing the fair and reasonable amount of compensation needed to insure the continuation of essential air transportation to an eligible point under sections 419(a)(5) and (b)(6). These guidelines serve as a reference for all parties participating in the rate conferences where carrier subsidy

proposals are negotiated with our staff. These guidelines are intended to cover normal carrier selection cases and not emergency carrier selection cases.

§ 271.2 Definitions.

As used in this part—

"Eligible point" means any community in the United States, the District of Columbia, and the several territories and possessions of the United States to which any direct air carrier was authorized, under a certificate issued by the Board under section 401 of the Act, to provide air service on October 24, 1978, whether or not such service was actually provided; or any such community that was deleted from a section 401 certificate between July 1, 1968, and October 24, 1978, that the Board designates as an eligible point under Part 270 of this chapter; or any other community in Alaska or Hawaii that the Board designates as an eligible point under Part 270 of this chapter.

"Essential air transportation" or "essential air service" means the level of air service determined by the Board, according to the guidelines in Part 398 of this chapter to be necessary to insure that people of the eligible point concerned have access to the Nation's air transportation system and to one or more of their principal destinations.

"Fixed incentive rate" means a subsidy rate in which the air carrier's subsidy does not change even if its actual costs or revenues differ from those that were projected for it.

"Shared incentive rate" means a subsidy rate in which the Board and the air carrier involved share in the extra profits or losses that occur when actual results differ from the costs or revenues that were projected for the carrier.

§ 271.3 Carrier subsidy need.

In establishing the subsidy for an air carrier providing essential air transportation at an eligible point, the Board will consider the following:

- (a) The reasonable projected costs of a carrier in serving that point;
- (b) The carrier's reasonable projected revenues for serving that point;
- (c) The appropriate size of aircraft for providing essential air transportation at that point; and
- (d) A reasonable profit for a carrier serving that point.

§ 271.4 Carrier costs.

(a) The reasonable costs projected for a carrier providing essential air transportation at an eligible point will be evaluated—

- (1) For costs attributable to the carrier's flying operations (direct expenses), by comparing the projected

costs submitted by the carrier with the following:

- (i) The carrier's historic direct operating costs with the same or similar aircraft types;
 - (ii) The direct operating unit costs of similar carriers using the same or similar equipment; and
 - (iii) Data supplied by the manufacturer of the carrier's aircraft.
- (2) For other costs, by one or more of the following methods:
- (i) By direct assignment where the indirect costs are attributable to the carrier's operations at the eligible point;
 - (ii) By comparing indirect operating expenses submitted by the carrier to cost surveys such as the Small Aircraft Costing Survey prepared by the Board; or
 - (iii) By comparing the indirect operating expenses submitted by the carrier with the ratio of indirect to direct costs that have been experienced by the carrier in other markets or to costs that are representative of the industry.

(3) By considering the unique circumstances of the carrier or the community being served that justify deviations from the costs that would otherwise be established for that carrier under this paragraph.

(4) By determining whether the aircraft to be used by the carrier at the eligible point, and on which its costs are derived, are appropriate for providing essential air transportation there. The appropriateness of the aircraft to be used is based on the following characteristics of the eligible point:

- (i) Traffic levels;
- (ii) The level of air service that the Board has decided is essential for the eligible point;
- (iii) Distance to the designated hub;
- (iv) The altitude at which the carrier must fly to the designated hub; and
- (v) Other operational elements involved.

(b) When the essential air service would be made part of the carrier's linear system, the Board might, instead of the factors in paragraph (a) of this section, consider only the incremental costs that the carrier will incur in adding that service to its system.

(c) If the carrier's actual costs exceed the projected costs established by the Board under this section, a carrier receiving subsidy under a fixed incentive rate shall absorb all the excess expenses, unless the Board determines that the sharing of specific costs would be in the public interest.

§ 271.5 Carrier revenues.

(a) The projected passenger revenue for a carrier providing essential air

transportation at an eligible point will be calculated by multiplying the following:

(1) A reasonable projected net fare, which is the standard fare expected to be charged for service between the eligible point and the designated hub less any dilution caused by joint fare arrangements, discount fares that it offers, or prorates of fares for through one-line passengers; and

(2) The traffic (including both local and beyond traffic) projected to flow between the eligible point and the designated hub or hubs, which is based on the carrier's own estimates, Board estimates, and on traffic levels in the market at issue when such data are available.

(b) The reasonableness of a carrier's passenger revenue projections will be evaluated by—

(1) Comparing the carrier's proposed fare with the fare charged in other city-pair markets of similar distances and traffic densities; and

(2) Comparing the carrier's proposed pricing structure with historical pricing practices in the market at issue, with the pricing practices of that carrier in other markets, and with any standard industry pricing guidelines that may be available.

(c) An estimate of freight and other transport-related revenue will be included as a component of projected revenues and will be based on recent experience in the market involved and on the experience of the carrier involved in other markets.

§ 271.6 Profit element.

The reasonable return for a carrier for providing essential air transportation at an eligible point generally will be set at a flat percentage, typically not more than 5 percent of that carrier's projected operating costs as established under § 271.4, plus any applicable interest expenses on flight equipment.

§ 271.7 Subsidy payout formula.

(a) Subsidy will be paid by the Board to the air carrier monthly, based on the subsidy rate established by the Board for the carrier under this part. Payments will not vary except as provided in this section.

(b) Even if the air carrier is on a fixed incentive rate, the actual amount of each payment may vary depending on the following factors:

(1) Seasonal characteristics of the carrier's operations at the eligible point;

(2) The actual number of flights completed, aircraft miles flown, available seat-miles flown, or variations in other operational elements upon which the subsidy rate is based; or

(3) Adjustments to the carrier's subsidy required by § 271.4(c) or § 271.8(b).

(c) If the air carrier is on a shared incentive rate, its monthly payments will vary on the basis of the sharing formula established at the time that the carrier's subsidy rate is set.

(d) Payments will continue for the duration of the rate term established under § 271.8 provided that the carrier continues to provide the required service.

§ 271.8 Rate period.

(a) The subsidy rate generally will be set for a 2-year period, or two consecutive 1-year periods. The Board may set the rate for a shorter period in the following situations:

(1) A commuter air carrier is replacing a larger certificated carrier at the eligible point;

(2) Traffic at the eligible point has substantially decreased;

(3) The Board considers the cost or revenue projections of the carrier for the second year to be unrealistic;

(4) It is likely that there will be changes in the eligible point's essential air service level; or

(5) The uncertainties of the market or other circumstances warrant a shorter rate period.

(b) The subsidy rate established for a carrier under this part will not be changed during the rate period unless an adjustment is required in the public interest.

(c) At the end of the rate period, the carrier will not have a continuing right to receive subsidy for providing essential air transportation at the eligible point.

§ 271.9 Discrimination prohibited.

(a) All air carriers receiving subsidy under this part shall comply with the following:

(1) The Age Discrimination Act of 1975;

(2) The Civil Rights Act of 1964 and Part 379 of this chapter; and

(3) The Rehabilitation Act of 1973 and Part 382 of this chapter.

(b) Within 1 year after it first receives a subsidy under this part, the carrier shall evaluate its practices and procedures for accommodating the handicapped in accordance with § 382.23 of this chapter.

(c) All air carriers seeking a subsidy under this part shall include in their subsidy application the assurances

required by § 379.4 and § 382.21 of this chapter.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-33380 Filed 12-21-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 555

Chloramphenicol Drugs for Animal Use; Chloramphenicol Tablets

Correction

In FR Doc. 84-32229 appearing on page 48184 in the issue of Tuesday, December 11, 1984, make the following correction:

§ 555.110a [Corrected]

On page 48184, second column, in the second line below "Effective date," "360(i)" should have read "360b(i)".

BILLING CODE 1505-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2621

Limitation on Guaranteed Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the Limitation on Guaranteed Benefits regulation contains the maximum guaranteeable pension benefit that may be paid by the Pension Benefit Guaranty Corporation under Title IV of the Employee Retirement Income Security Act of 1974 to a plan participant in a covered single-employer pension plan that terminates in 1985. Section 4022(b)(3)(B) of the Act provides that the maximum benefit guaranteeable by PBGC is based on the contribution and benefit base determined under section 230 of the Social Security Act. An increase in the contribution and benefit base increases the dollar amount of the maximum guaranteeable benefit. This amendment is needed to include the dollar amount of the increased maximum guaranteeable benefit for 1985 in the regulation.

EFFECTIVE DATE: January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations

Department, Code 611, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, 202-254-6476 (202-254-8010 for TTY and TTD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: On February 11, 1976, the Pension Benefit Guaranty Corporation ("PBGC") published a final rule entitled Limitation on Guaranteed Benefits (29 CFR Part 2609, recodified as 29 CFR Part 2621 on June 24, 1981). That rule sets forth the method of calculating the maximum guaranteeable benefit under section 4022(b)(3)(B) of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, 29 U.S.C. 1001 *et seq.*, ("the Act"). Section 2621.3(a)(2), which sets forth the section 4022(b)(3)(B) rule, provides that the maximum guaranteeable benefit is "\$750 multiplied by the fraction $x/13,200$ ", with "x" being the Social Security contribution and benefit base determined under section 230 of the Social Security Act in effect at the date of termination of the plan.

In the Social Security Amendments of 1977, special increases were added to the contribution and benefit base. However, the amended Social Security Act specifically states that, for the purpose of section 4022(b)(3)(B) of the Act, the contribution and benefit base for each year after 1976 will be the base that would have been determined for each year if the law in effect immediately before the amendment had remained in effect without change. 42 U.S.C. 430(d) (1982).

The PBGC has been notified by the Social Security Administration that the contribution and benefit base for 1985 that is to be used to calculate the PBGC maximum guaranteeable benefit is \$29,700. Accordingly, applying the formula under section 4022(b)(3)(B) of the Act and 29 CFR 2621.3(a)(2), the PBGC has determined that the maximum benefit guaranteeable by the PBGC in 1985 will be \$1,687.50 per month in the form of a life annuity commencing at age 65 or the actuarial equivalent of \$1,687.50 payable in a different form or commencing at a different age.

Appendix A to Part 2621, as published in the 1984 edition of 29 CFR, lists the maximum guaranteeable benefit payable by the PBGC to participants in single-employer plans that have terminated each year from 1974, when the Act went into effect, through 1984. This amendment updates Appendix A for plans that terminate in 1985.

Because the maximum guaranteeable benefit is determined according to the formula in section 4022(b)(3)(B) of the

Act, and this amendment makes no change in its method of calculation but simply lists the 1985 maximum guaranteeable benefit amount for the public's knowledge, general notice of proposed rulemaking is not required. Moreover, because the 1985 maximum guaranteeable benefit is effective, under the statute, at the time that the Social Security contribution and benefit base is effective, *i.e.*, January 1, 1985, and is not dependent on the issuance of this regulation, the PBGC finds that good cause exists for making this amendment effective less than 30 days after publication (5 U.S.C. 553).

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981 (46 FR 13193) because it will not result in an annual effect on the economy of \$100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 2621

Employee benefit plans, Pension insurance, Pensions.

PART 2621—[AMENDED]

In consideration of the foregoing, Part 2621 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for Part 2621 is revised to read as follows:

Authority: Pub. L. 93-406, 88 Stat. 829, 1004, and 1016, as amended by Secs. 403(1), 403(c), and 102, Pub. L. 96-364, 94 Stat. 1208, 1302, 1300, and 1215 (29 U.S.C. 1302, 1322, and 1322b).

§ 2621.2 [Amended]

2. In § 2621.2, the definition of "Act" is amended by adding ", as amended" after "1974".

§ 2621.3 [Amended]

3. Section 2621.3(a)(2) is amended by removing the word "the" between "and" and "benefit".

§ 2621.4 [Amended]

4. The table of factors in § 2621.4(f) is amended by changing "commences of the date" in the heading for the first column to read "commences or the date".

5. Sections 2621.5(a)(1), 2621.6(a), and 2621.7(a) are amended by changing "4022(b)(6)(A)" to read "4022(b)(5)(A)".

6. Appendix A to Part 2621 is revised to read as follows:

Appendix A to Part 2621—Maximum Guaranteeable Monthly Benefit

The following table lists by year the maximum guaranteeable monthly benefit payable in the form of a life annuity commencing at age 65 as described by § 2621.3(a)(2) to a participant in a plan that terminated in that year:

Year	Maximum guaranteeable monthly benefit
1974.....	\$750.00
1975.....	801.14
1976.....	869.32
1977.....	937.50
1978.....	1,005.68
1979.....	1,073.86
1980.....	1,159.09
1981.....	1,261.36
1982.....	1,380.68
1983.....	1,517.05
1984.....	1,602.27
1985.....	1,687.50

Roderick J. O'Neil,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-33318 Filed 12-21-84; 8:45 am]

BILLING CODE 7708-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-751; RM-3799; FCC 84-628]

Permitting Measurement of Operating Power Using Direct Reading Instrumentation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action adopts Rule changes: (1) To permit direct reading power meters for AM transmitters; and (2) to provide an economical calibration procedure for FM and aural TV transmitter power meters.

This action is taken by the Commission in its efforts to relax restrictive regulations and policies and to accommodate new measurement technologies.

The Rule changes are intended to provide broadcasters more flexibility and choice in the measurement of operating power.

EFFECTIVE DATE: December 12, 1984.

FOR FURTHER INFORMATION CONTACT: Hank VanDeursen, Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73:

Radio broadcast, Television.

Report and Order

In the matter of Amendment of part 73 of the Commission's broadcast rules to permit measurement of operating power using direct reading instrumentation (MM Docket No. 84-751, RM-3799).

Adopted: December 12, 1984.

Released: December 20, 1984.

By the Commission.

Introduction

1. The Commission has under consideration a *Notice of Proposed Rule Making (Notice)*¹ adopted on July 26, 1984, and the comments and reply comments filed in response thereto.² The *Notice* proposed relaxing certain restrictions in the way broadcast stations measure their operating powers. Specifically, the Commission proposed: (1) To allow the use of direct reading radio frequency (RF) power meters at AM stations, (2) to relax reporting procedures involving antenna system changes for AM stations, and (3) to permit more flexible calibration procedures for RF power meters used for FM and aural TV transmitters.

Background

2. Under present Rules, operating power may be measured by either "direct" or "indirect" methods, as described below:

(a) *Direct Method*—The direct method for AM stations requires that the antenna resistance be measured at the operating frequency, and that the antenna current be measured at the same physical point. Operating power (P) is calculated by multiplying the antenna resistance (R) by the square of the antenna current (I), i.e. $P = I^2 \times R$. The direct method, for FM and TV stations, requires the use of a transmission line meter that has been field calibrated to indicate output power by using an RF wattmeter of known accuracy.

(b) *Indirect Method*—The indirect method requires that an assumed transmitter efficiency factor (F) be applied to the product of the transmitter final plate voltage (E) and current (I); i.e. $P = E \times I \times F$. This method is the same for AM, FM, and TV stations.

3. Generally, AM stations must use the direct method to determine

operating powers.³ FM and aural TV stations may use either the direct or indirect method. However, most FM stations use the indirect method because it does not require calibration of the transmission line power meter with a wattmeter of known accuracy.

Direct Reading AM Power Meter

4. Directional Electronics (Directional) has filed a petition for Rule Making to permit AM stations to use a direct reading RF power meter. The instrument directly measures the operating power of AM stations, eliminating the need to calculate the power or to rely on the measured antenna resistance. A digital display on the instrument indicates operating power in kilowatts, derived from the sampled RF voltage (E), RF current (I), and phase angle (A), using the equation $P = E \times I \times \cos(A)$. Directional asserts that the accuracy of their instrument is $\pm 2\%$ of the actual power. Additionally, non-technical personnel can make accurate operating power determinations using this type of instrument, since no calculations are involved.

5. This type of instrument should be capable of providing reliable and accurate power measurements and can offer advantages over present methods. Our deregulatory goal is to foster flexibility in power measurement techniques and provide rules that will not hinder future advances in technology. Therefore, it appears appropriate to permit use of such power meters. Accordingly, we are adopting the Rule changes concerning this issue as proposed in the *Notice*.

Relaxed Reporting Procedures for AM Stations

6. The present requirement that AM stations obtain authorization from the Commission to use the direct method (product of antenna current squared times antenna resistance) for power determination after a change in the antenna resistance will be replaced by a notification procedure. After measurement of the antenna resistance, the station must still submit measurement data to the Commission as previously required, but commensurate with such notification, may immediately resume power determination using that direct method. Additionally, the sixty day limit on temporary operation using the indirect method of power

determination is being removed and the operator will simply be required to resume a direct method of measurement in a timely manner. A suitable direct reading AM power instrument may be used regardless of changes in antenna resistance and prior to measurement of the antenna resistance. Additionally, the station operator need only note in the station log the date of commencement and date of termination of power measurement techniques.

Relaxed Calibration Procedures for FM and TV power meters

7. The Rules currently permit the "indirect method" to be used in determining operating power, but this technique is not direct reading and requires calculations to find the operating power. However, once those calculations have been made, it seems reasonable to permit that power level to be used to calibrate a direct reading power meter. This action will: 1) provide a sufficiently accurate calibration of the power meter, in that the method should yield the same accuracy as the "indirect method"; 2) eliminate the need for calculations except during infrequent calibrations; and 3) not require expensive external calibration equipment. This permits an alternate power measurement technique in addition to the indirect method and is consistent with a recent Commission action permitting reduced aural TV transmitter power.⁴ Accordingly, we are adopting those changes as proposed in the *Notice* and incorporating language which continues to permit reduced aural TV transmitter power.

Measurement and Calibration Accuracy

8. The burden of accuracy of measurement and proper calibration of measuring instruments rests with the broadcaster in all cases. The broadcaster will be required to maintain the operating power as close as practical to that authorized by the Commission as set forth in Section 73.1560 of the Rules. Regardless of the calibration and measurement technique employed, it is the responsibility of the broadcaster to insure that the operating power never exceeds the absolute level of 105% of that authorized for AM and FM stations and 110% of that authorized for TV stations.

9. *Regulatory Flexibility Final Analysis*—I. Reason for action: The current Rules restrict broadcasters in the choice of methods for determining

¹ MM Docket No. 84-751, FCC 84-359, 49 FR 31731 (August 8, 1984).

² Comments were filed by: American Legal Foundation; Association of Federal Communications Consulting Engineers; du Treil-Rackley Consulting Engineers; John P Enagonio (KILL-FM); Robert A Jones. Reply comments were filed by: National Association of Broadcasters.

³ When the AM station's antenna system or antenna metering devices are being modified or repaired, the indirect method may be used. Upon completion of modifications or repairs, the antenna resistance must be remeasured and reported to the Commission for authority to resume measurement by the direct method.

⁴ Report and Order in MM Docket No. 83-117, FCC 84-165, 49 FR 22089 (May 25, 1984).

operating power at AM, FM, and TV stations.

II. *The objective:* The Commission's actions are designed to provide broadcast licensees more freedom in their choice of operating power measurement procedures.

III. *Legal basis:* Action is in accordance with Sections 303(g) and (r) of the Communications Act of 1934, as amended, which charges the Commission to encourage the most effective use of radio in the public interest.

IV. *Description, potential impact, and number of small entities affected:* The Rules changes should favorably affect all AM, FM, and TV broadcast licensees (approximately 10,000 total) by relaxing the power measurement Rules.

V. *Recording, recordkeeping, and other compliance requirements:* The Order contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

VI. *Federal Rules which overlap, duplicate, or conflict with this Rule:* None.

VII. *Any significant alternatives minimizing impact on small entities and consistent with the stated objective:* The Commission's alternative is to maintain status quo. This alternative would not accomplish the beneficial objectives sought in this Order.

Actions

10. The Secretary shall cause a copy of this Report and Order, including the Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.*)

11. Accordingly, it is ordered, pursuant to the authority contained in Sections 4(i), 303(g) and (r) of the Communications Act of 1934, as amended, that Part 73 of the Commission's Rules and Regulations are amended as set forth in the attached Appendix B, effective upon adoption pursuant to Section 5 U.S.C. s/s 553(d)(i).

12. Further information on this proceeding may be obtained by contacting Hank VanDeursen, Mass Media Bureau, (202) 632-9660.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix A

PART 73—[AMENDED]

Part 73 of the Federal Communications Commission's Rules and Regulations are amended as follows:

1. Section 73.45 is amended by revising paragraph (c) introductory text to read as follows:

§ 73.45 AM antenna systems.

(c) Should any changes be made or otherwise occur which would possibly alter the resistance of the antenna system, the licensee must commence the determination of the operating power by a method described in § 73.51(a)(1) or (d). (If the changes are due to the construction of FM or TV transmitting facilities, see §§ 73.315 and 73.685.)

Upon completion of any necessary repairs or adjustments, or upon completion of authorized construction or modifications, the licensee must make a new determination of the antenna resistance using the procedures described in § 73.54. Operating power should then be determined by a direct method as described in § 73.51.

Notification of the value of resistance of the antenna system must be filed with the FCC in Washington, D.C. as follows:

2. Section 73.51 is amended by revising paragraphs (a) and (d), to read as follows:

§ 73.51 Determining operating power.

(a) Except in those circumstances described in paragraph (d) of this section, the operating power shall be determined by the direct method. The direct method consists of either:

(1) using a suitable instrument for determining the antenna's input power directly from the RF voltage, RF current, and phase angle; or

(2) calculating the product of the licensed antenna or common point resistance at the operating frequency (see § 73.54), and the square of the indicated unmodulated antenna current at that frequency, measured at the point where the resistance has been determined.

(d) When it is not possible or appropriate to use the direct method of power determination due to technical reasons, the indirect method of determining operating power (see paragraphs (e) and (f) of this section) may be used on a temporary basis. A

notation must be made in the station log indicating the dates of commencement and termination of measurement using the indirect method of power determination.

3. Section 73.54 is amended by revising paragraph (3) introductory text to read as follows:

§ 73.54 Antenna resistance and reactance measurements.

(e) Notification to determine power by the direct method described in § 73.51(a)(2) shall specify the antenna or common point resistance, and shall include the following supporting information:

4. Section 73.57 is amended by revising paragraph (g) to read as follows:

§ 73.57 Remote reading antenna and common point ammeters.

(g) If a malfunction affects the remote reading indicators of the antenna or common point ammeter, the operating power may be determined by a method using alternative procedures as described in § 73.51.

5. Section 73.58 is amended by revising paragraph (b) and paragraph (e)(3) to read as follows:

§ 73.58 Indicating instruments.

(b) A thermocouple type ammeter or other device capable of providing an indication of radio frequency current, meeting the requirements of § 73.1215, shall be installed at the base of each antenna element.

(e) (3) If the defective instrument is the antenna current meter of a non-directional station which does not employ a remote antenna ammeter, or if the defective instrument is the common point meter of a station which employs a directional antenna and does not employ a remote common point meter, the operating power shall be determined by a method described in § 73.51(a)(1) or (d) during the entire time the station is operated without the antenna current meter or common point meter. However, if a remote meter is employed and the antenna current ammeter or common point meter becomes defective, the remote meter can be used to determine

operating power pending the return to service of the regular meter.

6. Section 73.142 is amended by revising paragraph (b)(1) to read as follows:

§ 73.142 Automatic transmission system facilities.

(b) * * *

(1) The control system must have devices to monitor and control the operating power by a device which measures power by the direct method as described in § 73.51(a). The indirect method of power determination may also be used on a temporary basis under the provisions of § 73.51 if the system has devices to monitor and control the operating power by that method.

7. Section 73.186 is amended by revising paragraph (a)(6) to read as follows:

§ 73.186 Establishment of effective field at one mile.

(a) * * *

(6) The antenna power of the station shall be maintained at the authorized level during all field measurements. The power determination will be made using the direct method as described in § 73.51(a) with instruments of acceptable accuracy specified in § 73.1215.

8. Section 73.267 is amended by revising paragraph (b), to read as follows:

§ 73.267 Determining operating power.

(b) Direct method. The direct method of power determination for an FM station uses the indications of a calibrated transmission line meter (responsive to relative voltage, current, or power) located at the RF output terminals of the transmitter. This meter must be calibrated whenever there is any indication that the calibration is inaccurate or whenever any component of the metering circuit is repaired or replaced. The calibration must cover, as a minimum, the range from 90% to 105% of authorized power. The meter calibration may be checked by measuring the power at the transmitter terminals while either:

- (1) operating the transmitter into the transmitting antenna, and determining actual operating power by the indirect method described in § 73.267(c); or
- (2) operating the transmitter into a load (of substantially zero reactance and a resistance equal to the transmission line characteristic impedance) and using an electrical device (within $\pm 5\%$ accuracy) or temperature and coolant flow indicator (within $\pm 4\%$ accuracy) to determine the power.

9. Section 73.663 is amended by revising paragraph (c), to read as follows:

§ 73.663 Determining operating power.

(c) Direct method, aural transmitter. The direct method of power determination for the aural transmitter uses the indications of a calibrated transmission line meter (responsive to relative voltage, current, or power) located at the RF output terminals of the

transmitter. This meter must be calibrated whenever there is any indication that the calibration is inaccurate or whenever any component of the metering circuit is repaired or replaced so that an indication of 100% aural operating power on the power meter scale represents an aural ERP of 22% of the authorized peak visual ERP. If the aural transmitter is not capable of operating at this power level: (1) The calibration must be made at the highest aural transmitter output power attainable with the meter indication adjusted to show the relative percentage of output power referenced to 100% as the maximum permissible aural ERP as 22% of the authorized peak visual ERP; and (2) that highest power level attainable shall be marked on the meter scale and not exceeded during operation. The meter calibration may be checked by measuring the power at the transmitter terminals while either:

- (1) operating the transmitter into the transmitting antenna, and determining actual operating power by the indirect method described in § 73.663(d); or
- (2) operating the transmitter into a load (of substantially zero reactance and a resistance equal to the transmission line characteristic impedance) and using an electrical device (within $\pm 5\%$ accuracy) or temperature and coolant flow indicator (within $\pm 4\%$ accuracy) to determine the power.

[FR Doc. 84-33307 Filed 12-21-84; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register

Vol. 49, No. 248

Monday, December 24, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 27 and 29

Review of Rotorcraft Certification Impact

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments.

SUMMARY: The FAA Rotorcraft Certification Directorate solicits comments from interested persons to increase the scope of the FAA program to review, and reduce where possible, the economic and administrative impact of rotorcraft certification regulations, Parts 27 and 29 of the Federal Aviation Regulations (FAR). While the FAA considers certification requirements necessary to fulfill the Congressionally-mandated air safety responsibility, there is also an obligation to assure that regulation and certification activities are conducted in the most economical and efficient manner.

DATES: Comments must be received by April 30, 1985.

ADDRESSES: Comments may be mailed to: Federal Aviation Administration, Aircraft Certification Division, Regulations Program Management, ASW-111, P.O. Box 1689, Fort Worth, Texas 76101, or delivered to: Federal Aviation Administration, Regulations Program Management, Bldg. 3, Room 237, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Mr. T. Plummer, Manager, Regulations Program Management, ASW-111, Aircraft Certification Division, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 877-2550 or FTS 734-2550.

SUPPLEMENTARY INFORMATION:

Comments Invited

Comments are specifically invited on the following questions:

1. How can the economic burden of rotorcraft certification be reduced while retaining at least the same level of safety?

2. What actions, such as research projects, should/could the FAA accomplish that could be used to reduce the economic impact of certification?

3. Are there streamlined methods the FAA could implement to accept new technology or knowledge that reduces the economic impact of certification?

4. Are there portions of FAR Parts 27 and 29 that are outdated, unnecessary, or otherwise inappropriate and that should be eliminated to reduce the economic impact of certification while maintaining the same level of safety?

5. What changes should be made in the type certification process to provide more expeditious, efficient, and economical certification while maintaining the same level of safety?

All comments submitted will be available, both before and after the closing date for comments, in the Regulations Program Management Office, Bldg. 3, Room 237, 4400 Blue Mound Road, Fort Worth, Texas, for examination by interested persons.

Commenters wishing the FAA to acknowledge receipt of their comments must submit a self-addressed, stamped postcard. The postcard will be date/time stamped and returned to the commenter.

Background

Certification requirements for rotorcraft have evolved since the certification of the first helicopter in the mid-1940's.

Advancing technologies resulted in changes to certification requirements but may not have resulted in removal of requirements based on outdated technology. Increased technical knowledge may permit more efficient testing or analysis, but this may be restricted by unchanged regulations.

FAR changes have been based on technical advances. Since the previously proposed changes of the Rotorcraft Regulatory Review Program consider the economic impact, the comments now requested should not address these proposals. Primarily, the FAA is seeking comments on the economy of those sections of Parts 27 and 29 that are not being changed as part of the Rotorcraft Regulatory Review Program.

In May 1983, the Rotorcraft Certification Directorate polled the worldwide rotorcraft community for their assessment of the five most important economic or safety issues that could be addressed through changes in the airworthiness requirements (Parts 27 and 29). The responses addressed technical aspects, such as damage tolerance and reliability. Even where significant economic impacts existed, these responses gave little attention to the long-term economic consequences of these technical improvements.

Therefore, the FAA is requesting the rotorcraft community to examine and comment on the certification requirements solely with respect to the economic and administrative impacts rather than the technical aspects.

Issued in Fort Worth, Texas, on December 7, 1984.

C.R. Melugin, Jr.,
Director, Southwest Region.

[FR Doc. 84-33293 Filed 12-21-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-AWA-3]

Proposed Alteration and Revocation of VOR Federal Airways

Correction

In FR Doc. 84-29866 beginning on page 45166 in the issue of Thursday, November 15, 1984, make the following corrections:

1. On page 45166, third column, in "V-159", last line, "NSL" should have read "MSL".

2. On page 45167, first column, in "V-539", second line, "163°M" should have read "163°T(162°M)".

BILLING CODE 1505-01-M

14 CFR Part 71

[Airspace Docket No. 84-ASW-53]

Proposed Designation of Transition Area: Dumas, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at Dumas, AR. The intended effect of the proposed

action is to provide controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Billy Free Municipal Airport. This action is necessary since there is a proposed VOR/DME SIAP to the Billy Free Municipal Airport using the Monticello Vortac. Coincident with this proposed action, the airport will be changed from visual flight rules (VFR) to instrument flight rules (IFR).

DATES: Comments must be received on or before February 7, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 84-ASW-53, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

The informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2463.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-ASW-53." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on

the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, P.O. Box 1689, Fort Worth, TX 76101. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Billy Free Municipal Airport. Section 71.181 of the Federal Aviation Regulations were republished in Handbook 7400.6 dated January 3, 1984.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Dumas, AR [New]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Billy Free municipal Airport (latitude 33°53'00" N., longitude 91°32'04" W.) and within 4.5 miles each side of the 026 degree radial of the Monticello Vortac extending from the 6.5-miles radius to 16 miles south of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Fort Worth, TX, on December 14, 1984.

F.E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84-33291 Filed 12-21-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 151

Proposed Customs Regulations Amendments Relating to Approval of Commercial Gaugers and Accreditation of Commercial Testing Laboratories

AGENCY: Customs Service, Treasury.

ACTION: Notice of extension of time for submission of comments.

SUMMARY: This document extends the time for comments from interested members of the public with respect to a proposal to amend the Customs Regulations to provide procedures for Customs approval of commercial gaugers (including public gaugers) who perform weighing, measuring, and/or gauging of certain commodities. The document also proposes a procedure for Customs accreditation of commercial testing laboratories. A notice inviting the public to comment on the proposal was published in the *Federal Register* on October 18, 1984 (49 FR 40882).

Comments were to have been received on or before December 17, 1984. Customs has been requested to extend the comment period because of the complexity of the issues involved. Inasmuch as the request has merit, additional time for comments is warranted before a final determination is made on the proposed change. Therefore, the comment period is being extended to January 16, 1985.

DATE: Comments must be received on or before January 16, 1985.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, Room 2426,

U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

All comments received in response to this notice will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between the hours of 9 a.m. to 4:30 p.m. on regular business days, at the Regulations Control Branch, Headquarters, U.S. Customs Service, 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Roger J. Crain or Carolyn E. Damon, Technical Service Division, Room 7113, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2446).

Dated: December 18, 1984.

John P. Simpson,

Director, Office of Regulations and Rulings,
[FR Doc. 84-33336 Filed 12-21-84; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD3 83-039]

Delaware Operation Regulations, Saugatuck River, CT

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of Metro-North Commuter Railroad and Connecticut Department of Transportation (DOT), the Coast Guard is considering a change to the regulations governing the Metro-North "SAUG" railroad and the State Route 136 bridges, respectively. These bridges cross the Saugatuck River at Saugatuck, Connecticut. Metro-North requests that their railroad bridge be allowed to remain closed during peak, commuter rail hours. Connecticut DOT requests that their Route 136 bridge be allowed to remain closed during peak vehicular, commuter hours and required notice of opening at all other times. These proposals are being made because of minimal requests to open the draws. This action should accommodate the needs of rail and vehicular traffic, relieve the bridge owners of the burden of having a person constantly available to open the draws, and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before February 7, 1985.

ADDRESSES: Comments should be mailed to Commander (oan-br), Third Coast Guard District, Bldg. 135A, Governors Island, NY 10004. The comments and other materials referenced in this notice will be available for inspection and copying at this address. Normal office hours are between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administration, Third Coast District (212) 668-7994.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or for any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Third Coast Guard District will evaluate all communications received and will determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

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

Discussion of Proposed Regulations

The Metro-North railroad bridge has a closed vertical clearance of 123 feet at Mean High Water (MHW) and is about 1.1 miles above the mouth of the Saugatuck River. The State Route 136 bridge, with a closed vertical clearance of 6 feet at MHW is about $\frac{3}{4}$ of a mile upstream of the railroad bridge. There is normally a seven foot tidal range at the two bridges so the clearances are seven feet greater at Mean Low Water. Most vessels transiting upstream of the railroad bridge are recreational with most enroute to or coming from one of the two recreational boat marinas located between the railroad and highway bridges. These two marinas are relatively small with few vessels requiring openings of the railroad draw. One marina berths mainly small power vessels with all presently able to pass under the closed railroad bridge at all tidal conditions. The other marina berths both power and sail vessels including a commercial fishing vessel, a

charter boat, a pile-driving vessel and about five sail vessels which require opening of the railroad bridge. The fishing vessel is the only vessel operating year-round.

Metro-North because of relatively few openings of its railroad draw and owing to extensive commuter rail traffic, has requested that the regulations be changed to provide that the draw not be required to open during weekdays (exclusive of holidays) from 7 a.m. to 8:40 a.m. and from 5:30 p.m. to 7:40 p.m. and provision be made for a ten minute delay in a bridge opening if a train scheduled to cross the bridge without stopping is in motion toward the bridge. The only known marina vessels which would be affected by the proposed regulations are the fishing and charter vessels. Both vessels would be required to alter their existing schedules to avoid the requested commuter closure periods.

Eleven morning and fifteen evening commuter trains cross the bridge during the requested morning and evening rush hour closure period. During the proposed morning closure period, intervals of from 4 to 16 minutes exist between scheduled trains and intervals of from 2 to 18 minutes exist in the evening. The railroad bridge presently opens on signal from June 1 through September 30 from 5 a.m. until 9 p.m. but has no commuter closure period. From October 1 through May 31 the bridge opens on signal from 8 a.m. through 4 p.m. with no closure period. From October 1 through May 31, eight hours' notice is required from 5 a.m.-8 a.m. and from 4 p.m.-9 p.m. The draw need not open at all other times.

There presently are no active marine facilities above the Route 136 highway bridge and few vessels go upstream of the bridge. Most openings of the highway bridge were historically for vessels bound for or coming from a recreational marina upstream of the Route 136 Bridge. This marina facility accommodated many sailboats, and was equipped to lift vessels from the waterway onto the nearby shore, mainly for winter storage. The marina also was equipped to lower vessels from shore into the waterway. However, the marina ceased operations in 1982, the storage space was converted to an office building, and the hoisting and lowering equipment was removed. After the closing of the marina, bridge openings decreased drastically. Bridge opening logs show that openings of the Route 136 Bridge went from an average of 103 per year (from 1980-82), down to 5 in 1983.

Vehicular traffic is extremely congested on Route 136 during commuter rush hours. Westbound

vehicles normally back up onto the bridge because they encounter a traffic signal at a T-shaped intersection about 200 feet past the bridge. Vehicles reaching this intersection must turn either to the left or right. There also is a commercial shopping area just west of the bridge. Vehicles going to and leaving the various stores add to congestion in the bridge vicinity.

Because of vehicular congestion during rush hours and reductions in openings of the Route 136 Bridge, Connecticut DOT requested that: (1) The draw not be required to open during weekdays (exclusive of holidays) from 7 a.m. to 8:30 a.m. and from 5:30 p.m. to 7:30 p.m., (2) two hours' notice be required for openings from April 15 through October 31, and (3) eight hours' notice be required for openings from November 1 through April 14 from 8:30 a.m. to 3 p.m. with 24 hours' notice from 3 p.m. to 7 a.m. The draw presently is required to open on signal at all times.

Provision for both draws to open as expeditiously as possible for passage of a public vessel of the United States and for vessels in distress is included in this proposal by the Coast Guard. This provision, while not requested by the bridge owners, is deemed warranted in the interest of navigational safety.

Economic Assessment and Certification

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

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. Forty-one morning and fourteen evening openings of the railroad draw were made during commuter closure hours in 1983. Less than half of these openings were for commercial vessels. The railroad commuter closure hours would conflict minimally with existing schedules of the commercial fishing and chartering vessels; however, only minor revisions to such schedules should be required. Recreational vessels requiring over 13 feet vertical clearance at Mean High Water may be inconvenienced since they will not be able to get bridge openings at the railroad bridge during commuter hours. Very little if any impact should accrue to vessels going upstream of the Route 136 Bridge. Only small recreational vessels use this stretch of the waterway and most, if not all, can transit under the closed draw. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it

will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations by revising the existing § 117.221 to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.221 Saugatuck River.

(a) The draw of each bridge shall open at all times as soon as possible for passage of a public vessel of the United States, vessel in tow or for a vessel in distress.

(b) The draw of the Metro North "Saug" Bridge, mile 1.1 at Saugatuck shall operate as follows:

(1) Year-round need not open:

(i) Weekdays from 7 a.m. to 8:40 a.m. and 5:30 p.m. to 7:40 p.m. except on federal holidays;

(ii) From 9 p.m. to 5 a.m.

(2) From October 1–May 31, open on signal:

(i) Weekdays except Federal holidays 8:40 a.m.–4 p.m.;

(ii) Weekends and Federal holidays 7 a.m.–4 p.m.;

(iii) From 5 a.m.–7 a.m., 4 p.m.–5:30 p.m. and 7:40 p.m. to 9 p.m. if at least eight hours' notice is given.

(3) From June 1–Sept. 30, open on signal 5 a.m.–9 p.m., except as provided in paragraph (b)(1)(i) of this section.

(4) A delay in opening the draw not to exceed 10 minutes may occur when a train scheduled to cross the bridge without stopping has entered the drawbridge block.

(c) The draw of the Rt. 136 Bridge, mile 1.3 at Saugatuck shall operate as follows:

(1) Year-round, need not open weekdays, except federal holidays, from 7 a.m. to 8:30 a.m. and 5:30 p.m. to 7:30 p.m.

(2) From April 15–Oct. 31, open on signal if at least two hours' notice is given, except as provided in paragraph (c)(1) of this section.

(3) From November 1–April 14, open on signal:

(i) From 8:30 a.m. to 3 p.m. if at least 8 hours' notice is given;

(ii) From 3 p.m. to 8:30 a.m. if at least 24 hours' notice is given, except as provided in paragraph (c)(1) of this section.

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

Dated: December 12, 1984.

P.A. Yost,

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

[FR Doc. 84-33373 Filed 12-21-84; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD7 84-01]

Drawbridge Operation Regulations: Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Supplementary notice of proposed rulemaking.

SUMMARY: At the request of the Florida Department of Transportation, the Coast Guard is considering a change to the regulations governing the Merrill Barber Bridge, Atlantic Intracoastal Waterway, Mile 951.9, State Road 80, by permitting the number of openings to be limited during certain periods. This proposal is being made because periods of peak vehicular traffic have increased. This action should accommodate the needs of vehicular traffic and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before February 7, 1984.

ADDRESSES: Comments should be mailed to Commander (OAN), Seventh Coast Guard District, 51 SW. 1st Avenue, Miami, FL 33130. The comments and other materials referenced in this notice will be available for inspection and copying at 51 SW. 1st Avenue, Room 816, Miami, Florida. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, Bridge Administration Specialist, telephone (305) 350-4108.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this supplementary proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give the reasons for concurrence with or any recommended change in the proposal. Person desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine

a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Mr. Walter Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Proposed Regulations

On 13 February 1984 the Coast Guard published a Notice of Proposed Rulemaking (original proposal) in the *Federal Register* (30 FR 5356) proposing a revision to drawbridge regulation § 117.438a controlling the operation of the Merrill Barber Bridge. The Commander, Seventh Coast Guard District, issued Public Notice 6-84 dated 6 March 1984 and published the proposal in the Local Notice to Mariners 10-84. The existing regulations enacted 11 June 1973, provide that from 7:45 a.m. to 9:00 p.m., 12:00 noon to 1:15 p.m., and 4:00 p.m. to 5:15 p.m., Monday through Friday, except holidays, the draw need not open for passage of vessels.

However, the draw shall open at 8:30 a.m., 12:30 p.m. and 4:30 p.m. if any vessels are waiting to pass. The proposed amendment to the regulation provided that between 1 December and 30 April from 7:00 a.m. until 6:00 p.m. Monday through Friday except national holidays the draw need only open on the hour, quarter-hour, half-hour, and three-quarter hour if any vessels are waiting to pass. In response to the Public Notice three comments were received from state, county and city governments requesting further restrictions from 1 December to 30 April by maintaining the three closed periods: 7:45 a.m. to 9:00 a.m., 12 noon to 1:15 and 4:00 p.m. to 5:15 p.m. year round. One private individual opposed the change to the regulation as presenting a hardship for the boaters. As a result of the comments received the Coast Guard is issuing a second Notice of Proposed Rulemaking and is now soliciting comments on the revised proposal. At the time of the original Notice of Proposed Rulemaking the regulations for the Merrill Barber Bridge were designated as Section 117.438a. Subsequently, the Coast Guard revised 33 CFR Part 117 for drawbridge regulations effective 24 May 1984. In this revision the Merrill Barber regulations have been redesignated as § 117.261(i)(1). Also, the requirement for the posting of signs has been deleted from the individual regulation and is now included in § 117.55 Subpart A-General Requirements.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under executive order 12291 on Federal Regulation and non-significant under the 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. We conclude this because the regulation will exempt tugs with tows and regularly scheduled cruise vessels. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by revising § 117.261(i)(1) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Miami.

* * * * *

(i)(1) The draw of the SR-60 bridge, Mile 951.9, at Vero Beach, shall open on signal except as provided for in paragraphs (i)(1)(i) and (i)(1)(ii) of this section.

(i) From 7:45 a.m. to 9:00 a.m.; 12:00 noon to 1:15 p.m.; and 4:00 p.m. to 5:15 p.m.; Monday through Friday, except national holidays, the draw need only open at 8:30 a.m., 12:30 p.m. and 4:30 p.m. if any vessels are waiting to pass.

(ii) From 7:00 a.m. to 6:00 p.m., 1 December through 30 April, Monday through Friday, except national holidays, and except as provided for in paragraph (i)(1)(i) of this section the draw need only open on the hour, quarter-hour, half-hour and three-quarter hour if any vessels are waiting to pass.

(iii) Public vessels of the United States, state or local government vessels used for public service, tugs with tows, regularly scheduled cruise vessels and vessels in distress shall be passed at any time.

* * * * *

(33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: December 13, 1984.

A.R. Larzelere,

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

[FR Doc. 84-33372 Filed 12-21-84; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[08-84-12]

Drawbridge Operation Regulations; Lafourche Bayou and Lockport Company Canal, LA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development (LDOTD), the Coast Guard is considering a change to the regulations governing the operation of the following three drawbridges:

(1) The lift span bridge over Lockport Company Canal, mile 0.4, on LA1 at Lockport, Lafourche Parish, Louisiana.

(2) The swing span bridge over Lafourche Bayou, mile 50.8, on LA655 at Lockport, Lafourche Parish, Louisiana.

(3) The pontoon bridge over Lafourche Bayou, mile 54.2, on LA364 at Mathews, Lafourche Parish, Louisiana.

This change would require that the draws of the first two bridges, at Lockport, open on at least four hours advance notice from 6 p.m. to 10 a.m. and on signal from 10 a.m. to 6 p.m.; and that the draw of the third bridge, at Mathews, open on at least four hours advance notice at all times. Presently, all three draws are required to open on signal at all times.

This proposal is being made because of infrequent requests to open the draws during the proposed advance notice periods. This action should relieve the bridge owner of the burden of having persons constantly available at the bridges to open the draws during the proposed advance notice periods, while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before February 7, 1985.

ADDRESS: Comments should be mailed to Commander (obr), Eighth Coast Guard District, 500 Camp Street, New Orleans, Louisiana 70130. The comments and other materials referenced in this notice will be available for inspection and copying in Room 1115 at this address. Normal office hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT:
Perry Haynes, Chief, Bridge
Administration Branch, at the address
given above, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Perry Haynes, project officer, and Steve Crawford, project attorney.

Discussion of Proposed Regulations

In the case of the two bridges at Lockport, the closed position vertical clearance of the Lockport Company Canal bridge is 5.0 feet above high water and 8.0 feet above low water, while that of the Lafourche Bayou bridge is 6.0 feet and 9.0 feet for the same water levels. The clearance of the Lafourche Bayou bridge at Mathews is zero, although there is a small boat opening near one end of the bridge. Waterway traffic mainly consists of commercial vessels through the two Lockport bridges and of small fishing/shrimping boats and recreational craft through the Mathews bridge. Data submitted by the LDOTD show that this traffic is infrequent during the proposed four hours advance notice periods for the three bridges, as reviewed below:

(1) *Lockport Company Canal Bridge (Lockport)*. The proposed advance notice period is from 6 p.m. to 10 a.m. During this period in 1982, there were 305 bridge openings. During this same period in 1983, there were 279 openings—an average of 23.3 openings per month or an average of three openings every four days.

(2) *Lafourche Bayou Bridge (Lockport)*. The proposed advance notice period is from 6 p.m. to 10 a.m. During this period in 1982, there were 266 bridge openings. During this same period in 1983, there were 235 openings—an average of 19.6 openings

per month or an average of two openings every three days.

(3) *Lafourche Bayou Bridge (Mathews)*. The proposed advance notice period is around the clock. In 1980, 81 and 82, there were 255, 238 and 304 bridge openings, respectively. In 1983, there were 404 openings—an average of 33.7 openings per month or an average of about one opening every day. By contrast, the fewer 1982 openings, a more representative year, averaged four openings every five days. The 1983 increase was due to the frequent shuttling of some small fishing/shrimping craft during March, April and May, considerably exceeding the opening norm for these months.

Considering the few openings involved for each bridge, the Coast Guard feels that a four hours advance notice period can be adopted from 6 p.m. to 10 a.m. for the two bridges at Lockport and around the clock for the bridge at Mathews. The two bridges at Lockport would continue to open on signal between 10 a.m. and 6 p.m., while the bridge at Mathews would open on four hours advance notice, 24 hours per day. This arrangement will allow relief to the bridge owner, while still reasonably providing for the needs of navigation.

The advance notice for opening the draws would be given by placing a collect call during normal working hours to the LDOTD Office at Houma (504) 851-0900 or at any time to the District Office at Lafayette (318) 233-7404. From afloat, this contact may be made by radiotelephone through a public coast station.

The LDOTD recognizes that there may be an unusual occasion, during the advance notice periods, when there may be a need to open the bridges on less than four hours notice for a bona fide emergency or to operate the bridges on demand for an isolated but temporary surge in waterway traffic, and has committed to doing so if such an event should occur.

Economic Assessment and Certification

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

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that few vessels pass through the bridges during the proposed advance notice periods. As evidenced by the 1983 bridge opening

statistics, both of the Lockport bridges showed a decline from 1982 and averaged well below one per day, while the Mathews bridge averaged about one per day, in experiencing a temporary surge over the three prior years which averaged five openings every seven days. These vessels can reasonably give four hours notice for a bridge opening by placing a collect call to the bridge owner at any time from ashore or afloat. Mariners requiring the bridge openings are mainly repeat users and scheduling their arrival at the bridges at the appointed time should involve little or no additional expense to them. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by renumbering the existing § 117.465 (a) through (c) as § 117.465 (c) through (e), and adding a new § 117.465 (a) and (b); and by adding a new § 117.476, to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.465 Lafourche Bayou.

(a) The draw of the S655 bridge, mile 50.8 at Lockport, shall open on signal; except that, from 6 p.m. to 10 a.m. the draw shall open on signal if at least four hours notice is given.

(b) The draw of the S364 bridge, mile 54.2 at Mathews, shall open on signal if at least four hours notice is given.

* * *

§ 117.476 Lockport Company Canal.

The draw of the S1 bridge, mile 0.4 at Lockport, shall open on signal; except that, from 6 p.m. to 10 a.m. the draw 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: December 13, 1984.

W.H. Stewart,
Rear Admiral, U.S. Coast Guard.

[FR Doc. 84-33371 Filed 12-21-84; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION**38 CFR Part 21****Veterans Education; Eligibility****AGENCY:** Veterans Administration.**ACTION:** Proposed regulations.

SUMMARY: These regulations implement those provisions of the Veterans' Compensation and Program Improvements Amendments of 1984 which affect people eligible to receive benefits under the dependents' educational assistance program or the GI Bill. The regulations deal with situations when someone is eligible for educational assistance under more than one of the programs administered by the VA (Veterans' Administration). This proposal will acquaint the public with the way in which the VA intends to implement the new provisions of law.

DATES: Comments must be received on or before January 24, 1985. In keeping with the Veterans' Compensation and Program Improvements Amendments of 1984, it is proposed to make the regulations effective March 2, 1984.

ADDRESSES: Send written comments to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at this address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until February 4, 1985. Anyone visiting Central Office in Washington, DC for the purpose of inspecting any of these comments will be received by the Veterans Administration Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202-389-2092).

SUPPLEMENTARY INFORMATION: Various regulations in the 38 CFR 21.1000, 21.3000 and 21.4000 series are amended to state that some veterans who are eligible for benefits under the GI Bill may waive those benefits and elect to receive benefits under the Post-Vietnam Era Veterans Educational Assistance Program (VEAP). Other regulations are amended to show that a veteran, who is eligible under more than one of the

various educational programs available to veterans and their dependents, may not receive concurrent benefits under more than one provision of law for the same program of education.

Upon final publication the VA proposes to make these regulations retroactively effective March 2, 1984. Retroactive effect is justified for the following reasons. Many of these regulations are liberalizing since they relieve several restrictions. These regulations are interpretive rules which construe the meaning of some of the provisions of Pub. L. 98-223.

Moreover, the VA finds that good cause exists for proposing that these regulations, like the sections of the statute they implement, shall be made retroactively effective on March 2, 1984. To achieve the maximum benefit of this legislation for the affected individuals it is necessary to implement these provisions of law as soon as possible. A delayed effective date for these regulations would be contrary to statutory design; would complicate administration of these provisions of law; and might result in denial of a benefit to a veteran who is entitled by law to it.

The VA has determined that these proposed regulations are not major rules as that term is defined by Executive Order 12291, entitled "Federal Regulation." The proposal will not cause a major increase in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that the proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these proposed regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because these changes affect only individual benefit recipients. Furthermore, any impact will be the result of the underlying law. It will not result from the regulations themselves.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations are 64.111 and 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: November 29, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration is proposing to amend 38 CFR Part 21 to read as set forth below:

1. Section 21.1022 is revised as follows:

§ 21.1022 Nonduplication—programs administered by the Veterans Administration.

(a) *Chapters 32 and 34.* A person who is eligible for educational assistance under chapter 34 is not eligible for educational assistance under chapter 32. Certain veterans who are eligible for educational assistance under chapter 34 may waive that entitlement in order to receive educational assistance under chapter 32. See § 21.1040(f). (38 U.S.C. 1602(1); Pub. L. 98-223, 98 Stat. 37)

(b) *Chapter 34 and other programs administered by the Veterans Administration.* If a veteran is eligible for educational assistance under chapter 34 and is also eligible for assistance under any of the provisions of law listed in this paragraph, he or she must elect which benefit he or she will receive for each program of education the veteran wishes to pursue. These provisions of law are:

- (1) 38 U.S.C. ch. 31,
- (2) 38 U.S.C. ch. 35,
- (3) 10 U.S.C. ch. 107,
- (4) Section 903 of the Department of Defense Authorization Act, 1981, or
- (5) The Hostage Relief Act of 1980. (38 U.S.C. 1781; Pub. L. 98-223, 98 Stat. 37)

2. In § 21.1040, paragraphs (a)(1), (b) and (e) are revised and paragraph (f) is added to read as follows. The heading of paragraph (a) is included for the convenience of the public.

§ 21.1040 Basic eligibility.

* * * * *

(a) *Service.* * * *
(1) Served on active duty (including active duty for training that qualifies as active duty under § 21.1021(b)) for a continuous period of 181 days or more, any part of which occurred after January 31, 1955, and before January 1, 1977. (38

U.S.C. 1602(1), 1652; Pub. L. 98-223, 98 Stat. 37)

(b) *Periods excluded.* In computing the 181 days service, there will be excluded any period during which he or she:

(1) Was assigned full time by the service department to a civilian school for a course of education which was substantially the same as established courses offered to civilians.

(2) Served as a cadet or midshipman at one of the service academies, or

(3) Is not entitled to credit for service for the periods of time specified in § 3.15 of this chapter. (38 U.S.C. 1602(1), 1652; Pub. L. 98-223, 98 Stat. 37)

(e) *Persons on active duty.* Educational assistance may be afforded a person while on active duty if he or she:

(1) Has not waived eligibility through election to receive educational assistance under 38 U.S.C. ch. 32 (as provided in paragraph (f) of this section), and

(2) Meets the requirements applicable to a discharged veteran under paragraphs (a) and (b) of this section, and, if the serviceperson has had a previous period of active duty upon which his or her eligibility is based, meets the requirements applicable to a discharged veteran under paragraph (d) of this section. (38 U.S.C. 1602(1), 1652; Pub. L. 98-223, 98 Stat. 37)

(f) *Waiver of eligibility through election to receive educational assistance under 38 U.S.C. ch. 32.* (1) A veteran who is eligible for educational assistance under 38 U.S.C. ch. 34 may waive that eligibility through making an election to receive educational assistance under 38 U.S.C. ch. 32. The veteran can make that election only if he or she—

(i) Served a period of active duty for training for at least 181 consecutive days at least 1 day of which was before January 1, 1977, and

(ii) Began the qualifying period of active duty of 1 consecutive year or more after December 31, 1976.

(2) If the veteran makes an election and negotiates a check for educational assistance under 38 U.S.C. ch. 32, the veteran's election is irrevocable. He or she is no longer eligible for educational assistance under 38 U.S.C. ch. 34 (38 U.S.C. 1602(1), 1652; Pub. L. 98-223, 98 Stat. 37)

3. Section 21.3022 is revised as follows:

§ 21.3022 Nonduplication—programs administered by the Veterans Administration.

A person who is eligible for educational assistance under 38 U.S.C. ch. 35 and is also eligible for assistance under any of the provisions of law listed in this section, must elect which benefit he or she will receive for each program of education that person will pursue. The election is subject to the conditions specified in § 21.4022. The provisions of law are:

- (a) 38 U.S.C. ch. 31.
- (b) 38 U.S.C. ch. 32.
- (c) 38 U.S.C. ch. 34.
- (d) 10 U.S.C. ch. 107.
- (e) Section 903 of the Department of Defense Authorization Act, 1981, or
- (f) The Hostage Relief Act of 1980. (38 U.S.C. 1781; Pub. L. 98-223, 98 Stat. 37)

§ 21.3023 [Amended]

4. Section 21.3023 is amended by removing the words "wife, husband, widow or widower" and inserting the words "spouse or surviving spouse" in the heading and the text of paragraph (d).

§ 21.3024 [Amended]

5. Section 21.3024 is amended as follows:

A. By removing the words "child, wife, husband, widow or widower" and inserting the words "child, spouse or surviving spouse" in the heading of paragraphs (a)(1) and (b)(1).

B. By removing the words "veteran, wife, husband and child—widow, widower and child" and inserting the words "veteran, spouse and child—surviving spouse and child" in the heading of paragraphs (a)(2) and (b)(2).

C. By removing the words "widow or widower" and inserting the words "or surviving spouse" in the text of paragraphs (a)(2) and (b)(2).

D. By removing the words "widow, or widower" and inserting the words "surviving spouse" in the text of paragraph (a)(3).

6. In § 21.4020, paragraph (a)(4) is revised and paragraph (a)(5), (6) and (7) is added as follows:

§ 21.4020 Two or more programs.

- (a) * * *
- (4) 38 U.S.C. chs. 32, 34, 35 and 36 and the former chapter 33;
- (5) 10 U.S.C. ch. 107;
- (6) Section 903 of the Department of Defense Authorization Act, 1981, and
- (7) The Hostage Relief Act of 1980. (38 U.S.C. 1795(a); Pub. L. 98-223, 98 Stat. 37)

6. In § 21.4022, the heading is changed and paragraph (a) is revised as follows:

§ 21.4022 Nonduplication—programs administered by the Veterans Administration.

(a) *Election.* A veteran or eligible person who is eligible for education or training under more than one of the provisions of law listed in this paragraph based on his or her own service or based on the service of another person must elect which benefit he or she will receive for each program of education he or she wishes to pursue. The person may reelect at any time. The provisions of law are:

- (1) 38 U.S.C. ch. 31,
- (2) 38 U.S.C. ch. 32,
- (3) 38 U.S.C. ch. 34,
- (4) 38 U.S.C. ch. 35,
- (5) 38 U.S.C. ch. 107,
- (6) Section 903 of the Department of Defense Authorization Act, 1981, or
- (7) The Hostage Relief Act of 1980. (38 U.S.C. 1781; Pub. L. 98-223, 98 Stat. 37)

[FR Doc. 84-33346 Filed 12-21-84; 8:45 am]

BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 111

Merchandise Return Service

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This document proposes changes to the Merchandise Return Service, effective June 30, 1985. These changes are intended to make the service more attractive to Merchandise Return permit holders, and to simplify mailing by the recipient, streamline postage payment procedures, and extend the control of the permit application to the Management Sectional Center (MSC) level. These changes would:

1. Replace the current dual label system with a one-part label eliminating the confusion by permit holders, the designated customers, and postal employees.

2. Replace the dual mailing procedures and allow designated customers to deposit merchandise return mail according to the current method used for the one-part label.

3. Replace the permit application, form 3625, *Merchandise Return Permit Application*, with one that requires service approval by the MSC manager while the postmaster would continue to issue the permit.

DATE: Comments must be received on or before January 23, 1985.

ADDRESS: Comments may be mailed to the Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, DC 20260-5371, or delivered to Room 8430 at the above address between 8:00 a.m. and 4:00 p.m. Written comments will be available for public inspection and copying during the above hours in Room 8430.

FOR FURTHER INFORMATION CONTACT: F.E. Gardner, (202) 245-4565.

SUPPLEMENTARY INFORMATION:

Merchandise Return is a system under which a permit holder provides customers with mailing labels which enable them to send parcels back without prepayment of postage. When the parcels are received at the delivery post office, postage and fees are deducted from the permit holder's advance deposit account.

Merchandise return, which was initially considered in 1973, emerged in essentially its present form in 1978 as a one-part label system. Under this system the accepting clerk would compute the applicable postage and fees, enter this information on the label, and place the parcel with the label affixed in the parcel processing stream. At the delivery office, the parcel would be sent to the postage due unit and postage and fees would be charged against the permit holder's advance deposit account before delivery. During 1978, the one-part label system was changed to a two-part system. Under this system, one part of the label, showing the postage to be charged, is detached and returned to the postage due unit as a postcard. The parcel with the other part of the label affixed is delivered directly to the permit holder.

In January, 1980, all parties to a proceeding before the Postal Rate Commission signed a stipulation which reintroduced the one-part label system as optional for nonzone-rated mail along with the two-part label system as mandatory for zone-rated matter and optional for nonzone-rated articles. Merchandise Return was adopted in its present form as a permanent service in May, 1980.

The present system is not working satisfactorily. Problems being experienced are:

a. Parcels are being delivered with both parts of the two-part label attached, resulting in postage due not being charged against the permit holder's advance deposit account.

b. The postage due part of the two-part label is arriving at the postage due unit without having been completed at the office of acceptance, resulting in the unit not knowing what to charge against

the permit holder's advance deposit account.

c. The postage due part of the two-part label, sent by First-Class Mail, is arriving ahead of the parcels, resulting in shippers not being able to reconcile charges with parcels returned.

Consequently, we propose to terminate the two-part label option.

To implement the new service the Postal Service proposes to adopt regulations similar to the regulations governing the present one-part label system. The Merchandise Return Permit Application, Form 3625, would be revised to provide for approval by the MSC manager and to identify the classes of mail with which the service will be used. Sample copies of labels and instructions would have to be approved before use.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations, 39 CFR 111.1.

List of Subjects in 39 CFR Part 111
Postal Service.

PART 111—[AMENDED]

PART 919—MERCHANDISE RETURN

919.9 Description.

.11 General. Merchandise Return Service allows authorized permit holders to pay the postage and fees on First-Class (Priority), third-class, and fourth-class mail to be returned by their designated customers.

.12 Activation. The service is activated by the use of labels which are provided by permit holders to those designated customers they authorized to use the service.

.13 Merchandise Return Label. The label used for this service must contain: The delivery address of the postage due unit at the post office where the permit is held; the address of the permit holder; and the return address of the designated customer. It must also identify the class of mail (see 919.4).

.14 Label Instructions. The permit holder must provide written instructions advising the designated customers how to use the label and how to mail the parcel.

.15 Distribution. Merchandise Return labels may be distributed by permit holders for return to the postage due unit at a post office where a merchandise return permit is held. Merchandise Return Service may be

established at post offices in the United States, its territories and possessions, and at military post offices overseas. Service is not available for any foreign country.

.16 Acceptance. Designated customers may mail parcels using merchandise return labels at any post office or place locally designated by the postmaster for the receipt of mail.

919.2 Permits.

.21 General. A merchandise return permit is required at every post office where parcels mailed under the service will be returned.

.22 Application. A Form 3625, *Merchandise Return Permit Application* (see Exhibit 919.2), must be submitted at each post office where the mail will be returned. Permit holders must furnish copies of their labels and instructions for approval with the application and before changes are made.

.23 Processing Application. Upon receipt of the application and the annual permit fee, the postmaster will complete the indicated sections and forward it to the MSC manager for approval. Upon approval by the MSC manager, the application must be returned to the postmaster for issuance of the permit. The postmaster will complete and give the customer its part of Form 3625. The permit is valid for one calendar year ending December 31.

.231 Filing Forms. Post offices file Form 3625 by permit holder in alphabetical order.

.232 Annual Permit Renewals. The permit holder must renew the permit by sending the annual fee to the post office issuing the permit by December 31.

.233 Nonrenewed Permits. When records indicate a permit was not renewed, the permit holder will be informed in writing by certified mail with a return receipt that all merchandise return mail will be held for ten days and then returned to the 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. Merchandise return mail will be returned to the sender.

b. Merchandise return mail that does not contain the sender's return address will be forwarded to the nearest dead parcel branch for proper handling with the endorsement "Permit Cancelled."

.24 Cancellation of Permit. A permit may be cancelled by the postmaster, with the approval of the MSC manager, for any violation of postal regulations, including:

.241 Refusal to Pay. Refusal to accept and pay the required charges for merchandise return offered for delivery.

.242 Insufficient Funds. Failure to maintain sufficient funds in the advance deposit account to cover postage and fees chargeable on return parcels.

.243 Nonconforming Labels. Distributing merchandise return labels which do not conform to Postal Service specification.

a. The permit holder will be notified in writing by certified mail of specific errors when merchandise return formats do not meet current postal requirements. He will be allowed ten days to respond. The permit holder is responsible for correcting merchandise return formats and ensuring that future formats meet specifications.

b. To obtain a new permit after a merchandise return permit has been revoked for failure to follow merchandise return format requirements, a new application (Form 3625) must be completed, a new merchandise return permit fee must be paid, and two samples of all merchandise return formats must be submitted annually to the appropriate post office for approval.

.244 Receipt of Parcels After Cancellation. When a permit is cancelled, parcels received after the cancellation will be treated the same as in 919.233 a and b.

919.3 Postage and Fees.

.31 Annual Fee. An annual fee of \$40 will be charged for each calendar year or part thereof for each permit issued.

.32 Transaction Fee. The fee for each item returned is 20¢ per parcel in addition to the postage and insurance fees.

Note.—The Postal Rate Commission has approved a 30¢ fee for Merchandise Return Service.

.33 Postage Payment.

.311 Applicable Rate. The applicable postage for single-piece First-Class (Priority), third-class, or fourth-class postage rate will be charged on each piece returned under the Merchandise Return Service.

.332 Advance Deposit Account. Postage and fees must be paid through a postage due advance deposit account. Parcels will be delivered under this service only when sufficient funds are in advance deposit account to pay applicable postage and fees. Permit holders may use the same advance deposit for this service as they use for other postage due mail (see 146.34).

919.4 Format.

.42 Required Format Elements.

.421 Preprinted Endorsement.

d. The following information must be shown in capital letters above the merchandise return legend (see Exhibit 919.4):

DELIVERY POST OFFICE
COMPUTE POSTAGE DUE
(SEE 919 DOMESTIC MAIL MANUAL)

ADD:

POSTAGE _____
MERCHANDISE RETURN

FEE _____
INSURANCE FEE, IF

ANY _____
TOTAL POSTAGE

DUE \$ _____

.422 Required Markings. Horizontal bars as prescribed in 917.52b(1) must be placed on labels. A Facing Identification Mark (FIM) as prescribed in 917.52b(2) is not required on this label.

.43 Addressing of Merchandise Return Labels. Space in the upper left corner of the label must contain the return address of the person who sends the matter to the permit holder. The merchandise return label must bear the address of the postage due unit of the post office where the permit is held. The address must be arranged in the manner prescribed in 122.2. A margin of at least one inch is required between the left edge of the piece and the address. The address must contain the following information:

First line in capital letters at least $\frac{1}{4}$ of an inch high—Postage Due Unit
Second line—U.S. Postal Service
Third line—(Post Office, State and ZIP Code of the post office)

.44 Class of Mail Endorsement.

.441 If no endorsement of class of mail appears the parcel will be accepted at the applicable single piece third-class or fourth-class parcel post rate according to weight.

.442 Parcels will be returned as First-Class Mail if the permit holder endorses the label "First-Class". The endorsements must be in letters at least $\frac{1}{4}$ of an inch high and must be printed or rubber stamped to the left of the merchandise return legend and above the address.

Note.—First-Class Mail cannot be insured unless the contents contain third- or fourth-class matter and are so labeled.

.443 Parcels qualifying for special rate fourth-class or library rate will be returned at those rates provided the appropriate identifying endorsement prescribed in 724.1, 725.1 or 767.1 is preprinted or rubber stamped in letters at least $\frac{1}{4}$ of an inch high to the left of the "Merchandise Return Label" legend and above the address on the label.

.45 Illustration of Merchandise Return Label. Permit holder's requirements and capabilities for labels may vary. Exhibit 919.4 is a suggested example which would meet all address and endorsement requirements.

919.5 Ancillary Services.

.51 Insured Mail Service

.511 Only the permit holder may obtain insured mail service in conjunction with merchandise return service. The recipient may not obtain insured mail service. To request insured mail service, the permit holder must place the following endorsement and information on the merchandise return label to be attached or affixed to the parcel:

Insurance Desired by Shipper for
\$ _____ (value)

The endorsement must be printed or rubber stamped to the left and above the *Merchandise Return Label* legend and below the return address. The permit holder must indicate the specific dollar amount of insurance applicable to the parcel.

Note.—First-Class (Priority) Mail cannot be insured unless the parcel contains third- or fourth-class matter and is so labeled.

.512 When a Merchandise Return Service parcel contains the insurance endorsement the article must be presented at a post office for rating.

.513 When a merchandise return article is presented at a post office for return to the permit holder, the accepting Postal Service employee will take the following actions if the return label is endorsed with the insurance requested endorsement:

a. Look at the endorsement to see how much insurance is desired by the permit holder and enter the appropriate insurance fee for the coverage desired on the mailing label on the *Add Insurance Fee If Any* line.

b. If the article is to be insured for \$20.00 or less, stamp the article *Insured*, complete a Form 3813, *Receipt for Domestic Insured Parcel*, and give the receipt to the recipient, and instruct the recipient to keep the receipt as evidence of mailing the insured article.

c. If the article is to be insured for more than \$20.00 complete a Form 3813-P, *Receipt for Insured Mail, Domestic-International*, affix the insured label with the insurance number on it to the article, give the receipt portion of the Form 3813-P to the recipient, and instruct the recipient to keep the receipt as evidence of mailing the insured article.

.52 Certificate of Mailing

.521 The designate customer mailing a Merchandise Return Service article

may obtain a certificate of mailing at its or his own expense at the time of mailing. No other special services may be obtained.

.522 When the designated customer desires a certificate of mailing, he must present it at a post office to obtain the receipt.

919.6 Acceptance

.61 General. Merchandise Return Service parcels requiring no ancillary services must be mailed at the designated customer's return address post office or at a place designated by the postmaster for receipt of mail.

.62 Ancillary Services. Merchandise Return Service parcels requiring insurance or a certificate of mailing must be mailed at a post office so that they can be processed by an acceptance clerk. The accepting employee will:

a. Accept the parcel and verify that the label has been filled out completely.

b. Check to see if insurance endorsement is preprinted on the label. (See DMM 919.51.)

c. Check for the class of mail endorsement by the permit holder. (See DMM 919.44.)

d. Compute the postage and fees for the parcel, following all normal procedures required for insured mail service if requested, and apply any required endorsements or labels to the parcel.

e. Record the postage and verify the insurance fee, if applicable, in the spaces provided on the portion of the label to be affixed or attached to the parcel.

f. Total the postage and fees, including the merchandise return fee, and fill in the appropriate spaces on the portion of the label to be affixed to the parcel.

g. Postmark the label in the space directly above the merchandise return legend.

h. Provide receipt for the insurance or the certificate of mailing to the recipient mailer when that service is requested.

917.7 Delivery.

When the parcel is received at the postage due unit, the postage due unit will:

a. Compute the postage and fees.

b. Withdraw the amount due from the permit holder's advance deposit account.

c. Dispatch the parcel for delivery to the permit holder.

d. When numbered insured merchandise return articles are delivered, the delivery Postal Service employee will obtain a delivery receipt for the articles on Form 3849-A, Delivery Notice or Receipt, or Form 3849-B, Delivery Reminder or Receipt, or Form 3883, Firm Delivery Book—Registered, Certified and Numbered and Insured Mail.

Note.—Parcels received without a return address or postmark will be charged the appropriate single piece First-Class (Priority), third-class rate or fourth-class rate for zone 4 in addition to other required fees. Special fourth-class and Library Rate parcels will be charged the appropriate postage.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401, 404(a)(1))

Fred Eggleston,

Assistant General Counsel, Legislative Division.

BILLING CODE 7710-12-M

U.S. POSTAL SERVICE MERCHANDISE RETURN PERMIT APPLICATION			
Application is made to use merchandise return service for return of parcels without prepayment of postage and fees under DMM 919. All postage and fees will be paid by the permit holder on all pieces returned under this privilege. Applicant agrees to prepare merchandise return labels in accordance with DMM 919.4 or 919.5, and understands that failure to conform with those requirements may be considered basis for cancellation of this permit. The annual merchandise return permit fee must accompany this request.			
NAME AND ADDRESS OF APPLICANT (Print or type)	NAME		TELEPHONE NO.
	STREET	CITY AND STATE	ZIP CODE
Permit for Priority____, Third-Class____, Fourth-Class____ (Sub-Class____)			
POST OFFICE TO WHICH SUBMITTED (City, State and ZIP Code)		SIGNATURE AND TITLE OF APPLICANT	DATE
TO BE COMPLETED BY POSTMASTER			
☐ RECOMMEND APPROVAL		☐ RECOMMEND NON-APPROVAL	DATE
REASON FOR RECOMMENDING NON-APPROVAL			
TO BE COMPLETED BY MSC MANAGER			
☐ APPLICATION APPROVED		☐ APPLICATION DENIED	DATE
REASON FOR DENIAL			
DATE OF ISSUANCE	DATE OF EXPIRATION	SIGNATURE OF POSTMASTER	

PS Form 3625

POSTMASTER: Retain application in your file. After application has been approved, deliver authorization to permit holder.

U.S. POSTAL SERVICE MERCHANDISE RETURN PERMIT			
PERMIT NUMBER	DATE OF ISSUANCE	DATE OF EXPIRATION	SIGNATURE OF POSTMASTER
You are authorized to use merchandise return service under the provisions of DMM 919. Your permit number must be shown on each part of each label. Please notify this office of any change of name, address or abandonment of permit. Only mail properly prepared in the format described in DMM 919.4 or 919.5 will be accepted.			
Enter name of permit holder, street address, city, state and ZIP Code.			POST OFFICE, State and Zip Code

DETACHED FROM PS FORM 3625,

Exhibit 919.2

CLASS OF MAIL ENDORSEMENT

FROM: _____

DELIVERY POST OFFICE
COMPUTE POSTAGE DUE
(See 919 Domestic Mail Manual)NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

POSTAGE _____

MERCHANDISE RETURN FEE _____

INSURANCE FEE IF ANY _____

TOTAL POSTAGE DUE \$ _____

INSURANCE SERVICE
REQUESTED ENDORSEMENT**MERCHANDISE RETURN LABEL**PERMIT NO. 1 CONESTOGA, PA 17516
ABC CO. 501 FIRST AVE**POSTAGE DUE UNIT**U.S. Postal Service
CONESTOGA, PA 17516

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 717**

[OPTS-83001D; FRL-2663-3]

Records and Reports of Allegations of Significant Adverse Reactions to Health or the Environment; Clarification of Persons Subject to the Rule**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: EPA proposes to amend certain provisions of the rule that implemented section 8(c) of the Toxic Substances Control Act (48 FR 38178). There are two proposed amendments. One clarifies which chemical processors are subject to the rule. A second amendment states that the "coincidental manufacture" of a chemical substance by itself is not an act that makes a person subject to the rule. This notice also clarifies what distinguishes manufacturers of chemical substances from manufacturers of mixtures. Finally, the notice outlines what corporate activities are covered once a company determines that it is a manufacturer or processor subject to the rule.

DATE: Comments on this proposal must be submitted on or before February 22, 1985.

ADDRESS: Written comments must bear the document control number OPTS-83001D. Submit an original plus two copies to: TSCA Public Information Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, D.C. 20460.

All written comments filed under this notice will be available for public inspection in Rm. E-107 at the address given above from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

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

SUPPLEMENTARY INFORMATION: This notice proposes to add a provision to the TSCA section 8(c) rule that will exempt persons who "manufacture" a chemical substance only coincidentally. The notice also proposes a change in the

language that determines who is a processor subject to the rule. In addition, the notice attempts to answer other questions regarding manufacturers of mixtures and what operations of a company are covered by the rule.

I. Background

EPA issued a final regulation implementing section 8(c) of the TSCA which was published in the *Federal Register* of August 22, 1983 (48 FR 38178). This rule became effective on November 21, 1983. The rule requires manufacturers and certain processors of chemical substances and mixtures to keep records of "significant adverse reactions" alleged to have been caused by such substances or mixtures. After promulgation, EPA received and responded to numerous questions about the final rule's provisions. On request, EPA staff made several presentations to groups representing the chemical industry. In addition, the Agency held a national conference on November 10, 1983, in Washington, D.C. The 500 registrants at this national conference received a briefing on the content of the rule and heard presentations by those who must comply with the rule as well as those who represent the potential "allegor" community.

The Agency determined that it needs to clarify certain provisions of the rule based upon questions and other communications received after the rule's promulgation. This notice proposes two basic amendments to the rule. The notice also presents clarifying remarks, all related to sections of the rule that specify who is and who is not subject to the rule's requirements.

II. Amendment To Exempt Coincidental Manufacturers

In late September 1983, the Agency received a letter from the American Paper Institute (API). This letter stated that the section 8(c) rule did not contain an exemption for substances that result from "coincidental" manufacturer. Such an exemption would cover cases in which a company is using a chemical substance or mixture as intended (e.g. an ink or adhesive) and other chemical substances are formed as a result of such intended use.

In particular, the API was concerned that paper carton-producing plants could, technically, be considered manufacturers of chemical substances under the section 8(c) rule. They are applying adhesives and inks during the carton-making operations and other chemicals are formed coincidentally as these inks and adhesives dry. The API representative pointed out that a coincidental manufacturer exemption

was made part of EPA's final Premanufacture Notification Rules (PMN) under 40 CFR 720.30(h) and the TSCA Inventory Rule under 40 CFR 710.4(d). A similar provision, API contends, should be added to the section 8(c) rule. Another suggested change was the deletion of a portion of the rule's "manufacture for commercial purposes" definition. The argument presented to the Agency is that paragraph (2) of the definition dealing with coincidentally produced substances must be removed or the proposed exemption will be nullified.

Upon review of this issue, the Agency has determined that it would be appropriate to include a coincidental manufacture exemption in the section 8(c) rule. It was never the Agency's intention for a company to be subject to the rule if the only chemicals they "manufacture" are ones that result from the end use of another substance, the exposure of chemical substances to environmental factors (e.g. air, moisture, sunlight), or as a result of disposal.

Language very similar to provisions in the PMN and Inventory rules (mentioned above) has been adapted for use in this proposed amendment. Section 717.7, which is entitled "Persons not subject to this Part", is amended by adding paragraph (a)(2). The basic concept is that the act of "coincidental manufacturer" by itself does not make one subject to the rule. Therefore, the paper carton producer would not be subject to the rule just because substances may be produced coincidentally when the ink or glue dries on the carton.

The Agency is not proposing to amend the definition of "manufacture for commercial purposes" under § 717.3(e). The "manufacture for commercial purposes" definition addresses a different issue. The purpose of this general definition is to assert the fact that EPA has the authority to require information gathering, recordkeeping and reporting on coincidentally produced substances. One can construe that the paper carton producer is "manufacturing for commercial purposes" the reaction products from ink or glue drying. However, the definition of "manufacturer for commercial purposes" does not, in the final analysis, dictate who is subject to the rule. Sections 717.5 and 717.7 of the rule perform this function. The proposed amendment will eliminate such "sole coincidental manufacturers" as the paper carton plants from this rule's coverage.

A related point is that the proposed exemption does not in any way exempt

coincidentally produced substances from the rule or prevent recordkeeping of allegations relating to such substances. If, for example, a worker alleges that a reaction product from the adhesive drying caused him harm, then this could be a recordable section 8(c) allegation. However, the allegation would be most appropriately recorded by the producer of the adhesive, not by the user. This rationale is consistent with the product stewardship approach that the rule promotes. To complement this approach, the Agency proposes addition of specific language to § 717.5 entitled "Persons subject to this part." This language specifies that both manufacturers and processors subject to the rule must collect allegations that identify substances produced coincidentally during processing, use, storage or disposal of the chemical substance or mixtures they produce.

III. Amendment Regarding Processors Subject to the Rule

Questions and comments received after rule promulgation indicated some uncertainty about what processors are subject to the rule. The current rule language under § 717.5(b)(1) reads as follows: "A person who processes chemical substances, who is not also a manufacturer of those substances, is subject to this Part if such person is engaged in activities described in Standard Industrial Classification (SIC) Major Groups 28—Chemicals and Allied Products, and SIC code 2911—Petroleum Refining".

Most of the uncertainty revolves around the phrase "engaged in activities described * * *". The concern is that the phrase can be interpreted to apply to many more companies than the Agency intended.

For example, in the manufacture of paper cartons, the glues and inks may be prepared by adding water or other solvents to concentrates purchased from other companies. Such activities constitute both processing of chemical substances and the manufacture of mixtures. This could be interpreted as an "activity described in (SIC 28/2911)" because these codes cover such products as ready to use adhesives and inks. The practical question is who should be the recordholder in the case of an allegation about ill effects of exposure to the glue or ink. For the purposes of this rule that responsibility rests with the producer of the concentrate intended for use as a glue or ink. EPA's intent is more clearly expressed by putting the emphasis on end products. Processors subject to the rule would be those who produce for distribution in commerce a product of

the type described by SIC codes 28 or 2911. Therefore, EPA proposes to amend § 717.5(b) of the rule to read as follows:

(b) *Processors.* (1) A person who processes chemical substances, who is not also a manufacturer of those chemical substances, is subject to this Part if the products distributed in commerce resulting from such processing are of the type described in Standard Industrial Classification (SIC) Major Group 28—Chemicals and Allied Products, or SIC code 2911—Petroleum Refining.

IV. Clarification of Chemical Mixture Manufacturers Coverage

Another concern expressed to the Agency is uncertainty regarding application of the rule to all mixture manufacturers. The basic question is: are all mixture manufacturers covered by the rule in the same way that all manufacturers of chemical substances are subject to the rule?

The answer is no. The company that is solely a manufacturer of mixtures is by definition not a manufacturer of chemical substances. (See TSCA section 3 (2) and (8) for these definitions.) Therefore, such a "sole mixture manufacturer" is part of the universe of chemical processors. Since only the SIC code 28 or 2911 processors are subject to the rule, then only those mixture manufacturers producing SIC 28 or 2911 type products are subject to the rule.

The Agency does not believe that any change in the actual regulatory language is required. Section 717.5(a) of the rule states that "(1) all manufacturers of chemical substances are subject to the rule * * *". It does not state that all manufacturers of mixtures are subject.

V. Clarification of Covered Activities Once Subject

A related question is: once a company determines that it is subject to the section 8(c) rule, what activities or other parts of a company are covered? There

are cases in which a company can be both a manufacturer of chemical substances and a processor of the same or different substances. For example, a company is a chemical solvent manufacturer. That company has a subsidiary that produces paints (i.e. a mixture) incorporating those solvents plus numerous other chemical substances purchased from other companies. What allegations regarding what substances must be collected and reviewed?

To answer these kinds of questions we must again stress the product stewardship concept as outlined in the preamble of the final rule. Section 717.5 formalizes the concept by listing what allegations must be collected by a manufacturer or processor subject to the rule.

Paragraph (a)(2) regarding manufacturers, states that any allegations relating to the further processing or distribution of a manufactured substance is an allegation that must be collected by the company. Therefore, a subsidiary that processes the parent company's substance becomes part of the allegation collection net of that parent, even if the end products from that subsidiary are not SIC 28 or 2911 type products. The same rationale applies to a company that is subject to the rule because it is a processor (see § 717.2(b)(2)). Any further processing of that company's products (substances, mixtures or articles) is a covered activity because the parent has a responsibility to collect allegations, especially those generated from within its corporate person.

A manufacturer or processor of chemical substances subject to the rule may own or control several plant sites that process chemical substances. The Chart below illustrates which of these operations are "8(c) subject".

PROCESSORS AND MIXTURE MANUFACTURERS COVERED BECAUSE THEY ARE OWNED OR CONTROLLED BY A FIRM ALREADY SUBJECT

Activity	28/2911 end product	Not 28/2911 end product
Process parent Co.'s substance/product.....	Yes.....	Yes.....
Not process parent Co.'s substance/product.....	Yes ¹	No.....

¹ Parent company not responsible for allegations relating specifically to starting materials purchased from other companies.

The Agency is not proposing any amendments to the rule language in relation to this particular statement of clarification.

VI. Judicial Review

When this proposed rule is promulgated, judicial review may be

available under section 19 of TSCA in the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which the person seeking review resides or has its principal place of business. To provide all interested persons an equal opportunity to file a timely petition for judicial review and to

avoid so called "races to the courthouse." EPA intends to promulgate this rule for purposes of judicial review two weeks after publication of the final rule in the *Federal Register*. The effective date will be calculated from the promulgation date.

VII. Public Record

EPA has established a public record for this rulemaking [docket number OPTS-83001D]. The record, along with a complete index, is available for inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays, in the OTS Reading Room, E-107, 401 M St., SW., Washington, D.C. 20460. This record includes basic information that the Agency considered in developing these proposed amendments. The record includes the following documents:

- (1) This proposal.
- (2) The final rule implementing TSCA section 8(c).
- (3) Letters from the law offices of Wald, Harkrader and Ross representing the American Paper Institute (September 27, 1983, November 22, 1983, December 16, 1983 and December 20, 1983.)
- (4) Documents regarding questions and answers on the final section 8(c) rule dated November 1983 and July 1984.

VIII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. The final regulation implementing TSCA section 8(c) is not major because it does not have an effect of \$100 million or more on the economy. The Agency has further determined that the amendment proposed in this notice will not change the status of the regulation for the purposes of E.O. 12291 review.

This proposed regulation has been submitted to the Office of Management and Budget for review as required by E.O. 12291.

B. Regulatory Flexibility Act

This proposed amendment is consistent with the objectives of the Regulatory Flexibility Act (Pub. L. 96-354) because under the Agency's criteria, it will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., authorizes the Director of the Office of Management and Budget to review certain

information collection requests by Federal agencies. The reporting provisions of the final TSCA section 8(c) rule were approved in October of 1983 and confirmed in the *Federal Register* of June 5, 1984 (49 FR 23182) and carry the OMB control No. 2070-0017.

The proposed amendments in this notice do not change the recordkeeping or reporting provisions of the rule. They are designed to clarify what chemical manufacturers and processors are subject to the rule. This will not result in an increase in the number of persons subject to the rule and may actually result in a decrease in the impact of the rule on the regulated community through clarifying the rule's requirements.

List of Subjects in 40 CFR Part 717

Environmental protection, Hazardous substances, Chemicals, Recordkeeping and reporting requirements, Significant adverse reactions.

Dated: December 12, 1984.

Alvin L. Alm,
Acting Administrator.

PART 717—[AMENDED]

Therefore, it is proposed that 40 CFR Chapter I, Part 717, Subpart A be amended as follows:

1. In § 717.5, paragraph (a)(2)(iv) is added, paragraph (b)(1) is revised, paragraph (b)(2)(i) is revised; and paragraph (b)(2)(iv) is added to read as follows:

§ 717.5 Persons subject to the part.

(a) * * *

(2) * * *

(iv) Any allegation identifying a substance produced coincidentally during processing, use, storage or disposal of a chemical substance it manufactures.

(b) *Processors.* (1) A person who processes chemical substances, who is not also a manufacturer of those substances, is subject to this Part if the products that person distributes in commerce are of the type described in Standard Industrial Classification (SIC) Major Group 28—Chemicals and Allied Products, or SIC code 2911—Petroleum Refining.

* * * * *

(2) * * *

(i) Any allegation identifying any chemical substance, mixture, or article it distributes in commerce, that is, of the type described in SIC 28 or 2911, any allegation identifying the operational steps involved in producing such products.

* * * * *

(iv) Any allegation identifying a substance produced coincidentally during the processing, use, storage or disposal of the products described in paragraph (b)(2)(i) of this section.

* * * * *

2. In § 717.7, the text following the title "Manufacturers" is redesignated as paragraph (a)(1), paragraph (a)(2) is added, and paragraph (b) is revised to read as follows:

§ 717.7 Persons not subject to this part.

(a) * * *

(2) A person is not subject to this Part if the chemical substances that person causes to be produced are limited to:

(i) Chemical substances that result from chemical reactions that occur incidental to exposure of another chemical substance, mixture, or article to environmental factors such as air, moisture, microbial organisms, or sunlight.

(ii) Chemical substances that result from chemical reactions that occur incidental to storage or disposal of other chemical substances, mixture, or articles.

(iii) Chemical substances that result from chemical reactions that occur upon end use of other chemical substances, mixtures, or articles such as adhesives, paints, miscellaneous cleaners or other housekeeping products, fuel additives, water softening and treatment agents, photographic films, batteries, matches, or safety flares, and that are not themselves manufactured or imported for distribution in commerce for use as chemical intermediates.

(iv) Chemical substances that result from chemical reactions that occur upon use of curable plastic or rubber molding compounds, inks, drying oils, metal finishing compounds, adhesives, or paints, or other chemical substance formed during the manufacture of an article destined for the marketplace without further chemical change of the chemical substance.

(v) Chemical substances that result from chemical reactions that occur when (A) a stabilizer, colorant, odorant, antioxidant, filler, solvent, carrier, surfactant, plasticizer, corrosion inhibitor, antifoamer or defoamer, dispersant, precipitation inhibitor, binder, emulsifier, deemulsifier, dewatering agent, agglomerating agent, adhesion promoter, flow modifier, pH adjuster, sequesterant, coagulant, flocculant, fire retardant, lubricant, chelating agent, or quality control reagent functions as intended, or (B) a chemical substance, which is intended solely to impart a specific

physiochemical characteristic, functions as intended.

(b) *Processors.* A processor, who is not also a manufacturer of chemical substances, is not subject to this part if none of the products of such processing that are distributed in commerce are of a type described in SIC 28 or SIC 2911.

FR Doc. 84-33333 Filed 12-21-84; 8:45 am
BILLING CODE 6560-50-M

40 CFR Part 721

[OPTS-50522; FRL-2662-3]

Alkyl Glycoether Acrylic Acid Derivative Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for a chemical substance which was the subject of premanufacture notice (PMN) 84-27 and a TSCA section 5(e) consent order issued by EPA. The Agency believes that this substance may be hazardous and that uncontrolled manufacture, processing, import, distribution in commerce, use, or disposal may result in significant human or environmental exposure.

DATE: Written comments should be submitted by February 22, 1985.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

Comments should include the docket control number OPTS-50522. Non-confidential versions of comments received on this proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays, in Rm. E-107 at the address given above. For further information regarding the submission of comments containing confidential business information, see Unit XII of this preamble.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.:

(554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB control number 2070-0012.

I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is subject to the same requirements and procedures as a PMN submitted under section 5(a)(1)(A) of TSCA which are interpreted at 40 CFR Part 720 published in the *Federal Register* of May 13, 1983 (48 FR 21722). In particular, these include the information submission requirements of section 5 (b) and (d)(1), certain exemptions authorized by section 5(h), and the regulatory authorities of section 5 (e) and (f). If EPA does not take regulatory action under section 5, 6, or 7 to control activities on which it has received a SNUR notice, section 5(g) requires the Agency to explain in the *Federal Register* its reasons for not taking action.

Substances covered by proposed or final SNURs are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707. Substances subject to final SNURs are subject to TSCA section 13 import certification requirements at 19 CFR 12.118 through 12.127 and 127.28 published in the *Federal Register* of August 1, 1983 (48 FR 34734). The EPA policy in support of these requirements appears at 40 CFR Part 707 published in the *Federal Register* of December 13, 1983 (48 FR 55462).

II. Applicability of General Provisions

EPA promulgated general provisions applicable to SNURs under 40 CFR Part 721, Subpart A published in the *Federal Register* of September 5, 1984 (49 FR 35011). EPA is proposing that these general provisions apply to this SNUR without change except as discussed in this preamble. Interested persons should refer to that document for a detailed discussion of the general provisions.

III. Summary of This Proposed Rule

The chemical substance subject to this proposed rule is identified generically as alkyl glycoether acrylic acid derivative. It was the subject of PMN 84-27. EPA is

proposing to designate the following as significant new uses of the substance:

1. Manufacturing, processing, or distribution in commerce without establishing a program whereby:

a. During all stages of manufacture or processing of the substance any person who is employed by or under the control of the manufacturer or processor who is involved in, and in the immediate area of, any operation where dermal contact with the substance may occur must wear:

i. Gloves, which are determined by the manufacturer or processor to be impervious to the substance under the conditions of exposure, including the duration of exposure. The manufacturer or processor shall make this determination either by testing the gloves under the conditions of exposure or by evaluating the specifications provided by the manufacturer of the gloves. Testing or evaluation of specifications should include consideration of permeability, penetration, and potential chemical and mechanical degradation by the substance and associated chemical substances.

ii. Chemical safety goggles.

iii. Clothing which covers any other exposed areas of the arms, legs, and torso.

b. During all stages of manufacture or processing of the substance any person who is employed by or under the control of the manufacturer or processor who is involved in, and in the immediate area of, any spray operation where inhalation of the substance in the form of airborne particles (e.g., aerosols and mists) may occur must wear a National Institute for Occupational Safety and Health (NIOSH) approved, category 23C respirator, excluding single-use or disposable types, in accordance with 30 CFR 11 Subpart L. The respirator shall be equipped with combination cartridges approved for paints, enamels and lacquers, unless air-supplied respirators are selected. Use of this or any respirator shall be according to the Occupational Safety and Health Act and Mine Safety and Health Administration Regulations in 29 CFR 1910.134 and 30 CFR Part 11, respectively.

c. All workers required to wear protective clothing and/or respirators are informed of the health concerns which may be presented by the substance.

d. Packages containing the substance or formulations containing the substance are labeled according to the terms specified in the proposed rule.

2. Wastes from manufacturing or processing which contain the substance are:

a. Released into "navigable waters" with drinking water intakes downstream, including the presence of any active municipal drinking water intakes located between the point of release of the substance and coastal waters or

b. Disposed of at a facility not approved under the Resource Conservation and Recovery Act of 1976, Sec. 1, 42 U.S.C. 6901 seq.

IV. Background

On October 12, 1983, EPA received a PMN which the Agency designated as P-84-27. EPA announced receipt of the PMN in the *Federal Register* of October 21, 1983 (48 FR 48863).

The notice submitter claimed the following as confidential business information: manufacturer identity, specific chemical identity, estimated production volume, process data, and use. Under section 14(a)(4) of TSCA, the Agency may disclose CBI relevant in any proceeding. "[D]isclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding." EPA is not convinced that this rulemaking will be so impaired by these claims as to justify disclosure of CBI. Therefore, EPA has decided not to disclose any of the CBI at this time. The Agency specifically requests comment on this approach for this SNUR rulemaking. For purposes of clarity, this substance will be referred to by its generic name and PMN number.

The Agency is concerned that P-84-27 may present carcinogenic risks to human health following inhalation, ingestion, or dermal contact with the substance. This concern for carcinogenicity is based on data on two close structural analogues to the substance. Both analogues are alkyl glycoether acrylic acid derivatives which have been shown to induce papillomas and squamous cell carcinomas at the site of application in mouse skin painting tests. The Agency expects that P-84-27 will penetrate most biological membranes. Data submitted with the PMN indicate that P-84-27 is an eye and skin irritant. Substances which are irritants disrupt the barrier layer of the skin and generally have an increased potential to more readily penetrate the skin barrier layer than non-irritating substances. The Agency's conclusions about permeability are based on this generally accepted concept as well as on the physical/chemical properties of P-84-27 and

relevant toxicity data submitted with the original submitter's notice.

During review of the PMN, the Agency concluded that the uncontrolled manufacture, import, processing, distribution in commerce, use, and disposal of the substance may present an unreasonable risk of injury to human health. Therefore, EPA regulated the substance under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health effects.

EPA concluded that use of appropriate protective equipment and environmental controls will protect persons exposed to the substance from any unreasonable risk. The Agency negotiated a section 5(e) consent order with the notice submitter which requires the use of protective equipment and specifies disposal sites until data are available to more accurately determine the risks associated with the substance. The order became effective April 13, 1984 and was amended on June 13, 1984.

By issuing a section 5(e) consent order which allows controlled commercial production and distribution of the substance, EPA has taken a regulatory approach which is appreciably less burdensome than an order prohibiting manufacture of the substance until additional data are submitted. At the same time, such an approach protects human health by requiring precautionary controls pending the development of the data needed for a more fully reasoned evaluation of the risks associated with the substance.

Section 5(e) orders apply only to the notice submitter. When the notice submitter commences commercial manufacture of the substance and submits a notice of commencement of manufacture to EPA, the Agency will add the substance to the TSCA Chemical Substance Inventory. When a substance is listed on the Inventory, other persons may manufacture or process the substance without controls and certain methods of disposal. Therefore, EPA is proposing to designate manufacture or processing of the substance without specified controls and certain methods of disposal, as significant new uses so that the Agency can review these uses before they occur.

Through a SNUR, the Agency would ensure that all manufacturers, importers, and processors are subject to similar reporting requirements. In addition, a SNUR would afford EPA the opportunity to review exposure and toxicity information on the substance; if necessary, action can then be taken to ensure that persons will not be exposed to levels of P-84-27 that are potentially hazardous.

V. Determination of Proposed Significant New Uses

To determine what would constitute significant new uses of this chemical substance, EPA considered relevant information about the toxicity of the substance and potential exposures/releases associated with possible uses (such as uses other than those allowed under the section 5(e) order), and the four factors listed in section 5(a)(2) of TSCA. In particular, EPA considered the extent to which potential uses might change the magnitude and duration of exposure of humans to P-84-27. Based on these considerations, EPA proposes to define the significant new uses of P-84-27 as set forth in Unit III of this preamble.

EPA has already determined in the section 5(e) order that unrestricted manufacture, import, processing, distribution in commerce, use, and disposal of the substance may present an unreasonable risk. While such a finding is not necessary to promulgate a SNUR, it strongly supports a determination that the uses of the substance would be significant.

VI. Alternatives

EPA considered regulatory alternatives to a SNUR to ensure protection of human health.

1. One alternative would be to promulgate a section 8(a) reporting rule for the substance. Under such a rule, EPA could require any person to report to EPA before (1) manufacturing or processing the substance without personal protective equipment or (2) disposing of the substance in a manner which may result in contamination of municipal drinking water. Because the substance is subject to a section 5(e) order, the small business exemption of section 8(a) would not apply. However, the use of section 8(a) rather than section 5(a) SNUR authority has drawbacks in this particular instance. If EPA received a report under section 8(a) indicating that a person intended to manufacture or process the substance without personal protective equipment or using certain methods of disposal, the Agency could not take immediate action under section 5(e), as it can under a SNUR, and therefore would not be able to regulate the substance pending development of information. Rather, in a situation such as this, EPA would have to consider regulating the substance under TSCA section 6 which would require a separate rulemaking action. Moreover, in view of the current lack of health effects data on P-84-27, EPA first would likely have to obtain test data on

the substance under section 4 of TSCA to support an action under section 6. This approach could allow unnecessary risk to human health during the time needed for data development. In addition, the original notice submitter would be at a competitive disadvantage because the section 5(e) order applies only to that company. It is not the intent of EPA in the PMN process to create unfair marketplace disruptions.

2. The Agency also has the authority to regulate substances under section 6 of TSCA. However, the Agency may regulate under section 6 only if there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture "presents or will present" an unreasonable risk of injury to health. There is not sufficient information to perform a reasoned evaluation of the health effects of P-84-27 at this time. Therefore, the Agency cannot state with certainty that the substance presents or will present an unreasonable risk. In this instance, because the Agency has issued a section 5(e) order, EPA can state that the substance "may present" an unreasonable risk of injury to health. However, the Agency cannot regulate the substance under section 6 at this time.

3. As an alternative to the proposed significant new use definitions, the Agency is considering defining as a significant new use the failure to establish a program whereby the substance is treated as a hazardous chemical substance under the Occupational Safety and Health Administration (OSHA) Hazard Communications Standard (29 CFR 1900.1200). In all labels, material safety data sheets, and employee training programs, the substance would be required to be identified as potentially causing carcinogenic effects. Employees who may be dermally exposed to the substance would be required to wear gloves which have been determined to be impervious to the substance, chemical safety goggles, and clothing which cover any exposed area of the arms, legs, and torso. Employees who may be exposed to airborne particles from spray operations would be required to wear a NIOSH approved, category 23C respirator. This approach, however, does not address the concerns the Agency has regarding certain disposal procedures (e.g., release of the substance into navigable waters from which drinking water may be taken).

4. The Agency is considering creating as abbreviated review for persons who propose to employ alternative exposure

controls or worker protection equipment which may provide equivalent protection. Under this approach, significant new uses would be defined as the failure to establish a program whereby persons who may be dermally exposed to the substance are required to wear gloves which are determined to be impervious to the substances, chemical safety goggles, and clothing which cover exposed areas of the arms, legs, and torso, and persons who may be exposed to airborne particles from spray operations are required to wear a NIOSH approved, category 23C respirator or the use of exposure controls and/or protective equipment which provides "equivalent" protection. Additionally, release of the substance from manufacture or processing into "navigable waters" with drinking water intakes downstream, including the presence of any active municipal drinking water intakes located between the point of release of the substance and coastal waters or failure to demonstrate (e.g., by providing monitoring data, environmental fate data) that the substance will not be found in concentrations of concern in drinking water would be defined as a significant new use. Persons would be required to notify EPA of the data or alternative controls to receive (in a specified time period which is shorter than 90 days) confirmation from the Agency that the protection provided is "equivalent". If EPA determined that the protection was not "equivalent," significant new use reporting would be required.

EPA invites comment on this proposal and the alternatives.

VII. Recordkeeping

To ensure compliance with this proposed rule and to assist enforcement efforts, EPA is proposing, under its authority in sections 5 and 8(a) of TSCA, that in addition to the requirements in § 721.17, the following records be maintained for five years after the date of their creation, by persons who manufacture, import, or process P-84-27:

1. The names of persons required to wear respirators or dermal protective equipment in accordance with this proposal, the date(s) on which they were informed, and the means by which they were informed as specified in this proposal.

2. The name and address of each person to whom the substance is sold or transferred and the date of such sale or transfer.

3. Results of respirator fit tests for each person required to wear a respirator.

4. Determinations that protective gloves are impervious to the substance.

5. Copies of the container labels as specified in this proposal.

As an alternative to the proposed recordkeeping requirements specified in this proposal, EPA is considering requiring manufacturers and processors who do not trigger the SNUR reporting requirements to maintain records demonstrating their compliance with the SNUR. Therefore, manufacturers and processors would have discretion to determine the precise records to be retained to demonstrate compliance with the terms of the SNUR.

The Agency considered omitting these specific recordkeeping requirements, but believes compliance monitoring for this proposed SNUR would be made more difficult without them.

Although section 5(a)(2) of TSCA does not explicitly provide for recordkeeping of the type in paragraph (b)(2) of § 721.565, EPA finds that such recordkeeping is necessary to implement and enforce effectively the requirements of the SNUR. Two TSCA authorities support the recordkeeping in this proposed rule. First, EPA believes there is inherent authority in section 5 of TSCA to require the keeping of records reasonably necessary to implement the mandate of section 5. EPA has already exercised this authority in the PMN rule recordkeeping requirements in 40 CFR 720.70 and in § 721.17 of the general SNUR provisions. Clearly, there is no way to determine whether a manufacturer, importer, or processor is undertaking a significant new use of the type defined in this proposed rule unless the manufacturer, importer, or processor is required to keep records of its activities to show that the significant new use has not occurred. EPA would otherwise be unable to determine whether a violation has occurred, unless the manufacturer, importer, or processor was observed in violation.

Second, section 8(a) of TSCA provides broad authority for EPA to require manufacturers, importers, and processors of chemical substances to keep records. Generally, a section 8(a) recordkeeping requirement does not apply to small manufacturers, importers, and processors, but in this case a section 5(e) order is in effect for the chemical substance in question. Thus, under section 8(a)(3)(A)(ii) of TSCA, EPA can require recordkeeping by small manufacturers, importers, and processors as well and is proposing to do so.

EPA encourages comments on the proposed recordkeeping requirements and the alternatives.

VIII. Exemptions to Reporting Requirements

EPA has codified general exemption provisions covering SNUR reporting under § 721.19. On a case-by-case basis the Agency may modify these provisions in Subpart B. However, in this case, the Agency is proposing that § 721.19 apply in its entirety.

EPA issued its final premanufacture notification rules under 40 CFR Part 720 published in the Federal Register of May 13, 1983 (48 FR 21722) including § 720.36 which contained detailed rules for the section 5(h)(3) exemption for chemical substances manufactured or imported in small quantities solely for research and development. On September 13, 1983 (48 FR 41132), EPA stayed the effectiveness of § 720.36, among other provisions of the PMN rule, pending further rulemaking to revise the provisions. Because § 720.36 was not in effect when EPA codified § 721.19, the Agency relied on the general definition of "small quantities solely for research and development" in § 720.3(cc) and section 5(h)(3) of TSCA to determine whether activities qualify under this exemption. Upon promulgation of a revised § 720.36, EPA intends to amend § 721.19 to adopt the provisions of the revised § 720.36.

Section 721.19(g) of the general SNUR provisions exempts persons from SNUR reporting when they manufacture or process the substance solely for export and label the substance in accordance with section 12(a)(1)(B) of TSCA. While EPA is concerned about worker exposure and environmental release during manufacture and processing of the substance, EPA lacks the authority under section 12(a) of TSCA to require reporting of such manufacture or processing for a significant new use because EPA does not yet have sufficient information to make the "will present an unreasonable risk" finding necessary to regulate a substance manufactured or processed solely for export. However, such persons would be required to notify EPA of such export under section 12(b) of TSCA (See § 721.7 of the general SNUR provisions). Such notification will allow EPA to monitor manufacture and processing activities which are not subject to significant new use reporting. The term "manufacture solely for export" is defined in the PMN rule (40 CFR 720.3(s)). The term "process solely for export" is defined in § 721.3 of the general SNUR provisions in a similar fashion. Thus the substance would be exempt from reporting under this SNUR if a person manufactures (the term manufacture includes import) or processes the substance solely for export from the U.S. under the following

restrictions: (1) There is no use of the substance in the U.S.; (2) processing is restricted to sites under the control of the manufacturer or processor, respectively; and (3) distribution in commerce is limited to purposes of export. If a person manufactured or processed the substance both for export and for use in the U.S., such manufacture and processing would be for use in the U.S.

IX. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

To establish a significant new use rule, the Agency must, among other things, determine that the use is not ongoing. In this case, the chemical substance in question has just undergone premanufacture review. When the notice submitter begins manufacture of the substance, the submitter will send EPA a notice of commencement of manufacture and the substance will be added to the Inventory. The notice submitter is prohibited by the section 5(e) order from undertaking any of the activities which the Agency is proposing be designated as significant new uses. Therefore, at this time, the Agency has concluded that these uses are not ongoing. However, EPA recognizes that once the chemical substance subject to this SNUR is added to the Inventory, it may be manufactured, imported, or processed by other persons for a significant new use as defined in this proposal before promulgation of the rule.

If, after publication of this proposal, someone were to undertake the designated significant new uses, they could argue that the uses are not "new" at the time the rule is promulgated, and therefore not a significant new use. EPA finds that the intent of section 5(a)(1)(B) is best served by determining whether a use is a significant new use as of the proposal date of the SNUR. If uses begun during the proposal period were not considered to be significant new uses, it would be almost impossible for the Agency to establish SNUR notice requirements, since any person could defeat the SNUR by initiating the proposed significant new uses before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, if the substance is manufactured, imported, or processed between proposal and promulgation for a proposed significant new use, the Agency will consider such use to be a significant new use if it is retained in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who begin manufacture, import, or processing of

the substance for a significant new use during the proposal period. However, this proposal constitutes notice of that potential disruption, and persons who commence a proposed significant new use do so at their own risk.

Because the identity of P-84-27 is confidential, any person who proposes to manufacture or import P-84-27 is unlikely to know that the substance is on the Inventory and, therefore, is likely to submit a *bona fide* request under either 40 CFR 710.7(e) or 720.85(b) to determine whether the substance is on the Inventory. If EPA determines that the person has a *bona fide* intent to manufacture or import the substance and that the substance the person proposes to manufacture or import is P-84-27, EPA will inform the person that the substance is subject to this proposal. This will give the person adequate notice of this proposal, will give the person and adequate chance to comment, and will help prevent the potential disruption.

X. Text Data and Other Information

EPA recognizes that under TSCA section 5, persons are not required to develop any particular test data before submitting a notice. Rather, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. However, in view of the potential health risks that may be posed by a significant new use of this substance, a more reasoned evaluation of the risks posed by this substance would require additional data on carcinogenicity. These data might be generated by conducting a two-year rodent bioassay. This study may not be the only means of addressing the potential risks.

EPA encourages potential SNUR notice submitters to test the substance for these concerns. SNUR notices submitted for significant new uses without such test data may increase the likelihood that EPA will take action under section 5(e). As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substance.

Test data should be developed according to TSCA good laboratory practices regulations at 40 CFR Part 792 published in Federal Register of November 29, 1983 (48 FR 53923). EPA encourage persons to consult with the Agency before selecting a protocol for testing substance. EPA urges SNUR notice submitters to provide detailed information on human exposure that will result from the significant new use.

In addition, EPA urges persons to submit information on potential benefits of the substance and information on risks posed by the substance compared to risks posed by substitutes.

XI. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for this substance. This evaluation is summarized below. The Agency's complete economic analysis is available in the public file.

A. Costs

Subsequent to promulgation of the SNUR, the Agency believes there are three outcomes for firms that would consider producing P-84-27. They might: (1) produce the substance under the terms of the SNUR, (2) submit a SNUR, (3) not manufacture, import, or process the substance because of the restrictions imposed by the SNUR. The cost of these outcomes are summarized below.

Outcome 1. If a company decides to produce the substance under the terms of the SNUR, it will not incur the cost of submitting a SNUR notice. The cost to the company will be the cost of protective equipment, recordkeeping cost, labeling costs, and the cost of complying with SNUR specified disposal sites, if necessary. For purpose of analysis, the Agency will assume five workers will be exposed to P-84-27 over 30 days a year. Actual exposure data have been claimed as CBI by the submitter. Each worker will be required to wear chemical safety goggles, protective clothing, and gloves which have been deemed to be impermeable to P-84-27. The average annual cost of outfitting one worker is \$147. For five workers, the annual cost would be \$735. Assuming a 10 percent discount rate and a 10-year economic life for P-84-27, the present value of protective equipment for five workers is \$4,970. An American Society for Testing and Materials Impermeability Test could cost \$500 per substrate. In addition, if there is any spray operation where inhalation of the substance in the form of airborne particles (e.g., aerosols and mists) may occur, the order requires each worker to wear a NIOSH approved, full-face category 23C respirator, excluding single-use or disposable types. The average annual cost of the respirator is \$134 per worker or \$670 for five workers. The present value of providing respirators to five workers is \$4,530. The average annual cost of providing respirator fit tests is \$310 to \$370 for five workers. The present value of providing respirator fit testing over a 10-year period for five workers ranges from

\$2,100 to \$2,500. The present value of the cost of maintaining recordkeeping requirements is \$1,460. The label development cost is expected to range from \$200 to \$500 with additional variable cost of 2 cents per label. The EPA has not assessed the impact of labeling requirements on the sales of the substance. According to the SNUR, the company cannot discharge aqueous waste stream into "navigable waters" with drinking water intakes downstream. An alternative to this SNUR disposal restriction may be RCRA approved disposal facilities. The EPA has not assessed the cost of this alternative.

EPA will incur only enforcement cost once the SNUR has been proposed.

Outcome 2. If a company decides to produce or distribute P-84-27 not under the terms of the SNUR it will incur the cost (\$1,375 to \$7,950) of submitting a SNUR notice. The submitter may also incur up to 3.2 percent reduction in profits due to delays in manufacture or import and the cost of regulatory follow-up if any. EPA costs following promulgation of the SNUR under this outcome would include reviewing the SNUR notice (\$6,865) and modifying the terms of the SNUR (\$8,430) if the information provided showed that EPA's concerns would be adequately addressed by the use of the different type of exposure controls. EPA will continue to incur enforcement costs.

The company may choose to test for carcinogenicity (2-year rodent bioassay). In this case, the company would incur the cost of performing the test (\$800,000 in 1984 dollars), the cost of delay (probably a delay in 2.5 to 3.0 years), and the cost of regulatory follow-up, if any.

Outcome 3. Some companies could find the cost of controlling exposure too expensive to justify production or processing. Under this outcome a company would not incur any direct costs as a result of the SNUR. The company and society could lose benefits that would have been derived from the manufacture or processing of the substance. However, the fact that the original PMN submitter intends to produce and process P-84-27 with the protective equipment in place indicates that the intended use of the substance will still return an acceptable profit.

B. Benefits

The Agency has not attempted to quantify the benefits of the proposed SNUR. In general, however, benefits will accrue if the proposal action leads to the identification and control of unreasonable risk before significant health effects can occur. The proposal

and promulgation of the SNUR provides the benefits of reduced health risks until production or processing of P-84-27 ceases.

XII. Confidential Business Information

Any person who submits comments which the person claims as CBI must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any party submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XIII. Judicial Review

When this proposed rule is promulgated, judicial review may be available under section 19 of TSCA in the United States Court of Appeals for the District of Columbia or for the circuit in which the person seeking review resides or has its principal place of business. To provide all interested persons an equal opportunity to file a timely petition for judicial review and to avoid so called "races to the courthouse," EPA intends to promulgate this rule for purposes of judicial review two weeks after publishing the final rule in the *Federal Register*. The effective date will be calculated from the promulgation date.

XIV. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS-50522). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

1. The PMN for the substance.
2. The *Federal Register* notice of receipt of the PMN.
3. The section 5(e) consent order.
4. The economic analysis of the proposed rule.
5. The toxicity support document for the section 5(e) order.
6. The economic support document for the section 5(e) order.

The Agency will accept additional materials for inclusion in the record at any time between this proposal and designation of the complete record.

EPA will identify the complete rulemaking record by the date of promulgation. A public version of this record containing sanitized copies from

which CBI has been deleted is available to the public from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays, in the OTS Public Information Office, Rm. E-107, 401 M St., SW., Washington, D.C.

XV. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore, requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "major rule" because it does not have an effect on the economy of \$100 million or more, and will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this proposed rule, for the reasons discussed in Unit XIII of the preamble, EPA believes that the cost will be low. In addition, because of the nature of the proposed rule and the substance subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice, the suggested testing, and the uncertainty of possible EPA regulation may discourage certain innovation, that impact may be limited because such factors are unlikely to discourage innovation of high potential value. Finally, this SNUR may encourage innovation in safe chemical substances or highly beneficial uses.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small businesses. The Agency cannot determine whether parties affected by this proposed rule are likely to be small businesses. However, EPA believes that few manufacturers, importers, or processors will submit SNUR notices. Therefore, although the costs of preparing a notice under this rule might be significant for some small businesses, the number of such businesses affected is not expected to be substantial.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this proposed rule under the provisions of

the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2070-0012. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: December 12, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 921—[AMENDED]

Therefore, it is proposed that Part 721 of Chapter I of Title 40 be amended as follows:

1. In Subpart A by adding the definition for "navigable waters" and inserting in alphabetic sequence to § 721.3 to read as follows:

§ 721.3 Definitions.

"Navigable waters" means the waters of the United States including territorial seas, as set forth in section 502(7) of the Clean Water Act [33 U.S.C. 1362(7)].

2. In Subpart B by adding a new § 721.565 to read as follows:

§ 721.565 Alkyl Glycoether Acrylic Acid Derivative.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The following chemical substance referred to by its PMN number and generic chemical name is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section: P-84-27, alkyl glycoether acrylic acid derivative.

(2) The significant new uses are:

(i) Manufacture or processing without establishing a program whereby:

(A) During all stages of manufacture or processing of the substance any person who is employed by or under the control of the manufacturer or processor who is involved in, and in the immediate area of, any operation where dermal contact with the substance may occur must wear:

(1) Gloves, which are determined by the manufacturer or processor to be impervious to the substance under the

conditions of exposure, including the duration of exposure. The manufacturer or processor shall make this determination either by testing the gloves under the conditions of exposure or by evaluating the specifications provided by the manufacturer of the gloves. Testing or evaluation of specifications should include consideration of permeability, penetration, and potential chemical and mechanical degradation by the substance and associated chemical substances.

(2) Chemical safety goggles.

(3) Clothing which covers any other exposed areas of the arms, legs, and torso.

(B) During all stages of manufacture or processing of the substance any person who is employed by or under the control of the manufacturer or processor who is involved in, and in the immediate area of, any spray operation where inhalation of the substance in the form of airborne particles (e.g., aerosols and mists) may occur must wear a NIOSH approved, category 23C respirator, excluding single-use or disposable types, in accordance with 30 CFR Part 11 Subpart L. The respirator shall be equipped with combination cartridges approved for paints, enamels and lacquers, unless air-supplied respirators are selected. Use of this or any respirator shall be according to OSHA and MSHA regulations in 29 CFR 1910.134 and 30 CFR Part 11, respectively.

(C) All workers described in paragraph (a)(2)(i) (A) and (B) of this section are informed in writing, or by presenting the information as part of a training program in safety meetings where attendance is recorded, of the following: to avoid contact with this substance; that contact with skin may be harmful; that mist generated from spray application may be harmful if inhaled; that structurally similar chemicals have been found to cause skin cancer in laboratory animals; that this chemical is very irritating to the eyes and may cause allergic reactions; and that the use of safety goggles/respirators, impervious gloves, and other clothing will help to protect potentially exposed persons.

(D) A label is affixed to each container of the substance or of a formulation containing the substance which is intended for distribution, which (in a print size no smaller than 10 point type) includes, at a minimum, the following information:

Warning: Chemicals similar to this product have been reported to cause skin cancer in

laboratory animals. Causes eye irritation. Causes skin irritation and possible allergic skin reaction. **HARMFUL IF SWALLOWED:** Mists or aerosols are harmful if inhaled. Avoid all contact with skin, eyes, and clothing. Wear impervious gloves and safety goggles when handling. Respirators required during spray operations if there is potential exposure. Wash thoroughly after handling. Do not take internally. **FIRST AID:** In case of contact, flush eyes with plenty of water for at least 15 minutes and get prompt medical attention; wash skin thoroughly with soap and water; remove and wash clothing before reuse. If swallowed, dilute by giving water to drink and call a physician. Never give anything by mouth to an unconscious person.

(ii) Wastes from manufacture or processing which contain the substance are released into navigable waters with drinking water intakes downstream, including the presence of any active municipal drinking water intakes located between the point of release of the substance and coastal waters or disposed of at a facility not approved under the Resource Conservation and Recovery Act of 1976, Sec. 1, 42 U.S.C. 6901 seq.

(b) *Specific Requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* In addition to the requirements of § 721.17, manufacturers, importers, and processors of the chemical substance identified in paragraph (a)(1) of this section must maintain the following records for five years from their creation:

(i) The names of persons required to wear respirators and dermal protective equipment in accordance with paragraph (a)(2) of this section, the date(s) on which they were informed and the means by which they were informed.

(ii) Results of respirator fit tests for each person required to wear a respirator.

(iii) Determinations that protective gloves are impervious to the substance.

(iv) The name and address of each person to whom the substance is sold or transferred and the date of such sale or transfer.

(v) Copies of labels used to comply with this section.

(2) [Reserved]

(Secs. 5, 8, Pub. L. 94-469, 90 Stat. 2012 (15 U.S.C. 2604, 2607))

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

[FR Doc. 84-33326 Filed 12-21-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 84-1295; RM-4594; FCC 84-599]

Including Mobile, AL in the Table of Assignments for Air-Ground Stations in the Public Mobile Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Gulf Mobilefone of Alabama, Inc. has filed a Petition for Rulemaking, proposing the assignment of air-ground channel 4, frequency 454.800 MHz, to Mobile, Alabama, because there is an apparent need for air-ground service not currently available in the Mobile area. The Commission has not made any prior assignment of an air-ground station to Mobile, Alabama.

DATES: Comments must be received on or before January 15, 1985 and reply comments on or before January 29, 1985.

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

FOR FURTHER INFORMATION CONTACT: Andrew L. Nachby, Mobile Services Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632-6450.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 22

Communications common carriers, Mobile radio service, Radio common carriers.

Notice of Proposed Rulemaking

In the matter of amendment of § 22.521(b) of the Commission's rules to include Mobile, Alabama, in the table of assignments for air-ground stations in the Public Mobile Service; CC Docket No. 84-1295 RM-4594.

Adopted December 3, 1984.

Released December 6, 1984.

By the Commission.

1. Gulf Mobilefone of Alabama, Inc., in RM-4594, has filed a Petition for Rulemaking, proposing the assignment of air-ground channel 4, frequency 454.800 MHz, to Mobile, Alabama. The Commission has not made any prior assignment of an air-ground frequency to Mobile, Alabama, pursuant to the air-ground table of assignments, 47 CFR 22.521(b).

2. Petitioner states that Mobile, Alabama, is the scene of significant aviation activity and that surveys of business and government agencies demonstrate an unsatisfied need for air-ground radiotelephone service. Petitioner further states that it has received several firm requests for

service as a result of the survey. According to the petitioner, present air-ground stations are inadequate to serve the Mobile area due to the limited range of the existing stations and their distance from Mobile. The petitioner argues that if aircraft passing over Mobile are sufficiently high to enable communications to be conducted, the toll charges levied will be excessive due to the distance of the base station. Petitioner further states that Channel 4 will afford maximum co-channel separation.

3. In creating the air-ground service, the Commission adopted the goal of providing nationwide service utilizing the minimum amount of spectrum necessary. The Commission recognized that its allocation of 12 air-ground channels would permit nationwide service if the channels were sufficiently separated. *Air-Ground Service*, 22 FCC 2d 716 (1969). Avoidance of toll charges is therefore not necessarily an important consideration in deciding whether to allocate a channel. Nevertheless, in view of the apparent need for air-ground communications service for Mobile, Alabama, the Commission proposes to amend 47 CFR 22.521(b) to assign working Channel 4 to Mobile, Alabama, as set forth in the Appendix to this notice.

4. The Commission invites comments on this proposal. The procedures to be followed in submitting comments in this proceeding are similar to those followed in proceedings to amend the FM or Television Table of Assignments in § 1.420 of the Commission's rules. The procedures are discussed below.

5. *Cut-off procedures.* The following procedures govern the consideration of filings in this proceeding:

(a) Counterproposals made in this proceeding will be considered if they are made in initial comments, so that parties may comment on them in reply comments. Counterproposals will not be considered if made in reply comments (See § 1.420(d) of the Commission's rules).

(b) Petitions for Rulemaking which conflict with the proposal of this Notice will be considered as comments. Public notice to this effect will be given so long as the petitions are filed before the date for filing initial comments. If they are filed after that date, they will not be considered in connection with the decision in this proceeding.

6. *Dates and service.* Under the procedures set out in §§ 1.415 and 1.420 of the Commission's rules, interested parties may file comments on or before January 14, 1985 and reply comments on or before January 29, 1985. All

submissions made by parties to this proceeding or in behalf of such parties must be made in written comments, reply comments or other appropriate pleadings. Reply comments must be served on the person(s) who filed comments to which the reply is directed. These comments and reply comments must be accompanied by a certificate of service. (See § 1.420(a)-(c) of the Commission's rules.)

7. *Number of copies.* Under § 1.420 of the Commission's rules, an original and four copies of all comments, reply comments, pleadings, briefs or other documents must be submitted to the Commission.

8. *Public inspection of filings.* All findings made in this proceeding are available for inspection during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW, Washington, D.C.

9. *Ex parte contracts.* This is a restricted rulemaking proceeding subject to §§ 1.1207, 1.1209 and 1.1229 of the Commission's rules. Accordingly, members of the public should note that from the time a notice of proposed rulemaking is issued until the matter is no longer subject to Commission reconsideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. 47 CFR 1.1207, 1.1209 and 1.1229. An *ex parte* contact is a message, spoken or written, concerning the merits of a pending rulemaking other than comments officially filed with the Commission or oral presentations required by the Commission.

Regulatory Flexibility Act

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to this rulemaking proceeding to amend the table of assignments for base and mobile stations in the Public Mobile Service at Mobile, Alabama. The proposal relates only to one city, Mobile, Alabama, and the proposal will not have a significant economic impact on a substantial number of small entities.

11. This proceeding is initiated pursuant to the provisions of 47 U.S.C. 154(i)-(j) and 303.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

The Commission proposes to revise the entry for Alabama in 47 CFR 22.521 (b) to read as follows:

§ 22.521 Nationwide plan for assignment of frequencies to land mobile systems rendering communication service to airborne stations.

Alabama:
Mobile 4
Troy 10

[FR Doc. 84-33053 Filed 12-21-84; 8:45 am]

BILLING CODE 6712-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1827 and 1852

[NASA FAR Supplement Directive 85-3]

NASA Implementation of the Federal Acquisition Regulation (FAR); NASA Federal Acquisition Regulation Supplement (NASA/FAR Supplement)

AGENCY: Office of Procurement, Procurement Policy Division, NASA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on the NASA proposal to issue NASA FAR Supplement Directive (NFSD) 85-3 which amends the NASA Federal Acquisition Regulation Supplement, Chapter 18 of the Federal Acquisition Regulations System (see 49 FR 6388). This NFSD:

(a) Revises 1827.4 and 1852-227-74 to adopt the policies of Title III of Pub. L. 98-577 (except to the extent NASA is exempted from said statute) relating to rights and acquisition of data. Coverage of the remainder of the Act will be postponed pending issuance of coverage in the FAR.

(b) Revises NASA's procedure in Part 1827 for obtaining rights to technical

data in winning proposals to assure that contractors have a clear opportunity to limit the Government's rights.

(c) Adds a new clause and guidance in Part 1827 to make clear that, in acquisitions of commercial computer software, the contract terms are not superseded by delivery documents containing data rights.

(d) Standardizes the data rights clause NASA has been using in SBIR Program contracts.

(e) Makes other minor editorial or administrative changes.

The proposed NASA FAR Supplement Directive is available for review and comment.

DATE: Comments are due not later than January 23, 1985.

ADDRESS: Requests for copies of the proposal and comments should be addressed to NASA Headquarters, Office of Procurement, Procurement Policy Division (Code HP), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: W.A. Greene, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: 202-453-2119.

SUPPLEMENTARY INFORMATION:

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. NASA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule provides uniformity with other Federal agencies and reduces the administrative impact on bidders as set forth in OFPP Policy Letter 83-2.

List of Subjects in 48 CFR Parts 1827 and 1852

Government procurement.

L.E. Hopkins,

Deputy Assistant Administrator for Procurement.

[FR Doc. 84-33299 Filed 12-21-84; 8:45 am]

BILLING CODE 7510-01-M

Notices

Federal Register

Vol. 49, No. 248

Monday, December 24, 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.

ACTION

Special Volunteer Programs; Availability of Funds; Demonstration Grants

The Office of Policy and Planning of ACTION announces the availability of funds during fiscal year 1985 for a demonstration grant under the Special Volunteer Programs authorized by the Domestic Volunteer Service Act of 1983, as amended (Pub. L. 93-113, Title I, Part C, 42 U.S.C. 4992).

The purpose of this competitive announcement is to identify and support an innovative project that can demonstrate an ability to work with, support, and encourage the development of various volunteer groups and individuals working to prevent drug use among youth.

A. Objective

Volunteer Demonstration Projects address areas of human concern where citizens, as volunteers, can contribute toward the overall health and well-being of their communities. This particular request for applications is designed to fund a drug information resource center with the demonstrated capability of providing a large amount of assistance both over the phone and in writing to the general public with regard to drug use prevention, especially in areas such as: volunteer parent, citizen, and youth group development, current pharmacological data on illicit drugs, and conference organizing.

This project must also be capable of identifying volunteer drug use prevention efforts throughout the country, enabling the public to learn of volunteer drug use prevention groups in their own states and/or communities from which they can obtain advice and information.

B. Eligible Applicants

Only applications from private, non-profit incorporated organizations and public agencies will be considered.

C. Available Funds and Scope of the Grant

Up to \$300,000 may be available for this grant. However, ACTION anticipates awarding one grant for approximately \$200,000 to \$250,000 for the purposes of this announcement.

Publication of this announcement does not obligate ACTION to award any specific number of grants, or to obligate any specific amount of money for demonstration grants.

D. General Criteria for Grant Selection

Grant applications will be reviewed and evaluated in comparison with the criteria outlined below, as appropriate, as well as conformance to the instructions included in the application. Grant applicants with a demonstrated competence in drug use prevention efforts using volunteers will be given preference.

The General Criteria are as follows:

1. Experience in managing a high-volume, toll-free number, and in responding to a large number of oral and written inquiries per year in order to give technical assistance and accurate information to the general public regarding the prevention of drug use by youth, especially in areas such as: volunteer parent, citizen, and youth group development; current pharmacological information on illicit drugs; the identification of local volunteer groups throughout the country; and drug use prevention conference organizing.

2. Evidence of cooperation on the part of a large number of parent, citizen, and youth groups throughout the country willing to serve as volunteer resources in the area of drug use prevention among youth.

3. Promise of developing innovation or knowledge in the area of preventing drug use among youth and demonstrated ability to survey the impact of drug use prevention activities and provide such to volunteer organizations.

4. Capability of proposed staff, including demonstrated achievements in the drug use prevention field, to provide technical assistance to volunteer organizations such as parent, citizen, and youth groups.

5. Capability of obtaining support from a broad range of private and public organizations for the volunteer movement which seeks to prevent drug use among the nation's youth.

6. Carefully formulated, time-phased and measurable objectives with feasible methods for meeting those objectives.

7. Feasibility of proposed budget.

While applicants are not required to contribute a specific portion of the project's costs, they are encouraged to do so. Applicants capable of such contributions should specify the sources and amounts of non-federal contributions, and the sources and nature of in-kind, non-federal contributions.

E. Application Review Process

ACTION's Office of Policy and planning Staff, which has expertise in volunteer demonstration programs, will review and evaluate all eligible applications submitted under this announcement. ACTION's Assistant Director for Policy and Planning will make the final selection from among the highest ranked applications. ACTION reserves the right to ask for evidence of any claims of past performance or future capability.

F. Application Submission and Deadline

One signed original and two copies of all completed applications must be submitted to the Assistant Director for Policy and Planning, Room M-606, 806 Connecticut Avenue, NW Washington, D.C. 20525. The deadline for receipt of applications is January 18, 1985. Only those that are received by 5:00 P.M. on this date will be eligible for consideration.

All grant applications must consist of:

- a. Application for Federal Assistance (Form A-1017) with narrative budget justification and a narrative of project goals and objectives.

- b. CPA certification of accounting capability.

- c. Articles of incorporation.

- d. Proof of non-profit status or an application for non-profit status, which should be made through documentation.

- e. Resume of candidates for the position of project director, if available, or the resume of the director of the applicant agency or project.

- f. List of sponsor's governing board members and their relationship to the community.

To receive an application form, please call ACTION's Office of Policy and Planning, (202) 634-9308.

Dated in Washington, D.C. on December 17, 1984.

Thomas W. Pauken,

Director, ACTION.

[FR Doc. 84-33301 Filed 12-21-84; 8:45 am]

BILLING CODE 6050-28-M

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Select Committee on Uniform Rules of Procedure; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Select Committee on Uniform Rules of Procedure of the Administrative Conference of the United States, to be held at 10:00 a.m., Tuesday, February 12, 1985, in the library of the Administrative Conference, 2120 L Street NW., Suite 500, Washington, D.C.

The Committee will meet to discuss committee members' attempts to draft uniform/model rules after reviewing agency comments on Department of Labor's consolidated rules of practice.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the

public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact Jeffrey S. Lubbers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, D.C. (Telephone: 202-254-7065.) Minutes of the meetings will be available on request.

Dated: December 19, 1984.

Richard K. Berg,

General Counsel.

[FR Doc. 84-33357 Filed 12-21-84; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

San Juan National Forest Grazing Advisory Board; Meeting

The San Juan National Forest Grazing Advisory Board will meet on January 25, 1985 at the La Plata County Extension Building, La Plata County Fairgrounds, Durango, Colorado. This meeting will start at 1:00 p.m. The board was established in accordance with provisions of the Federal Land Policy Act of 1976.

The Agenda for the meeting will include: (1) Recommendations for the utilization of range betterment funds; (2) recommendations for the development of allotment management plans; and (3)

discussion of the implementation of the San Juan National Forest Land and Resource Plan and the effects on utilization of range betterment funds.

The meeting will be open to the public. Persons who wish to attend and participate should notify Dave Cook, San Juan National Forest, (303) 247-4874, prior to the meeting. The public may participate in discussions during the meeting or may file a written statement following the meeting.

Dated: December 11, 1984.

John R. Kirkpatrick,

Forest Supervisor.

[FR Doc. 84-33312 Filed 12-21-84; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.); Week Ended December 7, 1984

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Dec. 7, 1984.....	42676	Pacific Western Airlines Ltd. (a British Columbia Corporation) and Pacific Western Airlines Ltd. (an Alberta Corporation), c/o David B. Ortman, 61 G Street, SW., Washington, D.C. 20024. Application of Pacific Western Airlines Ltd. (a British Columbia Corporation) and Pacific Western Airlines Ltd. (an Alberta Corporation) pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests transfer their 402 authority to a new corporation with the same name, Pacific Western Airlines Ltd., established under the laws of the Province of Alberta, this change to take place January 1, 1985. Answers may be filed by January 4, 1985.
Dec. 7, 1984.....	42540- 42541	Air Mid-America, Inc., c/o Robert A. Bracco, 3535 W. Henderson Road, Columbus, Ohio 43220. Supplemental Information to the Application of Air Mid-America, Inc. Answers may be filed by January 4, 1985.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-33378 Filed 12-21-84; 8:45 am]

BILLING CODE 6320-01-M

[Order 84-11-111]

Fitness Determination of Grant County Flying Service, Inc., d/b/a/ Turner Aire

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier

Fitness Determination—Order 84-11-111, Order to Show Cause.

SUMMARY: The Board is proposing to find that Grant County Flying Service, Inc. d/b/a/ Turner Aire is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the

Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards.

Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall file their responses with the Special Authorities Division, Room 915, Civil

Aeronautics Board, Washington, D.C. 20428, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than December 21, 1984.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5068.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-11-111 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-11-111 to that address.

By the Civil Aeronautics Board: November 28, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-33256 Filed 12-21-84; 8:45 am]

BILLING CODE 6320-01-M

[Order 84-11-112]

Application of Sierra Pacific Airlines, Inc., for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause 84-11-112.

SUMMARY: The Board is proposing to find Sierra Pacific Airlines, Inc. fit, willing, and able and to issue a certificate of public convenience and necessity to it authorizing scheduled interstate and overseas air transportation of persons, property, and mail between all points in the United States, its territories and possessions.

DATES: Objections: All interested persons having objections to the Board issuing the proposed certificate shall file, and serve upon all persons listed below no later than December 21, 1984, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 42355 and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Carolyn S. Kramp, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., 20428 (202) 673-5090.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-11-112 is

available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-11-112 to that address.

By the Civil Aeronautics Board: November 28, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-33377 Filed 12-21-84; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Connecticut Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Connecticut Advisory Committee to the Commission will convene at 3:30 p.m. and will end at 5:30 p.m., on January 17, 1985, at the Connecticut Education Association, 21 Oak Street, Hartford, Connecticut 06106. The purpose of the meeting is for the Committee to plan its program for 1985 and review its 1984 activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact the New England Regional Office at (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 18, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-33304 Filed 12-21-84; 8:45 am]

BILLING CODE 6335-01-M

Michigan Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 6:00 p.m. and will end at 9:00 p.m., on January 8, 1985, at the University Inn, 1100 Trowbridge Road, East Lansing, Michigan 48823. The purpose of the meeting is to discuss general civil rights developments in Michigan.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Midwestern Regional Office at (312) 353-7479.

The meeting will be conducted

pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 18, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-33303 Filed 12-21-84; 8:45 am]

BILLING CODE 6335-01-M

Nevada Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nevada Advisory Committee to the Commission will convene at 9:30 a.m. and will end at 12:30 p.m., on January 12, 1985, at the Steven Walther's Law Firm Office, 8895 Lakeside Drive, Reno, Nevada 89511. The purpose of the meeting is for the Committee to discuss its program plans for the next year.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Western Regional Office at (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 18, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-33305 Filed 12-21-84; 8:45 am]

BILLING CODE 6335-01-M

Wisconsin Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 3:00 p.m. and will end at 5:00 p.m., on January 15, 1985, at the Pfister Hotel, 424 East Wisconsin Avenue, Milwaukee, Wisconsin 53202. The purpose of the meeting is to discuss alleged violations of the rights of Northern Wisconsin Native Americans.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Midwestern Regional Office at (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 18, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-33302 Filed 12-21-84; 8:45 am]

BILLING CODE 6335-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Shipments of Cotton, Wool and Man-Made Fiber Textiles and Apparel in Excess of Bilateral Agreement Limits

December 20, 1984.

On October 12, 1983 a notice was published in the *Federal Register* (48 FR 46409) concerning the charging of imports of cotton, wool and man-made fiber textiles and apparel in excess of bilateral agreement limits.

To prevent market disruption, the Committee for the Implementation of Textile Agreements (CITA) has decided that, effective on January 1, 1985 and until further notice, when a new annual restraint limit goes into effect on a category or product of cotton, wool or man-made fiber textiles or apparel which is currently in embargo, the U.S. Customs Service will, as appropriate, be directed to permit entry into the United States for consumption, or withdrawal

from warehouse for consumption, of such goods which were exported during the previous restraint period at a rate not more than twenty percent of the new annual limit during each of the first five months of the new restraint period. The amount of goods exported in the previous year and goods exported in the new agreement year, which are entered into the United States for consumption, or withdrawn from warehouse for consumption, shall not together exceed the annual limit established for such goods during the new agreement year.

Changes may be made in percentages and applicable time periods if CITA believes that such changes are necessary to implement this notice effectively.

In instances where the embargoed goods in a product or category are not subject to a new annual limit, the Committee for the Implementation of Textile Agreements may, as appropriate, direct the Commissioner of Customs to release 20 percent of the overshipped limit per month.

Walter C. Lenahan,

Chairman, Committee of the Implementation of Textile Agreements.

[FR Doc. 84-33432 Filed 12-20-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF ENERGY

Office of Hearing and Appeals

Case Filed; Week of November 16 Through November 23, 1984

During the Week of November 16 through November 23, 1984, the applications for relief listed in the Appendix to this Notice were filed with the Office of Hearing and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: December 12, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Nov. 16 through Nov. 23, 1984]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 21, 1984	Apex Oil Co., Houston, TX	HRD-0253 and HRH 0253	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Apex Oil Company in response to the Proposed Remedial Order (Case No. HRO-0241) issued to it.
Nov. 21, 1984	Economic Regulatory Administration, Washington, DC	HRD-0254	Motion for Discovery. If granted: Discovery would be granted to the Economic Regulatory Administration in connection with its response to Murphy Oil Corporation's Statement of Objections submitted in response to a Proposed Remedial Order issued to that firm (Case No. HRO-0244).
Nov. 21, 1984	Murphy Oil Corp., Washington, DC	HRD-0255	Motion for Discovery. If granted: Discovery would be granted to Murphy Oil Corporation in connection with the Statement of Objections submitted in response to a Proposed Order of Disallowance issued to it (Case No. HRO-0240).

REFUND APPLICATIONS RECEIVED

[Week of Nov. 16 to Nov. 23, 1984]

Date	Name of refund proceeding and name of refund applicant	Case No.
Nov. 16, 1984	Amtel/Gramco, Ltd.	RF46-21
Do	Gary Energy/Swallow Oil Co.	RF47-2
Do	Palo Pinto/Texas et al.	RQ5 et al
Nov. 19, 1984	Texas Oil & Gas Corp./Koch Hydrocarbon Co.	RF42-3
Nov. 15, 1984	New York Petroleum Corp./Ashland Oil, Inc.	RF49-1
Do	New York Petroleum Corp./Koch Industries, Inc.	RF49-2
Nov. 19, 1984	Windham Gas & Oil Co./Cormax Metal Treating Co.	RF43-6
Do	Gulf/N. Middleton Gulf	RF40-246
Do	Gulf/Bote Oil Co.	RF40-247
Do	Gulf/Harold Jones	RF40-248
Do	Gulf/Cleaton Gulf Service	RF40-249
Do	Gulf/Royer Auto Service	RF40-250
Do	Mitchell Energy Corp./Swanee Petroleum Co.	RF50-1
Nov. 20, 1984	Amoco/Wisconsin	RQ21-142
Do	Bob's Oil Co./Porcupine Trading Post	RF38-3
Do	Gulf/Stockman's Gulf Service	RF40-251
Do	Gulf/Butter Krust Bakery Division of Beatrice Foods	RF40-252

REFUND APPLICATIONS RECEIVED—Continued

[Week of Nov. 16 to Nov. 23, 1984]

Date	Name of refund proceeding and name of refund applicant	Case No.
Nov. 10, 1984	Gulf/Forest Hills Gulf Service	RF40-253
Do	Gulf/R.K. Black Gulf Station	RF40-254
Do	Gulf/Goddard Gulf Service	RF40-255
Do	Gulf/Hopkins Springhill Ave. Gulf	RF40-256
Do	Gulf/D. Mielak	RF40-257
Do	Belfridge/Idaho	RF40-258
Do	Gary/Cal Gas Corp.	RF47-3
Do	Pioneer Corp./Phillips Petroleum Co.	RF52-1
Do	Houston Natural Gas/Phillips Petroleum Co.	RF53-1
Do	Gary Energy & Development/Tesoro Pet. Corp.	RF51-1
Do	Houston Nat. Gas Corp./Tesoro Pet. Corp.	RF53-2
Nov. 21, 1984	Gulf/Byerlyte Co.	RF40-258
Do	Gulf/Medley Bros. Gulf	RF40-259
Do	Amtel, Inc./Highway Oil, Inc.	RF46-22
Do	Pioneer Oil/Koch Industries, Inc.	RF52-2
Nov. 23, 1984	Continental Resources/Warren Petroleum	RF61-1
Do	Breckenridge Gas/Warren Petroleum	RF60-1
Do	Pioneer Corp./Warren Petroleum	RF52-2
Do	Pronto Gas Co./Warren Petroleum	RF59-1
Do	Ensearch Corp./Warren Petroleum	RF58-1
Do	Alanta Petroleum/Warren Petroleum	RF57-1
Do	Tipperary Corp./Warren Petroleum	RF56-1
Do	Mitchell Energy/Warren Petroleum	RF50-2
Do	Mitchell/E.I. DuPont DeNemours & Co.	RF50-3
Do	Tipperary/E.I. DuPont DeNemours & Co.	RF56-2
Do	Atlanta Petroleum/E.I. DuPont DeNemours & Co.	RF57-2
Do	Ensearch Corp./E.I. DuPont DeNemours & Co.	RF58-2
Do	Pronto Gas/E.I. DuPont DeNemours & Co.	RF59-2
Do	Pioneer/E.I. DuPont DeNemours & Co.	RF52-4
Do	Breckenridge/E.I. DuPont DeNemours & Co.	RF60-2
Do	Continental Resource/E.I. DuPont DeNemours & Co.	RF61-2
Do	Texas Oil & Gas/Coastal Corp.	RF42-4
Do	Texas Gas Exploration/Coastal Corp.	RF44-2
Do	Houston National/Coastal Corp.	RF53-3
Nov. 20, 1984	U.S. Compressed Gas Co./FMC Corp.	RF54-1
Nov. 23, 1984	Gulf/R. J. Quirk	RF40-260
Do	Gulf/Penn Dairies, Inc.	RF40-261
Do	Amtel/John F. Dobbs	RF46-23

FR Doc. 84-33316 Filed 12-21-84; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of November 5 Through November 9, 1984

During the week of November 5 through November 9, 1984, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Elk Hills Waste Watch Committee,
November 17, 1984, HFA-0256.

The Elk Hills Waste Watch Committee filed an Appeal from a partial denial by the Director of the Office of Naval Petroleum and Oil Shale Reserves of a Request for Information which the Committee had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that the portion of the requested information initially withheld under Exemption 5 of the FOIA was indeed exempt from mandatory disclosure. The DOE also found that the release of the withheld section would not be in the public interest, and that the Appeal should therefore be denied. An important issue that was considered in the

Decision and Order was the necessity of preserving the free assessment of various courses of action by agency employees during the deliberative stages of a decision-making process.

Remedial Order

V-1 Oil Company, November 8, 1984, HRO-0187.

V-1 Oil Company objected to a Proposed Remedial Order which the Economic Regulatory Administration (ERA) of the Department of Energy issued to the firm on July 29, 1983. In the Proposed Remedial Order, the ERA found that V-1 sold propane at prices exceeding those permitted under the DOE regulations in effect at the time. However, on October 9, 1984, the ERA filed with the Office of Hearings and Appeals, a Motion for Withdrawal of the PRO. This Motion stated that a submission which V-1 filed with OHA on September 27, 1984 contained information which seriously conflicted with the factual findings in the PRO. The DOE therefore concluded that the Proposed Remedial Order should be dismissed. (The important issues discussed in the Decision and Order include: (i) The differences between a consignee-agent and a purchaser of a firm's products; (ii) the necessity of obtaining additional information in order to issue a decision in a proceeding; and (iii) the regulatory provisions allowing ERA to withdraw a PRO.)

Request for Exception

Green Oil, Inc., November 8, 1984, BEE-1484

Green Oil, Inc. filed an Application for Exception from the obligation to comply with

a DOE final Remedial Order issued to the firm. Specifically, the firm sought permission, retroactively, to charge prices for propane in excess of the maximum lawful selling prices during the period November 1973 through May 1976. In considering the request, the DOE found that the firm did not satisfy the criteria for retroactive exception relief. Neither the firm's financial condition nor its untimely objection to the PRO allegations, which were also considered, presented compelling reasons for relief or demonstrated that the firm would experience irreparable and severe injury in the absence of retroactive relief. Accordingly, exception relief was denied.

Supplemental Order

Fields Field Company, Nov. 8, 1984, BEX-0003

Fields Field Company filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D in which if granted would permit the firm to sell the crude oil produced from the Wilcox B Sand Unit during the period June through November 1980 at market prices. In considering the request, the DOE found that exception relief was necessary to insure that the firm had an economic incentive to continue its extraction activities at the Wilcox Unit during that six month portion of 1980. Accordingly, exception relief was granted.

Refund Applications

Standard Oil Company (Indiana)/Alpine Standard et al., Nov. 9, 1984, RF21-03991 et al.

The DOE issued a Decision and Order concerning 24 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 24 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refund granted in this proceeding total \$19,018.

Standard Oil Co. (Indiana)/Rich's Standard et al., Nov. 5, 1984, RF21-12347 et al.

The DOE issued a Decision and Order concerning 4 Applications for Refund filed by retailers of motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 4 applicants should receive a refund based upon the total volume of its Amoco gasoline purchases. The refunds granted in this proceeding total \$3,299.

Texas Oil & Gas Corporation/Columbia LNG Corporation, Nov. 6, 1984, RF42-1

Columbia LNG Corporation, an ultimate consumer that converted natural gas liquids into pipeline-quality synthetic natural gas at its reforming plant in Green Springs, Ohio, filed an Application for Refund based on the principles and procedures set forth in *Texas Oil & Gas Corporation*. In considering this application, the DOE concluded that Columbia should receive a total refund of \$357,082.07 based upon the total volume of natural gas liquids it purchased from Texas Oil & Gas Corporation.

Triton Oil and Gas Corporation/Cities Service Company, Nov. 7, 1984, RF18-0001

The DOE issued a Decision and Order concerning an Application for Refund filed by Cities Service Company, a first purchaser of Triton NGLs. As set forth in *Office of Enforcement*, 9 DOE ¶ 82,566 (1982), Cities Service had to demonstrate injury by first showing sufficient cost banks and then proving that it did not pass on any alleged overcharges. The DOE analyzed Cities Service's competitive disadvantages and found that the firm had sustained injury in some, but not all calendar quarters during the consent order period. The DOE granted Cities Service a refund of \$518.27 plus interest.

Willis Distributing Co., Inc./Fort LeBoeuf School District, Nov. 8, 1984, RF41-0011

The DOE issued a Decision and Order concerning an Application for Refund filed by Fort LeBoeuf School District, an end-user of Willis motor gasoline. The school district applied for refund based upon the principles for end-users outlined in *Willis Distributing Co., Inc.*, 12 DOE ¶ 85,062 (1984). Based on the statement and information submitted by Fort LeBoeuf School District, the DOE concluded that the applicant should receive a refund of \$201 based upon the total volume of its Willis motor gasoline purchases.

Willis Distributing Co., Inc./Huttel's Mobil Service; Harvey J. Bean, Nov. 6, 1984, RF41-0012, RF41-0013

The DOE issued a Decision and Order concerning Applications for Refund filed by Huttel's Mobil Service and Harvey J. Bean, two resellers of Willis motor gasoline. The claimants applied for refunds based on the presumption of injury and procedures for small claims outlined in *Willis Distributing Co., Inc.*, 12 DOE ¶ 85,062 (1984). After examining the statements and supporting information submitted by the applicants, the DOE concluded that Huttel's Mobil Service should receive \$2,798 and Harvey J. Bean should receive \$5,603 based upon the total volumes of their respective purchases.

Willis Distributing Co., Inc./Seaway Aluminum Manufacturing Company, Nov. 6, 1984, RF41-0015

The DOE issued a Decision and Order concerning an Application for Refund filed by Seaway Aluminum Manufacturing Company, an end-user of Willis motor gasoline. The claimant applied for a refund based on the principles for end-users outlined in *Willis Distributing Co., Inc.*, 12 DOE ¶ 85,062 (1984). After examining the statement and supporting information submitted by the applicant, the DOE concluded that Seaway Aluminum Manufacturing Company should receive \$238 based upon the total volume of its Willis motor gasoline purchases.

Dismissals

The following submissions were dismissed:

Name	Case No.
A & K Oil Service, Inc.	HEE-0105
Dept. of Interior (Tipperary)	HEZ-0225
MAPCO, Inc.	BRO-1457
	BEE-1695
Richard Holmes	RF21-6903
State of Kansas	RQ21-126
	RO5-128
	RO6-127
Turtle Mountain Band of Chippewa Indians	RQ21-35

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: December 12, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 84-33012 Filed 12-21-84; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of November 26 Through November 30, 1984

During the week of November 26 through November 30, 1984, the decisions and orders summarized below were issued with respect to refund applications and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Request for Temporary Exception

Whirlpool Corporation, Nov. 30, 1984, HEL-0001

Whirlpool Corporation filed an Application for Temporary Exception from the provisions of 10 CFR Part 430, Subpart B, Appendix A1, in which the firm sought temporary exception relief from the test procedures applicable to refrigerator-freezers. In considering the request, the DOE found that temporary exception relief was necessary to prevent the firm from suffering irreparable harm, and to encourage the development of new household appliance technology. Accordingly, temporary exception relief was granted.

Implementation of Special Refund Procedures

Wallace & Wallace Fuel Oil Company, Nov. 29, 1984, HEF-0190

The Office of Hearings and Appeals issued a final Decision and Order setting forth procedures to be used in filing applications for refund for a portion of the settlement funds obtained as the result of the consent order which the DOE entered into with Wallace & Wallace Fuel Oil Company. The funds will be available to resellers who purchased No. 2 fuel oil from Wallace during the period November 1, 1973, through December 31, 1974. Additionally applications for refund will also be accepted from downstream consumers who believe that they have been injured by Wallace's alleged overcharges in its sales to fuel oil resellers. Applications for Refund must be postmarked within 90 days of the publication of the Decision and Order in the Federal Register. Specific information to be included in refund applications is discussed in the Decision.

Refund Applications

Conoco, Inc./Jack Ritter Oil Company, Nov. 29, 1984, RF34-00029

Conoco, Inc./HI-LO Distributors, Inc., Nov. 29, 1984, RF34-00030

The Office of Hearings and Appeals issued a Supplemental Order to two applicants who were granted refunds in *Conoco, Inc./Banco Properties, Inc. et al.*, 12 DOE ¶ —, Nos. RF34-00003 et al. (November 21, 1984). In the Supplemental Order, certain miscalculations affecting the refund amounts granted to the two firms in the November 21 decision were noted and refunds in the correct amounts were granted.

Ozona Gas Processing Plant I/International Drilling and Energy Corporation, Nov. 29, 1984, RR27-0001

International Drilling and Energy Corporation (IDEC) filed a Motion for Reconsideration requesting DOE to reevaluate its Decision and Order in *Ozona Gas Processing Plant I/International Drilling and Energy Corporation*, 11 DOE ¶ 85,189 (1983). That Decision granted IDEC a refund of \$8,801 plus interest based on the number of gallons the firm had purchased each month at or below the monthly presumption threshold. In considering IDEC's motion, DOE found that IDEC's annual purchases fell below the annual threshold of 192,000 gallons, although in some months of the consent order period its purchases exceeded the 16,000 gallon monthly threshold. The DOE determined that IDEC's refund should be based on the number of gallons purchased at or below the annual threshold. Therefore, the DOE granted IDEC's motion and awarded the firm an additional \$17,723 including interest.

Standard Oil Company (Indiana)/Miller's Standard et al., Nov. 30, 1984, RF21-12090 et al.

The DOE issued a Decision and Order concerning 15 Applications for Refund filed by retailers of Amoco motor gasoline. Although the firms did not elect to apply for refunds according to the presumption of injury method, they did not provide sufficient proof of injury to entitle them to more than the presumption amount. Each retailer nevertheless received a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 15 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding total \$15,315.

Standard Oil Company (Indiana)/Illini Standard # 8597, Nov. 29, 1984, RF21-7962.

The DOE issued a Decision and Order concerning Illini Standard # 8597, a retailer of Amoco motor gasoline. This firm elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering this application, the DOE concluded that the applicant should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refund granted in this proceeding totals \$62.84.

Dismissals

The following submissions were dismissed:

Name	Case No.
Department of Interior (Canal)	HEE-0088
State of California	RF29-4
State of Michigan	RF29-5
State of Illinois	RF29-6
State of Indiana	RF29-7

Copies of the full text of these decisions and orders are available in the

Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: December 12, 1984.

George B. Breznay,
Director, Office of Hearings and Appeals.
[FR Doc. 84-33013 Filed 12-21-84; 8:45 am]
BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed Period of September 10 Through October 5, 1984

During the period of September 10 through October 5, 1984, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which is will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: December 12, 1984.

George B. Breznay,
Director, Office of Hearings and Appeals.
Empire Gas Corp. Lebanon, Missouri, HRO-0250, Motor Gasoline

On October 5, 1984, Empire Gas Corp., Highway 5 South, Lebanon, Missouri 65536, filed a Notice of Objection to a Proposed Remedial Order which the DOE Kansas City Office of Special Counsel of the Economic Regulatory Administration issued to the firm on August 20, 1984. In the PRO the Kansas City Office found that during the period May 1978 to February 1979, Empire Gas Corp. violated the provisions of 10 CFR 210.92 and 212.93 by charging prices for motor gasoline in excess of the firm's maximum lawful selling prices. According to the PRO the violation resulted in \$818,412.00 of overcharges, plus interest.

Lantern Petroleum Corp. and John Mills, Midland, Texas, HRO-0251 Crude Oil

On October 5, 1984, Lantern Petroleum Corp. and John Mills, Box 2281, Midland, Texas 79702, filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas Field Office of the Economic Regulatory Administration issued to the firm on September 4, 1984. In the PRO the Dallas Field Office found that during the period August 1978 to March 1979, Lantern charged prices for crude oil in excess of its actual purchase prices without providing any services or other functions traditionally and historically associated with the resale of crude oil in violation of 10 CFR 212.186. In the alternative, the PRO alleges that Lantern charged prices in excess of its permissible average markup in violation of 10 CFR 212.183. According to the PRO the violation resulted in \$534,881.38 of overcharges, plus interest, or, alternatively, \$271,941.05, plus interest.

[FR Doc. 84-33317 Filed 12-21-84; 8:45 am]
BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to eligible claimants a total of \$2,000,000 (plus accrued interest) obtained by the DOE under the terms of a consent order entered into with Husky Oil Company. The funds are being held in escrow following settlement of all claims and disputes arising from an audit by the Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the *Federal Register* and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF-0213.

FOR FURTHER INFORMATION CONTACT: Geoffrey D. Stein, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and

Order set out below. The proposed Decision and Order tentatively establishes procedures to distribute to eligible claimants \$2,000,000 obtained by the DOE under the terms of a consent order entered into with Husky Oil Company (Husky) on June 15, 1982. The funds were provided to the DOE by the firm in order to settle all claims which the Economic Regulatory Administration could have pursued under the DOE price and allocation regulations relating to transactions by Husky involving the production, refining, and marketing of petroleum products during the period from August 19, 1973 through January 28, 1981 (the consent order period).

The Proposed Decision and Order sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of the escrow account funded by Husky. The DOE has tentatively decided that Applications for Refund should be accepted from firms and individuals who purchased refined petroleum products from Husky during the consent order period. The Proposed Decision and Order provides that in order to be entitled to receive any portion of the settlement funds, a purchaser must furnish the DOE with evidence which demonstrates that the claimant was injured by the alleged unlawful prices for covered products charged by Husky. This evidence includes specific documentation concerning the date, place, price, and volume of product purchases, whether the increased costs were absorbed by the claimant or passed through to other purchasers, and the extent of any injury alleged to have been suffered.

The Proposed Decision and Order also refers to the distribution in a second-stage proceeding of any funds remaining after all valid claims are paid. The DOE solicits comments on any proposals that claimants may suggest for this second-stage distribution.

Until final procedures are adopted, no claims for refunds will be accepted. Applications for Refund, therefore, should not be filed at this time. Appropriate public notice will be provided prior to the acceptance of claims.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to provide two copies of their submissions. Comments should be submitted within 30 days of publication of this notice in the *Federal Register*, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection in the Public Docket

Room of the Office of Hearings and Appeals, Room 1E-234, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays.

Dated: December 14, 1984.

George B. Breznay,
Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Case: Husky Oil Company.

Date of Filing: October 13, 1983.

Case Number: HEF-0213.

December 14, 1984.

The procedural regulations of the Department of Energy (DOE) permit the Economic Regulatory Administration (ERA) to request that the Office of Hearings and Appeals (OHA) formulate and implement procedures for distributing funds received as a result of an enforcement proceeding involving alleged violations of DOE regulations. See 10 CFR Part 205, Subpart V. In accordance with these regulatory provisions, the ERA, on October 13, 1983, filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Husky Oil Company (Husky). Under the terms of the consent order, Husky agreed to remit \$2 million to the DOE in settlement of all civil and administrative claims by the DOE relating to Husky's compliance with the federal petroleum price and allocation regulations applicable to refiners of petroleum products during the period from August 19, 1973 through January 28, 1981 (the consent order period).

I. Background

Husky is a "refiner" of petroleum products as that term was defined in 10 CFR 212.31. During the consent order period, Husky was engaged in the production, refining, and marketing of products covered by the federal petroleum price and allocation regulations set forth in 10 CFR Part 212.

In 1975, the ERA began an audit to determine Husky's compliance with these regulations. In the course of this audit, Husky and the DOE entered into a proposed consent order, whereby Husky agreed to remit \$2 million to the DOE to resolve all issues regarding Husky's application of the regulations during the consent order period. Notice of this proposed consent order was published for public comment at 47 FR 10072 (1982). Comments were received from several interested parties. The proposed

consent order was adopted without modification as a final order of the DOE on June 15, 1982. 47 FR 25764 (1982).

II. Jurisdiction to Fashion Refund Procedures

The ERA filed a Petition for the Implementation of Special Refund Procedures under Subpart V in connection with the Husky consent order. The Subpart V process may be used in situations where the DOE is unable to readily identify the persons who may be eligible to receive refunds as a result of enforcement proceedings or to readily ascertain the amounts that such persons should receive. 10 CFR 205.280. Subpart V authorizes the OHA, upon request by an appropriate DOE enforcement official, to fashion special procedures to distribute moneys obtained as part of a settlement agreement. 10 CFR 205.281-205.282. After reviewing the record in the present proceeding, we have determined that the implementation of Subpart V procedures is appropriate. There is a significant degree of difficulty in identifying the purchasers who may have been injured by Husky's pricing practices. Moreover, the ERA audit files do not contain adequate records of purchasers by Husky customers during the consent order period. In addition, the alleged overcharges were associated with the price methodology of a refiner, so that any impact was spread throughout a broad range of customers at many levels of Husky's distribution system. Furthermore, it is difficult to ascertain the proper amount of refunds to identifiable injured parties. Therefore, the provisions of Subpart V provide the most useful mechanism through which refund money to parties likely to have been injured by alleged violations may be distributed. Accordingly, the OHA has decided to exercise jurisdiction over the funds received by the DOE pursuant to the Husky consent order.

III. Proposed Refund Procedures

A. Refunds to Identifiable Purchasers

During the first stage in the refund process, funds from the Husky consent order should be distributed to claimants who satisfactorily demonstrate that they have been adversely affected by alleged overcharges in Husky's sales of covered products. As in many prior special refund cases, we will adopt certain presumptions. First, we will adopt a presumption that the alleged overcharges were dispersed equally in all sales of products made by Husky during the consent order period. OHA has referred to this presumption in the

past as a volumetric refund amount. Second, we will adopt a presumption of injury with respect to small claims.

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

[i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions to be adopted in this case will permit claimants to participate in the refund process without incurring disproportionate expenses, and will enable the OHA to consider refund applications in the most efficient way possible in view of the limited resources available.

A claimant will be eligible to receive a refund equal to the documented number of gallons it bought from Husky during the consent order period, multiplied by a volumetric percentage. This percentage is computed by dividing the \$2,000,000 consent order fund by the total number of gallons sold by Husky during the consent order period.¹ The pro rata, or volumetric, refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by Husky. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact on an individual purchaser may have been greater than the pro rata amount determined by the volumetric presumption. Certain purchasers may believe that they suffered disproportionate injury as a result of Husky's pricing practices during the consent order period. Any such purchaser may file a refund application for an amount greater than that calculated using the volumetric presumption, provided that the claimant documents the disproportionate impact of the alleged overcharges. See, e.g., *Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶85,054 (1984) and cases cited therein at 88,164.

Resellers and retailers seeking refunds totalling \$5,000 or less under the volumetric presumption will not be required to demonstrate further any

injury resulting from the alleged overcharges. The presumption that claimants seeking smaller refunds were injured by the pricing practices settled in the Husky consent order is based on a number of considerations. See e.g., *Uban Oil Co.*, 9 DOE ¶82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which occurred many years ago. This procedure is generally time-consuming and expensive. In the case of small claims, the cost to the firm of gathering this factual information, and the cost to the OHA of analyzing it, may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore deprive injured parties of the opportunity to obtain a refund. The use of this presumption is also desirable from an administrative standpoint, because it allows the OHA to process a large number of routine refund claims quickly, and to use its limited resources more efficiently. Finally, these small claimants did purchase covered products from Husky and were in the chain of distribution in which the alleged overcharges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially.

Under the presumptions we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold level. Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consenting firm, or as a dollar refund amount. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. We believe that the same approach should be followed in this case. Since the potential refund amounts are fairly low, and the consent order period is long since over, we believe that the establishment of a presumption of injury for claims up to \$5,000 is reasonable. See *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984); *Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶ 85,226 (1984) and cases cited therein.

In order to qualify for a refund exceeding the \$5,000 threshold amount,

a reseller or retailer will be required to demonstrate that during the consent order period it was unable to pass through the alleged overcharges to its customers. While there are a variety of means by which a claimant could make this showing, a purchaser generally should demonstrate that at the time it purchased covered products from Husky, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. In addition, a reseller or retailer of petroleum products must show that it maintained a "bank" of unrecovered costs, in order to demonstrate that it did not subsequently recover these costs by increasing its prices.

We find that end-users or ultimate consumers whose business is unrelated to the petroleum industry were uninjured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum goods and services would be beyond the scope of this special refund proceeding. See *Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); See also *Texas Oil & Gas Corp.*, 12 DOE at 88,209 and cases cited therein. We have therefore concluded that end-user purchasers of Husky petroleum products need only document their purchase volumes in order to make a sufficient showing that they were injured by the alleged overcharges.

In addition, refund applications from firms regulated by a governmental agency or by the terms of a cooperative agreement will not be required to demonstrate that the firm absorbed the alleged overcharges. In the case of regulated firms, e.g., public utilities, any overcharges incurred as a result of Husky's alleged violations of the DOE regulations would routinely be passed through to their customers. Similarly, any refunds received by such firms would be reflected in the rates they are allowed to charge their customers. Refunds to agricultural cooperatives will likewise directly influence the prices charged to member customers. Consequently, these firms too need only document their purchase volumes from Husky to make an adequate showing of injury. See *Office of Special Counsel*, 9

DOE § 82.538. However, along with their applications these firms should provide a full, detailed explanation of the manner in which refunds would be passed through to customers and how the appropriate regulatory body or membership group will be advised of the applicant's receipt of a refund.

As in previous cases, we propose that there is a class of potential claimants who may be presumed to have suffered no injury from Husky's alleged overcharges. Those parties are firms that made spot purchases of Husky petroleum products. (2) See *Office of Special Counsel*, 10 DOE § 85.048 (1982); *Office of Enforcement*, 8 DOE § 82.597 (1981); (hereinafter cited as *Vickers*). As we stated in *Vickers*:

[T]hese customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of Vickers motor gasoline at increased prices unless they were able to pass through the full amount of Vickers' quoted selling price at the time of purchase to their own customers.

8 DOE at 85.396-97. We believe that the same rationale applies in this case. Consequently, we propose to establish a rebuttable presumption that spot purchasers were not injured by Husky's pricing practices. Thus, a spot purchaser claimant will be required to submit additional evidence sufficient to establish that it was unable to recover the prices it paid to Husky.

Any purchaser claiming a portion of the consent order fund should file an application for Refund pursuant to 10 CFR 205.283. Applications should provide all relevant information necessary to establish a claim in accordance with the presumptions outlined above, including, where necessary, specific documentation concerning the date, place, price, and volume of product purchased, the retention of increased costs, and the extent of any injury alleged. Detailed procedures for filing applications will be provided in a final Decision and Order. See *Vickers*. Before disposing of any of the consent order funds, we intend to publicize widely the distribution process and to provide an opportunity for any affected party to file a claim. In addition to publishing notice in the *Federal Register*, notice will be provided in publications in the area in which Husky marketed its products during the consent order period. Purchasers of Husky products who filed claims in response to the original consent order notice in the *Federal Register* will be informed of these refund procedures by mail. As a final matter, we note that refund applications filed on behalf of groups of claimants identifying

themselves as adversely affected purchasers also will be considered. Such applications will be evaluated on a case-by-case basis.

B. Distribution of the Remainder of the Consent Order Fund

After all meritorious claimants have received an appropriate refund, it is possible that the consent order funds may not be exhausted. Any remaining funds should be distributed during a second stage of the refund process in furtherance of the goals set forth in the DOE's enabling legislation and implementing regulations. However, any consideration of the second-stage procedure at this point in time involves a number of uncertainties. As was noted in *Vickers*:

[Such] a step would be difficult to justify before the analysis and processing of Applications for Refund filed in the first stage of the distribution of the Consent Order funds to claimants, since the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-stage distribution scheme.

8 DOE at 85.397. We will consider any comments received regarding second-stage alternatives and then issue a final Decision and Order establishing procedures for the first stage. In that decision, we will summarize and address briefly the comments received concerning second-stage procedures, and will solicit another round of comments on the distribution of the funds that may remain after payment of claims in the first stage. In this way, we will have adequate opportunity to consider the outstanding issues before reaching a final decision on the second stage.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Husky Oil Company pursuant to the consent order executed on January 8, 1982, will be distributed in accordance with the foregoing Decision.

Footnotes

(1) We are awaiting data to be provided by the Energy Information Administration as to Husky's sales of refined products during the consent order period. This material will enable us to calculate the volumetric refund amount to be distributed on a per gallon basis to potential claimants in this proceeding. The volumetric amount will be included in a final Decision and Order, at which point potential claimants will be able to compute the refunds for which they may qualify. In addition, the interest which has accrued to the consent order fund will be applied to each paid refund on a pro rata basis. Finally, we intend to set a minimum refund amount to potential claimants. In prior refund cases, we have not granted refunds for less than \$15.00 because the cost of issuing

such refunds exceeds the restitutionary benefits which may be achieved. See *Office of Special Counsel*, 10 DOE § 85.048 at 88,214 (1982). We will utilize the same minimum refund in the present case.

(2) We will except from this principle cooperative organizations which made spot purchases of products from the consent order firm. In the past, we have treated refund applications by cooperatives as applications made on behalf of their members, who, as ultimate customers, were not in a position to pass along increased costs. Similarly, any refund received by a cooperative would presumably be passed on to its members, in the form of either a price reduction or a distribution of surplus income. *Office of Special Counsel*, 9 DOE § 82.538 at 85,203. See, e.g., *Anadarko Production Co./Cities Service Co.*, 12 DOE § 85.060. Cooperative purchasers therefore will be presumed to have been injured in spot purchases of Husky products and will be eligible to apply for refunds. These firms must explain in their refund applications the manner in which any refunds will be distributed to members.

[FR Doc. 84-33322 Filed 12-21-84; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding a consent order fund of \$46,616.73 to members of the public. This money is being held in escrow following the settlement of an enforcement proceeding involving Cosby Oil Company, a reseller-retailer of motor gasoline located in Whittier, California.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the *Federal Register* and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to Case Number HEF-0056.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed

Decision relates to a consent order entered into by Cosby Oil Company (Cosby) which settled possible pricing violations in the firm's sales of motor gasoline to customers during the November 1, 1973 through April 30, 1974 audit period.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by Cosby pursuant to the consent order. The DOE has tentatively decided that the consent order fund should be distributed to those customers of Cosby who establish that they were injured by Cosby's alleged overcharges. Such customers will receive refunds based on the amount they were allegedly overcharged, according to DOE audit files. However, Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures.

Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the Federal Register, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 pm., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington D.C. 20585.

Dated: December 12, 1984.

George B. Breznay,
Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Firm: Cosby Oil Company.
Date of Filing: October 13, 1983.
Case Number: HEF-0056.

December 12, 1984.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) of the DOE may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds in order to remedy the affects of alleged violations of the DOE regulations. See 10 CFR Part 205, Subpart V. The ERA filed such a petition on October 13, 1983, requesting that the OHA implement a proceeding to distribute funds received pursuant to a

Consent Order entered into by the DOE and Cosby Oil Company (Cosby).

I. Background

Cosby Oil Company is a "reseller-retailer" of gasoline, as this term was defined in 10 CFR 212.31. An ERA audit of Cosby's operations during the period November 1, 1973 through April 30, 1974 (the audit period) revealed possible violations of the Mandatory Petroleum Pricing Regulations. In a Proposed Remedial Order (PRO) issued to Cosby on February 12, 1979, the ERA alleged that during the audit period Cosby overcharged its motor gasoline customers by \$103,734.61. In order to settle all claims and disputes between Cosby and the DOE regarding Cosby's compliance with the DOE price regulations in sales of motor gasoline during the audit period, the firm entered into a Consent Order with the DOE, in which Cosby agreed to remit \$35,000, plus interest from November 1, 1973 to July 31, 1979, to the DOE for deposit in an interest-bearing escrow account.⁽¹⁾ The Consent Order refers to the ERA allegations of overcharges, but notes that no findings of violation were made. Additionally, the Consent Order states that Cosby does not admit that it committed any such violations.

The procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to readily identify persons who may have been injured by alleged or adjudicated violations, or unable to ascertain the amounts of such persons' injuries. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, see *Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*).

II. Proposed Refund Procedures

We have considered the ERA petition to implement Subpart V proceedings with respect to the Cosby consent order fund and have determined that it is appropriate to establish such a proceeding. Insofar as possible, the consent order fund should be distributed to those customers of Cosby who were injured by the alleged price violations. Exhibit A of the PRO issued to Cosby lists the names of 15 Cosby customers, along with the amounts they were allegedly overcharged.⁽²⁾ This

information is listed in the Appendix to this Proposed Decision and Order. In our view, these identified customers are most likely to be the parties who were adversely affected by any alleged overcharges that may have occurred as a result of Cosby's pricing practices. However, we recognize that there may be other purchasers of Cosby gasoline who were not listed in the PRO and who may have been injured by Cosby's pricing practices during the consent order period.⁽³⁾ We therefore propose to accept applications from any party that can show it was injured by Cosby's alleged overcharges.

Several of the identified customers of Cosby are resellers, i.e., retailers and wholesalers. We propose that these firms, and any other claimants who resold Cosby motor gasoline, be required to demonstrate that they did not simply pass on to their customers price increases implemented by Cosby. See, e.g., *Vickers*. In order to qualify for a refund, resellers of Cosby gasoline must show that during the consent order period they would have maintained their prices for motor gasoline at the same level had the alleged overcharges not occurred. While there are a variety of ways to make this showing, a reseller should generally demonstrate that at the time it purchased motor gasoline from Cosby, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges to its customers. In addition, the reseller must show that it maintained a "bank" of unrecovered costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices. The maintenance of a bank will now, however, automatically establish injury. See *Tenneco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982); *Vickers Energy Corp./Standard Oil Co.*, 10 DOE ¶ 85,036 (1982); *Vickers Energy Corp./Koch Industries, Inc.*, 10 DOE ¶ 85,038 (1982).

As in many prior special refund cases, we will adopt a presumption of injury with respect to small claims. The use of presumptions in refund cases is specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

In establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for

evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e).

In the present case, we are adopting a presumption that claimants seeking smaller refunds were injured by the pricing practices settled in the Cosby Consent Order. This presumption is based on a number of considerations. See, e.g., *Urban Oil Co.*, 9 DOE ¶ 82,541 (1982).

As we have noted in many previous refund decisions, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost to the firm of gathering this factual information and the cost to OHA of analyzing it may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions for small claims is also desirable from an administrative standpoint, because it allows the OHA to process a large number of routine refund claims quickly, and use its limited resources more efficiently. Finally, we know that these smaller claimants did purchase covered petroleum products from Cosby and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially. The small claim presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the presumption we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold level. Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consent order firm, or as a dollar refund amount. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refund. *Id.* at 88,210. We propose to follow the same approach in this case.

The adoption of a threshold level below which a claimant is not required to submit any further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are especially concerned that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, where the proposed maximum refund amounts are fairly low, and the time period of the Consent Order was quite distant, we believe that the establishment of a presumption of injury for all claims of \$5,000 or less is reasonable. See *id.*; *Marion Corp.*, 12 DOE ¶ 85,014 (1984).

In addition to the presumption for small claims we are making a finding that end-users or ultimate consumers, including businesses that are unrelated to the petroleum industry, were injured by the alleged overcharges settled in the Consent Order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. See *Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); see also *Texas Oil & Gas Corp.*, 12 DOE at 88,209 and cases cited therein. We have therefore concluded that end-users of Cosby gasoline need only document their purchase volumes from Cosby to make a sufficient showing that they were injured by the alleged overcharges.

III. Calculation of Refund Amounts

We must further determine the proper method for dividing the consent order fund among successful applicants. We propose that the maximum refund for the firms listed in the Appendix be based on the amounts they are allegedly overcharged, as indicated by the Cosby PRO. Although we recognize that the PRO does not provide conclusive evidence as to the identity of all allegedly overcharged parties or the amount of money they should receive in a Subpart V proceeding, we believe it is appropriate to use this information in the present case. Specifically, we note that the ERA audit was very narrow in scope, that the Consent Order was limited to the same products and time period as the audit, and that Cosby had a relatively small number of customers.

Because of these factors, the information contained in the PRO can be used for guidance in fashioning a refund plan which is likely to correspond closely to the injuries experienced. See, e.g., *Marion*. To calculate the size of each applicant's potential refund, we propose to multiply the alleged overcharge amount for each eligible claimant by 0.4494, a pro rata factor representing the portion of the total alleged overcharges that Cosby has remitted to the DOE (\$46,616.73 divided by \$103,734.61). The potential refunds for those customers listed in Exhibit A of the Cosby PRO are set forth in the Appendix to this Decision. (5) In addition, successful refund applicants will receive a pro rata share of the interest which has accrued since the deposit of the funds into the escrow account.

We further propose to establish a minimum amount of \$15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than \$15 outweighs the benefits of restitution in those situations. See, e.g., *Amoco; Urban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982). See also 10 CFR 205.286(b).

Refund applications in this proceeding should not be filed until issuance of a final Decision and Order. Detailed procedures for filing applications will be provided in the final Decision and Order. Before disposing of any of the funds received, we intend to publicize the distribution process and to provide an opportunity for any affected party to file a claim. In addition to publishing copies of the proposed and final decisions in the *Federal Register*, copies will be provided to the Cosby customers whose names and addresses we have obtained from the ERA audit files. If appropriate, we also intend to publicize this proceeding in local newspapers in the areas where Cosby conducted business.

In the event that money remains after all first state claims have been disposed of, these funds could be distributed in various ways. We will not be in a position to decide what should be done with any remaining funds until the first stage of this refund proceeding is completed.

It is therefore ordered that: The refund amount remitted to the Department of Energy by Cosby pursuant to the Consent Order executed on September 10, 1979 will be distributed in accordance with the foregoing Decision.

Footnotes

(1) On the date it signed the Consent Order, September 5, 1979, Cosby remitted \$46,616.73 (\$35,000 plus interest) to the DOE.

(2) We currently do not have the addresses of four of the customers listed in the Cosby PRO (see Appendix). We ask that anyone aware of those addresses send us that information.

(3) In the present case, the consent order period is coterminous with the audit period (November 1, 1973 through April 30, 1974).

(4) We propose that resellers who made only spot purchases from Cosby be presumed to have suffered no injury. They would therefore be ineligible for any refund, even a refund at or below the threshold level. As we have previously stated with respect to spot purchasers:

[T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396-97. See *Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,200 (1982). The same rationale holds true in the present case. Accordingly, in order to overcome the rebuttable presumption that they were not injured, in addition to the proof of injury required of those resellers claiming more than the threshold amount, any reseller claimants who were spot purchasers must submit additional evidence to establish that they were unable to exercise discretion as to where and when they made the purchase(s) on which their refund claim is based.

(5) In the event that there are customers not listed in the Appendix who file successful applications for refund, we will use a volumetric approach to determine their refund amounts. In that event we may have to reduce the level of refunds proposed for the firms listed in the Appendix. Because of this possibility, we do not intend to issue final determinations on any refund claims in this proceeding until the deadline for applications has passed.

APPENDIX

Name address	Alleged over-charges	refund ¹
Automat Oil Company, 200 West Willow Street, Long Beach, CA 90806	\$9,067.98	4,075.00
Bradshaw, Inc., 1708 Gage Avenue, Montebello, CA 90640	223.24	100.00
C.M. Caldwell Company, 540 Sespe Avenue, Fillmore, CA 93015	6,813.99	3,062.00
Cerritos High School, 12500 East 183rd Street, Cerritos, CA 90701	135.79	61.00
Chuck and Lees, address not available	3,292.43	1,490.00
Clements Oil Company, 8451 Atlantic, Cudahy, CA 90640	8,540.92	3,838.00
Five Points, address not available	5,978.45	2,667.00
H.D. Distributors, 347 South Ogden Drive, Los Angeles, CA 90036	21,194.02	9,525.00
Leona Supere, address not available	198.55	89.00
Jerry Litsey, L & S Service Station, 7535 East Firestone, Downey, CA 90241	2,295.85	1,032.00
Pyramid Oil Company, P.O. Box 3225, Santa Fe Springs, CA 90670	78.20	35.00

APPENDIX—Continued

Name address	Alleged over-charges	refund ¹
U.S.A. Petroleum Corporation, 1633 26th Street, Santa Monica, CA 90404	6,325.66	2,843.00
Winall Oil Company, 3978 Cherry Avenue, Long Beach, CA 90807	31,646.81	14,222.00
World Oil Company, 1017 North La-Cienega Blvd., Los Angeles, CA 90069	2,809.80	1,263.00
Yucca Valley, address not available	5,132.95	2,307.00

¹ Rounded to nearest dollar.

[FR Doc. 84-33321 Filed 12-21-84; 8:45 am]

BILLING CODE 6490-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of \$1,866.23 obtained as the result of a consent order which the DOE entered into with Midwest Industrial Fuels, Inc., a reseller of petroleum products located in LaCrosse, Wisconsin.

DATE AND ADDRESS: Applications for refund of a portion of the Midwest consent order funds must be received within 90 days of publication of this notice in the *Federal Register*. All applications should refer to Case Number HEF-0130 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Douglas Friedman, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The decision relates to a consent order entered into by Midwest Industrial Fuels, Inc., which settled possible pricing violations in the firm's sales of refined petroleum products to its customers during the period November 1, 1973, through April 30, 1974.

The Decision sets forth procedures and standards that the DOE has formulated to distribute the contents of an escrow account funded by Midwest pursuant to the consent order. The DOE

has decided that a portion of the consent order funds should be distributed to the two wholesale purchasers which DOE's audit indicated may have been overcharged, after each has filed an application for refund. These purchasers were identified by a DOE audit and allotted funds based on findings and presumptions of injury which the DOE has utilized in past proceedings. In addition, applications for refund will be accepted from purchasers not identified by the DOE audit.

A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the Midwest consent order funds was issued on August 27, 1984. 49 FR 36556 (September 18, 1984).

As the Decision and Order published with this Notice indicates, applications for refunds may now be filed by customers who purchased petroleum products from Midwest during the audit period. Applications will be accepted provided they are received no later than 90 days after publication of this Decision and Order in the *Federal Register*. The specific information required in an application for refund is set forth in the Decision and Order.

Dated: December 12, 1984.

George B. Breznay,
Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

December 12, 1984.

Name of Firm: Midwest Industrial Fuels, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF-0130.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of alleged or actual violations of the DOE regulations. See 10 CFR Part 205, Subpart V. The Subpart V process is typically used in situations where DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the extent of such persons' injuries. For a more detailed discussion of Subpart V, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1982), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

I. Background

In accordance with the provisions of Subpart V, ERA, on October 13, 1983, filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Midwest Industrial Fuels, Inc. (Midwest). Midwest is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31, and is located in LaCrosse, Wisconsin. A DOE audit of the firm's records revealed possible pricing violations amounting to \$269,653.12 with respect to sales of No. 2 fuel oil during the period November 1, 1973, through April 30, 1974. In order to settle all claims and disputes between Midwest and the DOE regarding the firm's sales of No. 2 fuel oil during the audit period, Midwest and the DOE entered into a consent order on August 31, 1981, in which the firm agreed to make refunds amounting to \$137,000.41 (including interest). According to the Midwest consent order, the alleged overcharges affected two classes of customers. Separate processes were established by which Midwest would make refunds directly to certain of its customers who were allegedly injured, as well as place funds in escrow for DOE to distribute. First, \$135,135.18, representing alleged overcharges on sales of No. 2 fuel oil to end users, was to be refunded directly to those purchasers. (1) In addition, \$1,866.23, representing alleged overcharges with respect to sales of No. 2 fuel oil to certain wholesale purchasers, was to be deposited by Midwest into an interest-bearing escrow account for ultimate distribution by DOE. This Decision concerns the distribution of the \$1,866.23 that Midwest deposited into the escrow account on September 15, 1981, plus accrued interest to date. (2)

On August 27, 1984, we issued a Proposed Decision and Order (PD&O) which set forth a tentative plan for the distribution of the Midwest consent order funds. 49 FR 36,558 (September 18, 1984). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries which were probably suffered as a result of alleged or actual violations of the DOE regulations. In order to effect restitution in this proceeding, we tentatively determined to rely in part on the information contained in the ERA audit file. We observed that this approach was warranted based upon our experience in prior Subpart V cases where all or most of the purchasers of the firm's products are identified in the audit file. See, e.g., *Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). We also

noted that under such circumstances, a more precise determination with respect to the identity of the allegedly overcharged parties was possible. At the same time, we recognized that there may have been other purchasers who were not identified by the ERA audit, who were possibly injured as a result of Midwest's pricing practices during the audit period, and who would therefore be entitled to a portion of the consent order funds.

A copy of the PD&O was published in the *Federal Register* and comments were solicited regarding the proposed refund procedures. In addition, copies of the PD&O were sent to gasoline dealers' associations in states near Midwest's headquarters, in an attempt to locate and identify the two firms identified by the audit file as potential refund recipients. The only comments we received were filed on behalf of the States of Arkansas, Delaware, Iowa, Kansas, Louisiana, New Mexico, North Dakota, Rhode Island, and West Virginia. However, these comments discuss the distribution of any residual funds in a subsequent proceeding. The purpose of this Decision and Order is limited to establishing procedures to be used for filing and processing claims in the first stage of the Richards refund proceeding. This Decision sets forth the information that a purchaser of Richards products should submit in an Application for Refund in order to establish eligibility for a portion of the consent order funds. The formulation of procedures for the final disposition of any remaining funds will necessarily depend on the size of the fund. See *Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Therefore, it would be premature for us to address at this time the issues raised by the states' comments concerning the disposition of any funds remaining after all the meritorious first-stage claims have been paid. Furthermore, most of these comments have virtually no bearing on this proceeding. As we have stated previously, we request states to participate only in those cases where they can demonstrate a significant interest and in which they can participate in a meaningful and constructive way. We note in this instance there is no apparent connection between this proceeding and the interests of any of the states, other than Iowa, and their respective citizens. Midwest's sales appear to have occurred in Wisconsin, Minnesota, and Iowa. For the reasons stated above, the comments filed by the various states will not be addressed at this time.

II. Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

In the PD&O, we stated that in the DOE's audit of Midwest, two wholesale first purchasers were identified as having allegedly been overcharged. We recognize that the DOE audit file does not provide conclusive evidence as to the identity of possible refund recipients or the amount of money that they should receive in a Subpart V proceeding. See *Armstrong and Associates/City of San Antonio*, 10 DOE ¶ 85,050 at 88,259 (1983). Nevertheless, the information contained in the audit file can be used for guidance in fashioning a refund plan which is likely to correspond more closely to the injuries probably experienced than would a distribution plan based solely on a volumetric approach. *Marion*, 12 DOE at 88,031. In previous cases of this type, we have proposed that the lists of customer names and alleged overcharges attributed to each which were provided by the ERA audit should be used in reaching a determination on how the funds in the escrow account should be distributed. See, e.g., *Bob's Oil Co.*, 10 DOE ¶ 85,024 (1984); *Brown Oil Co.*, 12 DOE ¶ 85,028 (1984). The wholesale purchasers identified by the audit, with the share of the settlement amount allotted to each by ERA, are listed below:

Purchaser	Share of settlement amount (\$)
Big Bear Stores.....	\$1,444.27
Amoco (retail station).....	421.96

As we noted in the PD&O, we have no other information regarding the identity or location of these firms. In an effort to better identify these two purchasers, we provided Midwest and various service station associations in surrounding states with copies of the PD&O, in addition to publishing notice in the

Footnotes

(1) On the date it signed the Consent Order, September 5, 1979, Cosby remitted \$46,616.73 (\$35,000 plus interest) to the DOE.

(2) We currently do not have the addresses of four of the customers listed in the Cosby PRO (see Appendix). We ask that anyone aware of those addresses send us that information.

(3) In the present case, the consent order period is coterminous with the audit period (November 1, 1973 through April 30, 1974).

(4) We propose that resellers who made only spot purchases from Cosby be presumed to have suffered no injury. They would therefore be ineligible for any refund, even a refund at or below the threshold level. As we have previously stated with respect to spot purchasers:

[T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396-97. See *Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,200 (1982). The same rationale holds true in the present case. Accordingly, in order to overcome the rebuttable presumption that they were not injured, in addition to the proof of injury required of those resellers claiming more than the threshold amount, any reseller claimants who were spot purchasers must submit additional evidence to establish that they were unable to exercise discretion as to where and when they made the purchase(s) on which their refund claim is based.

(5) In the event that there are customers not listed in the Appendix who file successful applications for refund, we will use a volumetric approach to determine their refund amounts. In that event we may have to reduce the level of refunds proposed for the firms listed in the Appendix. Because of this possibility, we do not intend to issue final determinations on any refund claims in this proceeding until the deadline for applications has passed.

APPENDIX

Name address	Alleged over-charges	refund ¹
Automat Oil Company, 200 West Willow Street, Long Beach, CA 90806	\$9,067.98	4,075.00
Bradshaw, Inc., 1708 Gage Avenue, Montebello, CA 90640	223.24	100.00
C.M. Caldwell Company, 540 Sespe Avenue, Fillmore, CA 93015	6,813.99	3,062.00
Cerritos High School, 12500 East 183rd Street, Cerritos, CA 90701	135.79	61.00
Chuck and Lees, address not available	3,292.43	1,480.00
Clements Oil Company, 8451 Atlantic, Cudahy, CA 90640	8,540.92	3,838.00
Five Points, address not available	5,978.45	2,687.00
H.D. Distributors, 347 South Ogden Drive, Los Angeles, CA 90036	21,194.02	9,525.00
Leona Supere, address not available	198.55	89.00
Jerry Litsey, L & S Service Station, 7535 East Firestone, Downey, CA 90241	2,295.85	1,032.00
Pyramid Oil Company, P.O. Box 3225, Santa Fe Springs, CA 90670	78.20	35.00

APPENDIX—Continued

Name address	Alleged over-charges	refund ¹
U.S.A. Petroleum Corporation, 1633 26th Street, Santa Monica, CA 90404	6,325.66	2,843.00
Winall Oil Company, 3978 Cherry Avenue, Long Beach, CA 90807	31,646.81	14,222.00
World Oil Company, 1017 North La-Cienega Blvd, Los Angeles, CA 90069	2,809.80	1,263.00
Yucca Valley, address not available	5,132.95	2,307.00

¹ Rounded to nearest dollar.

[FR Doc. 84-33321 Filed 12-21-84; 8:45 am]

BILLING CODE 6490-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of \$1,866.23 obtained as the result of a consent order which the DOE entered into with Midwest Industrial Fuels, Inc., a reseller of petroleum products located in LaCrosse, Wisconsin.

DATE AND ADDRESS: Applications for refund of a portion of the Midwest consent order funds must be received within 90 days of publication of this notice in the *Federal Register*. All applications should refer to Case Number HEF-0130 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Douglas Friedman, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The decision relates to a consent order entered into by Midwest Industrial Fuels, Inc., which settled possible pricing violations in the firm's sales of refined petroleum products to its customers during the period November 1, 1973, through April 30, 1974.

The Decision sets forth procedures and standards that the DOE has formulated to distribute the contents of an escrow account funded by Midwest pursuant to the consent order. The DOE

has decided that a portion of the consent order funds should be distributed to the two wholesale purchasers which DOE's audit indicates may have been overcharged, after each has filed an application for refund. These purchasers were identified by a DOE audit and allotted funds based on findings and presumptions of injury which the DOE has utilized in past proceedings. In addition, applications for refund will be accepted from purchasers not identified by the DOE audit.

A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the Midwest consent order funds was issued on August 27, 1984. 49 FR 36556 (September 18, 1984).

As the Decision and Order published with this Notice indicates, applications for refunds may now be filed by customers who purchased petroleum products from Midwest during the audit period. Applications will be accepted provided they are received no later than 90 days after publication of this Decision and Order in the *Federal Register*. The specific information required in an application for refund is set forth in the Decision and Order.

Dated: December 12, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

December 12, 1984.

Name of Firm: Midwest Industrial Fuels, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF-0130.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of alleged or actual violations of the DOE regulations. See 10 CFR Part 205, Subpart V. The Subpart V process is typically used in situations where DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the extent of such persons' injuries. For a more detailed discussion of Subpart V, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1982), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

I. Background

In accordance with the provisions of Subpart V, ERA, on October 13, 1983, filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Midwest Industrial Fuels, Inc. (Midwest). Midwest is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31, and is located in LaCrosse, Wisconsin. A DOE audit of the firm's records revealed possible pricing violations amounting to \$269,653.12 with respect to sales of No. 2 fuel oil during the period November 1, 1973, through April 30, 1974. In order to settle all claims and disputes between Midwest and the DOE regarding the firm's sales of No. 2 fuel oil during the audit period, Midwest and the DOE entered into a consent order on August 31, 1981, in which the firm agreed to make refunds amounting to \$137,000.41 (including interest). According to the Midwest consent order, the alleged overcharges affected two classes of customers. Separate processes were established by which Midwest would make refunds directly to certain of its customers who were allegedly injured, as well as place funds in escrow for DOE to distribute. First, \$135,135.18, representing alleged overcharges on sales of No. 2 fuel oil to end users, was to be refunded directly to those purchasers.⁽¹⁾ In addition, \$1,866.23, representing alleged overcharges with respect to sales of No. 2 fuel oil to certain wholesale purchasers, was to be deposited by Midwest into an interest-bearing escrow account for ultimate distribution by DOE. This Decision concerns the distribution of the \$1,866.23 that Midwest deposited into the escrow account on September 15, 1981, plus accrued interest to date.⁽²⁾

On August 27, 1984, we issued a Proposed Decision and Order (PD&O) which set forth a tentative plan for the distribution of the Midwest consent order funds. 49 FR 36,556 (September 18, 1984). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries which were probably suffered as a result of alleged or actual violations of the DOE regulations. In order to effect restitution in this proceeding, we tentatively determined to rely in part on the information contained in the ERA audit file. We observed that this approach was warranted based upon our experience in prior Subpart V cases where all or most of the purchasers of the firm's products are identified in the audit file. See, e.g., *Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). We also

noted that under such circumstances, a more precise determination with respect to the identity of the allegedly overcharged parties was possible. At the same time, we recognized that there may have been other purchasers who were not identified by the ERA audit, who were possibly injured as a result of Midwest's pricing practices during the audit period, and who would therefore be entitled to a portion of the consent order funds.

A copy of the PD&O was published in the *Federal Register* and comments were solicited regarding the proposed refund procedures. In addition, copies of the PD&O were sent to gasoline dealers' associations in states near Midwest's headquarters, in an attempt to locate and identify the two firms identified by the audit file as potential refund recipients. The only comments we received were filed on behalf of the States of Arkansas, Delaware, Iowa, Kansas, Louisiana, New Mexico, North Dakota, Rhode Island, and West Virginia. However, these comments discuss the distribution of any residual funds in a subsequent proceeding. The purpose of this Decision and Order is limited to establishing procedures to be used for filing and processing claims in the first stage of the Richards refund proceeding. This Decision sets forth the information that a purchaser of Richards products should submit in an Application for Refund in order to establish eligibility for a portion of the consent order funds. The formulation of procedures for the final disposition of any remaining funds will necessarily depend on the size of the fund. See *Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Therefore, it would be premature for us to address at this time the issues raised by the states' comments concerning the disposition of any funds remaining after all the meritorious first-stage claims have been paid. Furthermore, most of these comments have virtually no bearing on this proceeding. As we have stated previously, we request states to participate only in those cases where they can demonstrate a significant interest and in which they can participate in a meaningful and constructive way. We note in this instance there is no apparent connection between this proceeding and the interests of any of the states, other than Iowa, and their respective citizens. Midwest's sales appear to have occurred in Wisconsin, Minnesota, and Iowa. For the reasons stated above, the comments filed by the various states will not be addressed at this time.

II. Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

In the PD&O, we stated that in the DOE's audit of Midwest, two wholesale first purchasers were identified as having allegedly been overcharged. We recognize that the DOE audit file does not provide conclusive evidence as to the identity of possible refund recipients or the amount of money that they should receive in a Subpart V proceeding. See *Armstrong and Associates/City of San Antonio*, 10 DOE ¶ 85,050 at 88,259 (1983). Nevertheless, the information contained in the audit file can be used for guidance in fashioning a refund plan which is likely to correspond more closely to the injuries probably experienced than would a distribution plan based solely on a volumetric approach. *Marion*, 12 DOE at 88,031. In previous cases of this type, we have proposed that the lists of customer names and alleged overcharges attributed to each which were provided by the ERA audit should be used in reaching a determination on how the funds in the escrow account should be distributed. See, e.g., *Bob's Oil Co.*, 10 DOE ¶ 85,024 (1984); *Brown Oil Co.*, 12 DOE ¶ 85,028 (1984). The wholesale purchasers identified by the audit, with the share of the settlement amount allotted to each by ERA, are listed below:

Purchaser	Share of settlement amount (\$)
Big Bear Stores.....	\$1,444.27
Amoco (retail station).....	421.96

As we noted in the PD&O, we have no other information regarding the identity or location of these firms. In an effort to better identify these two purchasers, we provided Midwest and various service station associations in surrounding states with copies of the PD&O, in addition to publishing notice in the

Federal Register. None of these organizations provided us with any information regarding the purchasers' identities. We will provide copies of this Decision and Order to the organizations noted above, and to additional service station associations, in addition to publishing notice in the **Federal Register**. We will accept information regarding the identity and present locations of these purchasers for a period of 90 days from the date of publication of notice of this Decision and Order in the **Federal Register**.

Identification of first purchasers is only the first step in the distribution process. We must also consider whether the first purchasers suffered injury or were able to pass through the alleged overcharges. As we stated in the PD&O besides considering the information which the audit file provides, we will also adopt certain presumptions in order to distribute the escrow accounts in this case. Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations state that:

(i) In establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we will adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. In this case, as in previous special refund procedures, we will adopt a presumption that claimants in this proceeding were injured by Midwest's pricing practices. Firms which will be eligible for refunds were in the chain of distribution where the alleged overcharges occurred and therefore bore some impact of the alleged overcharges, at least initially. In order to support a detailed claim of injury, a firm would have to compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time consuming and expensive. Since the amount of money in escrow is so small, the cost (to the firm) of gathering the necessary information and the cost (to OHA) of analyzing it could be many times the expected refund amount. Failure to allow simplified procedures could

therefore deprive injured parties of the opportunity to receive a refund. The presumption adopted here eliminates the need for a claimant to submit and OHA to analyze detailed proof of what happened downstream of the initial impact.

On the basis of the information in the record, and after adopting the presumption noted above, we will authorize refunds to the two firms listed above, for the shares of the settlement amount indicated, plus a proportionate share of the accrued interest. As we explained in the PD&O, we believe that using the information in the ERA audit file along with certain presumptions to distribute the Midwest escrow funds to the named purchasers is equitable, administratively efficient, and the most appropriate method of accomplishing restitution in this proceeding. If additional meritorious claims are filed, we will adjust the figures listed above accordingly. (4) Actual refunds will be determined only after analyzing all appropriate claims. (5) Finally, as indicated in the PD&O, we will establish a minimum of \$15 for refund claims. Through our experience in prior refund cases, we have found that the cost of processing claims in which refunds are sought for less than \$15 outweighs the benefits of restitution in those situations. See, e.g., *Uban Oil Co.*, 9 DOE ¶ 82,541, (1982). Other than the states, comments discussed above, no comments were received with regard to the refund procedures proposed in the PD&O. Accordingly, for the reasons stated above and in the PD&O, we will implement those proposals.

III. Applications for Refund

We have determined that by following the procedures described in the PD&O, we can distribute the Midwest consent order funds in the most equitable and efficient way possible. Accordingly, we will now accept applications for refunds from customers who purchased petroleum products from Midwest during the audit period. As we proposed, the consent order funds will be distributed to the firms that ERA alleged to have been overcharged by Midwest, provided each files an application, as well as to other eligible customers of Midwest who apply for a refund.

In order to receive a refund each claimant will be required to submit with its application, either a schedule of its monthly purchases of petroleum products from Midwest, or a statement verifying that it purchased motor gasoline from Midwest and is willing to rely on the data in the audit file. Claimants must indicate, as well, whether they have previously received a

refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying this proceeding. Purchasers not identified by the ERA audit will be required to provide specific information concerning the data, place, and volume of product purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged. A purchaser must indicate, as well, how it used the Midwest product, i.e., whether it was a reseller or ultimate consumer. Each applicant must also state whether there has been a change in ownership of the firm since the audit period, and must provide the names and addresses of any other owners. If there has been a change in ownership, the applicant should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund.

All applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register**. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted. Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." See 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name and telephone number of a person who may be contacted by this Office for additional information concerning the application. All applications should refer to Case Number HEF-0130 and should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

It Is Therefore Ordered That:

(1) Applications for refunds from the funds remitted to the Department of Energy by Midwest Industrial Fuels, Inc. pursuant to the consent order executed on August 31, 1981, may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: December 12, 1984.

George B. Breznay,
Director, Office of Hearings and Appeals.

(1) On October 15, 1981, Midwest advised DOE that it had made full payment of direct refunds to end users as specified in the consent order.

(2) The escrow account, including accrued interest, totaled \$2,490.59 as of November 30, 1984.

(3) The share of the escrow fund which the listed purchasers are to receive represents 50.8 percent of the amount each was allegedly overcharged, and is consistent with the terms of the consent order which settled for 50.8 percent of the total amount of alleged overcharges identified by the audit.

(4) If we are unable to locate either of the firms named in the audit, and no other purchaser files a claim, we will terminate the initial stage of this refund proceeding and reserve the funds for distribution in a subsequent proceeding.

(5) Purchasers identified in the ERA audit as having allegedly been overcharged may also submit information to show that they should receive refunds larger than those indicated above.

[FR Doc. 84-33314 Filed 12-21-84; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding \$950,000 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving the Bayou State Oil Corporation and Ida Gasoline, Inc., both refiners of petroleum products located in Shreveport, Louisiana.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the *Federal Register* and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF-0202.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2094.

SUPPLEMENTARY INFORMATION: In accordance with Section 205.282(b) of the procedural regulations of the

Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a consent order entered into by the Bayou State Oil Corporation and Ida Gasoline, Inc., which settled possible violations of DOE price controls in the firms' sales of refined petroleum products to their customers, and possible violations concerning Bayou States' participation in the Entitlements Program, during the period September 1973 through December 1977.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by Bayou State and Ida pursuant to the consent order. The DOE has tentatively established procedures under which purchasers of Bayou State and Ida products and participants in the Entitlements Program during the relevant period may file claims for refunds from the consent order fund. Applications for Refund should *not* be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the *Federal Register*, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: December 12, 1984.

George B. Breznay,
Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Bayou State Oil Corporation/Ida Gasoline, Inc.
Date of Filing: October 13, 1983.
Case Number: HEF-0202.
December 12, 1984.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request the Office of Hearings and Appeals (OHA) to formulate and implement a specially-

designed process to distribute funds obtained at the resolution of an enforcement proceeding in order to remedy the effects of alleged or actual violations of DOE regulations. 10 CFR Part 205, Subpart V. Pursuant to the provisions of Subpart V, on October 13, 1983, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order that it entered into with Bayou State Oil Corporation and Ida Gasoline, Inc. (together referred to as Bayou). (1)

I. Background

Bayou was a refiner, as that term is defined in 10 CFR 212.31, and maintained its headquarters in Shreveport, Louisiana. Three separate DOE audits of Bayou's records revealed possible regulatory violations by the firm. The three ERA audits which form the basis for the Bayou consent order covered different aspects of Bayou's business activities and different time periods. Two of those audits, Nos. NOOS90113 and NOOS90126, concern agreements whereby several refiners allegedly engaged in sham transactions for the purpose of increasing benefits obtained through the Crude Oil Entitlements Program, 10 CFR 211.67. Audit No. NOOS90113 covered the period October 1976 through May 1977, and Audit No. NOOS90126 covered the period January 1977 through May 1979. The third audit, No. 641SOO396, concerns alleged overcharges by Bayou during the period September 1973 through December 1977 in sales of refined petroleum products.

In order to settle all claims and disputes between Bayou and the DOE regarding the firm's compliance with DOE regulations during the period September 1, 1973 through December 31, 1977, Bayou and the DOE entered into a consent order on October 20, 1981. Under the terms of the consent order, Bayou agreed to remit \$950,000 to DOE. These funds are being held in an interest-bearing escrow account established with the United States Treasury pending a determination of their proper distribution, and as of November 30, 1984, the Bayou escrow account had earned \$308,709 in interest. This Proposed Decision concerns the distribution of the funds in the escrow account, plus the accrued interest.

II. Proposed Refund Procedures

A. Crude Oil Claims

Because the consent order resolves two different kinds of violations, we propose to divide the escrow account funds into two pools. *See Office of*

Special Counsel, 10 DOE ¶ 85,048 (1982). Of the alleged violations set forth in the consent order, 36.6289% of the aggregate amount relate to Bayou's participation in the Crude Oil Entitlements Program during the consent order period. We therefore propose that a pro rata portion of the consent order fund—a pool of \$347,975 plus accrued interest—be set aside to satisfy claims filed by participants in the Crude Oil Entitlements Program. Claimants in this category must show that they were injured by Bayou's alleged violations of those regulations.

We have previously established refund procedures for consent orders involving crude oil-related violations comparable to those resolved in the current consent order. Bayou is alleged to have reported as its own crude oil runs to stills, oil located at a different refinery. This alleged misrepresentation would have increased the number of entitlements issued to Bayou, and thereby reduced the value of the entitlement benefits available for all other refiners. In *Office of Enforcement: In the Matter of Alfred B. Alkek*, 9 DOE ¶ 82,521 (1982), 47 FR 2196 (January 14, 1982) (hereinafter cited as *Alkek*) and *Office of Enforcement: In the Matter of Adams Resources and Energy, Inc.*, 9 DOE ¶ 82,553 (1982), 47 FR 16381 (April 16, 1982) (hereinafter cited as *Adams*) and *A. Johnson & Company, Inc.*, 12 DOE ¶ 85,102 (1984) (hereinafter cited as *Johnson*) which involved settlements with 252 firms, we established a two-stage refund procedure for funds received as a result of alleged crude oil regulatory violations. Because the types of alleged violations that underlie the crude oil portion of the present proceeding would have an impact similar to those that were the subject of the *Alkek*, *Adams*, and *Johnson* proceedings, we have determined that it is appropriate to formulate a two-stage refund proceeding modeled after those proceedings. We therefore propose to establish first-stage refund procedures for the Bayou crude oil pool in which we will accept first-stage refund applications to be adjudicated in the same manner and using the same principles as those refund applications that were filed pursuant to the *Alkek*, *Adams*, and *Johnson* determinations.

B. Refunds to Refined Product Purchasers

We propose that the remainder of the Bayou settlement funds, \$602,025 plus accrued interest, be distributed to claimants who can demonstrate that they have been adversely affected by Bayou's alleged violations in sales of refined petroleum products during the

consent order periods. The information available to us at this time regarding Bayou's operations during that period does not provide names and addresses of all of the firm's customers. However, from our experience with Subpart V proceedings, we believe that the claimants in this proceeding will fall into the following categories: (1) Resellers (including retailers), and (2) firms, individuals, or organizations that were consumers (end-users). The petroleum products purchased by these claimants were purchased either directly from Bayou or from other firms in a chain of distribution leading back to Bayou. In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of Bayou motor gasoline, distillates, or other refined products for the period September 1973 to December 1977. If the product was not purchased directly from Bayou the claimant must include a statement setting forth its reasons for maintaining the product originated with Bayou. In addition, a reseller or retailer that files a claim generally will be required to establish that it absorbed the alleged overcharges and was thereby injured. To make this showing, a reseller or retailer claimant will be required to show initially that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover those costs by increasing its prices. See *Office of Enforcement*, 10 DOE ¶ 85,029 at 88,125 (1982) (hereinafter cited as *Ada*). In addition, it will have to demonstrate that, at the time it purchased the product from Bayou, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges.

As in many prior special refund cases, we will adopt certain presumptions. First, we will adopt a presumption that the alleged overcharges were dispersed equally in all sales of products made by Bayou during the consent order period. OHA has referred to this presumption in the past as a volumetric refund amount. Second, we will adopt a presumption of injury with respect to small claims.

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

[i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of

individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we will adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

The pro rata, or volumetric, refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by a particular firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact on an individual purchaser could have been greater, and any purchaser is allowed to file a refund application based on a claim that the impact of the alleged overcharge on it was greater than the pro rata amount determined by the volumetric presumption. See, e.g., *Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 (1984) and cases cited therein at 88,164.

The presumption that claimants seeking smaller refunds were injured by the pricing practices settled in the Bayou consent order is based on a number of considerations. See, e.g., *Urban Oil Co.*, 9 DOE ¶ 82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost (to the firm) of gathering this factual information, and the cost (to the OHA) of analyzing it, may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows the OHA to process a large number of routine refund claims quickly, and use its limited resources more efficiently. Finally, these smaller claimants did purchase covered products from Bayou and were in the chain of distribution where the alleged overcharges occurred.

Therefore, they bore some impact of the alleged overcharges, at least initially. The presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the presumptions we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold level. Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consenting firm, or as a dollar refund amount. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. We believe that the same approach should be followed in this case. The adoption of a threshold level below which a claimant is not required to submit any further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are especially concerned that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, where the refund amount is fairly low, and the time period of the consent order is quite distant, we believe that the establishment of a presumption of injury for all claims of \$5,000 is reasonable. (2) See *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984); *Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶ 85,226 (1984) and cases cited therein.

In addition to the presumptions we are adopting, we are making a finding that end-users of ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. See *Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); See also *Texas Oil & Gas Corp.*,

12 DOE at 88,209 and cases cited therein. We have therefore concluded that end-users of Bayou petroleum products need only document their purchase volumes from Bayou to make a sufficient showing that they were injured by the alleged overcharges.

We note that if a reseller or retailer made only spot purchases from Bayou, it is not likely to have suffered an injury. As we have previously stated with respect to spot purchasers:

[Those customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers at 85,396-97. We believe the same rationale holds true in the present case. Accordingly, a spot purchaser which files a claim should submit specific and detailed evidence to establish that it was unable to recover the increased prices it paid for Bayou petroleum products. See *Amoco* at 88,200.

A successful refund applicant will receive a refund based upon a volumetric method of allocating refunds. Under this method, a volumetric refund amount is calculated by dividing the settlement amount by our estimate of the total gallonage of products covered by the consent order. In the present case, based on the information available to us at this time, the volumetric refund amount is \$0.003671 per gallon, exclusive of interest. (3) As of refund amount to \$0.04884 per gallon.

As in previous cases, we will establish a minimum refund amount of \$15.00 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than \$15.00 outweighs the benefits of restitution in those situations. See, e.g., *Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982).

Detailed procedures for filing applications will be provided in a final Decision and Order. Before disposing of any of the funds received as a result of the consent order involved in this proceeding, we intend to publicize widely the distribution process to solicit comments on the proposed refund procedures and to provide an opportunity for any affected party to file a claim. In addition to publishing notice in the *Federal Register*, notice will be provided to the Independent Gasoline Marketers Council, the National Oil Jobbers Council, the Service Station Dealers of America, the National

Association of Truck Stop Operators, and the Society of Independent Gasoline Marketers of America. These organizations should be helpful in advising potential claimants of this proceeding. In addition, we are continuing our efforts to obtain a list of the names and addresses of first purchasers of Bayou petroleum products.

C. Distribution of the Remainder of the Consent Order Funds

In the event that money remains after all first stage claims have been disposed of, undistributed funds could be distributed in a number of different ways. For example, the funds may be distributed through plans formulated by state governments to benefit consumers who were likely injured by Bayou's alleged overcharges. See, e.g., *Northeast Petroleum Industries*, 11 DOE ¶ 85,199 (1983). However, we will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed. We encourage the submission of comments containing proposals for alternative distribution schemes.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by the Bayou State Oil Corporation pursuant to the consent order executed on October 20, 1981 will be distributed in accordance with the foregoing Decision.

Footnotes

(1) Both Bayou State Oil Corporation and Ida Gasoline, Inc. are engaged in the refining and reselling of petroleum products. They have some common stockholders, and are considered by the ERA to be one firm. The term "Bayou," as used in this Decision and Order, refers to both Bayou State and Ida.

(2) Resellers or retailers whose monthly purchases during the period for which a refund is claimed result in a volumetric refund of greater than \$5,000 but who cannot establish that they did not pass through the price increases, or who limit their claims to the threshold amount, will be eligible for a refund of the \$5,000 threshold amount without being required to submit additional evidence of injury. See *Vickers* at 85,396; see also *Ada* at 88,122.

(3) During the consent order period, Bayou sold 163,983,372 gallons of petroleum products. The volumetric refund amount is obtained by dividing the portion of money remitted by Bayou set aside for refunds to refined product purchasers by the volume of products sold (\$602,025 divided by 163,983,372 gallons = \$0.003671 per gallon.)

[FR Doc. 84-33320 Filed 12-21-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51526C; FRL-2742-2]

Certain Chemicals; Premanufacture Notices Termination of Review Period**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: EPA is terminating the remaining portion of a 90-day extension of the review periods for premanufacture notices (PMNs) 84-884 and 84-885, under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review periods will now expire effective December 24, 1984.

FOR FURTHER INFORMATION CONTACT: Candy Brassard, Chemical Control Division (TS-794), Environmental Protection Agency, Rm. E-611, 401 M St., SW., Washington, D.C. 20460, (202-475-8992).

SUPPLEMENTARY INFORMATION: The original 90-day review periods for PMNs 84-884 and 84-885 were scheduled to expire on September 23, 1984. EPA published section 5(c) extension notices for both PMNs in the *Federal Register* of October 1, 1984 (49 FR 38703) in order to investigate further potential risk, to examine its regulatory options, and to prepare the necessary documents, should regulatory action be required. The review periods for both PMNs would have expired on December 22, 1984. On October 4, 1984, the PMN submitter voluntarily suspended the review period for PMN 84-885 to March 26, 1985. EPA has determined it is not necessary to take action under TSCA on the PMN substances at this time. Therefore, EPA is terminating the remaining portions of the review periods effective December 24, 1984.

PMNs are available for public inspection in Rm. E-107, at the EPA headquarters, address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Dated: December 13, 1984.

Don R. Clay,*Director, Office of Toxic Substances.*

[FR Doc. 84-33332 Filed 12-21-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140058; TS-FRL-2741-2]

Versar, Inc. and General Software Corp.; Transfer of Data to Contractor and Subcontractor**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: EPA will transfer to its contractor, Versar, Inc., of Springfield, Virginia, and Versar's subcontractor, General Software Corporation (GSC), of Landover, Maryland, information which has been submitted to EPA under sections 5 and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed as confidential. These firms will review this information and will use it to assess potential human and environmental exposures for chemical substances being reviewed under TSCA.

DATE: The transfer of the confidential data submitted to EPA will occur no sooner than January 3, 1985.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll-Free: (800-424-9065). In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Under TSCA, EPA must determine whether certain chemical substances or mixtures may present an unreasonable risk of injury to health or to the environment from their manufacture, processing, distribution in commerce, use, or disposal. As a component of the unreasonable risk determination, the Agency must determine whether there is potential for human or environmental exposure to the substances or mixtures in question. To accomplish this, EPA will require the assistance of outside experts. EPA has selected Versar, Inc., of Springfield, Virginia, and Versar's subcontractor, GSC, of Landover, Maryland, under Contract No. 68-02-3968 to assist the Exposure Assessment Branch (EAB) of the Office of Toxic Substances in determining whether there potential human or environmental exposure to certain chemical substances or mixtures.

In accordance with 40 CFR 2.306(j), EPA has determined that Versar, Inc., and GSC employees may require access to confidential business information (CBI) submitted to EPA under sections 5 and 8 of TSCA to perform work satisfactorily under the above-noted contract. EPA is issuing this notice to inform all submitters of information under sections 5 and 8 of TSCA that EPA may transfer to these firms, on a need-to-know basis, CBI on specific chemicals that are under review or that are subjects of possible regulatory actions. Upon completing their review of materials submitted for a specific

chemical, the firm receiving CBI will return all such materials to EPA.

Versar, Inc., and GSC have been authorized to have access to TSCA CBI under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. EPA has inspected Versar's facilities and reviewed its security plan and has found them to be in compliance with the manual's requirements. GSC's access to and review of TSCA CBI shall occur only at Versar's facilities or at EPA. Personnel from these two firms will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted to receive CBI, in accordance with the "TSCA Confidential Business Information Security Manual" and the Contractor Requirements manual.

Dated: December 13, 1984.

Don R. Clay,*Director, Office of Toxic Substances.*

[FR Doc. 84-33334 Filed 12-24-84; 8:45 am]

BILLING CODE 6560-50-M

[OPPE-FRL-2741-1]

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 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:**Research and Development Programs**

• *Title:* Health Significance of Bacteria Found in Point-of-Use Granular Activated Carbon (GAC) Filters (EPA #1102).

Abstract: EPA will collect demographic data and incidence of acute illnesses/infections from volunteers who use granular activated carbon (GAC) filters. This study tests the hypothesis that drinking water passed through GAC filters has a favorable effect on the human health.

Respondents: 200 families at the U.S. Naval Base at Groton, Connecticut.

Agency PRA Clearance Requests Completed by OMB

EPA #0959, Groundwater Monitoring—Reporting, Recordkeeping, and Planning Requirements, was approved 11/29/84 (OMB #2050-0033; Expires 3/31/85).

EPA #1231, EDB Products: Claim for Indemnification and Request for Federal Disposal, was approved 12/4/84 (OMB #2070-0063; Expires 12/31/85).

Comments on all parts of this notice should be sent to:

Nanete 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

Wayne Leiss, 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: December 17, 1984.

Daniel J. Fiorino,

Acting Director, Regulation and Information Management Division.

[FR Doc. 84-33327 Filed 12-21-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59179; TS-FRL-2741-3]

Aliphatic Isocyanate Reaction Product With Substituted Aliphatic Amine; Test Marketing Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5 (h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the

Federal Register of May 13, 1983 (48 FR 21722). This notice, issued under section 5 (h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting of the exemption.

DATE: Written comments by January 8, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS-59179]" and the specific TME number should be sent to: Document Control Officer (TS-793), Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT:

Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

TME 85-11

Close of Review Period. January 25, 1985.

Manufacturer. Products Research and Chemical Corporation.

Chemical. (G) Aliphatic isocyanate reaction product with substituted aliphatic amine.

Use/Production. (S) Site-limited, sealant formulation wetting agent. Prod. range: 25 kg/8 months.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: A total of 7 workers, up to 8 hrs/da, up to 6 day during testing.

Environmental Release/Disposal. No data submitted.

Dated: December 17, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84-33335 Filed 12-21-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51550; TS-FRL-2741-5]

Certain Chemicals Premanufacturer Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacturer notices are discussed in EPA statements of the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-nine PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 85-262, 85-263, 85-264, 85-265 and 85-266; March 6, 1985

PMN 85-267, 85-268, 85-269, 85-270, 85-271, 85-272, 85-273, 85-274, 85-275, 85-276, 85-277, 85-278, 85-279, 85-280, 85-281, 85-282, 85-283, and 85-284; March 9, 1985

PMN 85-285, 85-286, 85-287, 85-288, 85-289, 85-290, 85-291, 85-292, 85-293, 85-294, and 85-295; March 10, 1985

PMN 85-296 and 85-297; March 11, 1985
PMN 85-298, 85-299 and 85-300; March 12, 1985

Written comments by:

PMN 85-262, 85-263, 85-264, 85-265 and 85-266; February 4, 1985

PMN 85-267, 85-268, 85-269, 85-270, 85-271, 85-272, 85-273, 85-274, 85-275, 85-276, 85-277, 85-278, 85-279, 85-280, 85-281, 85-282, 85-283, and 85-284; February 7, 1985

PMN 85-285, 85-286, 85-287, 85-288, 85-289, 85-290, 85-291, 85-292, 85-293, 85-294 and 85-295; February 8, 1985

PMN 85-296 and 85-297; February 9, 1985

PMN 85-298, 85-299 and 85-300; February 10, 1985.

ADDRESS: Written comments, identified by the document control number

"[OPTS-51550]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St., SW., Washington, DC 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT:

Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M St., SW., Washington, DC 20460 (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by

the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

PMN 85-262

Manufacturer. Arizona Chemical Company.

Chemical. (G) Substituted terpene resin.

Use/Production. (G) Resin for use in adhesives. Prod. range: Confidential.

Toxicity Data. Acute oral: > 10 g/kg; Acute dermal: > 2 g/kg; Inhalation: > 0.13 mg/l; Ames Test: Not mutagenic.

Exposure. Manufacture: Dermal, a total of 37 workers, up to 4 hrs/da, up to 180 da/yr.

Environmental Release/Disposal. 6 to 8 kg/day released to land. Disposal by landfill.

PMN 85-263

Manufacturer. Arizona Chemical Company.

Chemical. (G) Substituted terpene resin.

Use/Production. (G) Resin for use in adhesives. Prod. range: Confidential.

Toxicity Data. Acute oral: > 10 g/kg; Acute dermal: > 2 g/kg; Inhalation: > 0.13 mg/l; Ames Test: Not mutagenic.

Exposure. Manufacture: Dermal, a total of 37 workers, up to 4 hrs/da, up to 180 da/yr.

Environmental Release/Disposal. 6 to 8 kg/day released to land. Disposal by landfill.

PMN 85-264

Manufacturer. Arizona Chemical Company.

Chemical. (G) Substituted terpene resin.

Use/Production. (G) Resin for use in adhesives. Prod. range: Confidential.

Toxicity Data. Acute oral: > 10 g/kg; Acute dermal: > 2 g/kg; Inhalation: > 0.13 mg/l; Ames Test: Not mutagenic.

Exposure. Manufacture: Dermal, a total of 37 workers, up to 4 hrs/da, up to 180 da/yr.

Environmental Release/Disposal. 6 to 8 kg/day released to land. Disposal by landfill.

PMN 85-265

Manufacturer. Confidential.

Chemical. (S) Amines, tri (C₁₁₋₁₄-iso-C₁₃ rich).

Use/Production. (S) Industrial mineral processing. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Non-irritant.

Exposure. Manufacture: Dermal, a total of 9 workers, up to 4 hrs/da, up to 18 da/yr.

Environmental Release/Disposal. 100 kg/batch released with 50 kg to water.

Disposal by publicly owned treatment works (POTW).

PMN 85-266

Manufacturer. Callaway Chemical Company.

Chemical. (S) Acrylamide-methyl chloride quaternary of dimethylaminoethyl acrylate copolymer.

Use/Production. (S) Flocculant for dewatering sludges in industrial mill waste streams and retention aid for manufacture of paper. Prod. range: 50,000–200,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 6 workers, up to 3 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. 9 kg/batch released to water. Disposal by POTW.

PMN 85-267

Manufacturer. Monsanto Company.

Chemical. (G) Unsaturated etherified melamine formaldehyde resin.

Use/Production. (S) A industrial crosslinking agent for thermal or radiation curable printing inks and for high solids industrial coating formulations. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: > 5,000 mg/kg; Irritation: Skin—Slight, Eye—Moderate.

Exposure. Manufacture: Dermal, a total of 4 workers.

Environmental Release/Disposal. No release. 10 to 70 kg/batch incinerated.

PMN 85-268

Importer. Confidential.

Chemical. (G) Substituted furanone.

Use/Import. (G) Highly dispersive use. Import range: Confidential.

Toxicity Data. Irritation: Skin—Non-irritant; Skin sensitization: Non-sensitizer.

Exposure. Confidential.

Environmental Release/Disposal.

Confidential. Disposal by POTW.

PMN 85-269

Import. Confidential.

Chemical. (G) Substituted furanone.

Use/Import. (G) Highly dispersive use. Import range: Confidential.

Toxicity Data. Irritation: Skin—Non-irritant; Skin sensitization: Non-sensitizer.

Exposure. Confidential.

Environmental Release/Disposal.

Confidential. Disposal by POTW.

PMN 85-270

Importer. Confidential.

Chemical. (G) Substituted furanone.

Use/Import. (G) Highly dispersive use. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 85-271

Importer. Confidential.

Chemical. (G) Substituted furanone.

Use/Import. (G) Highly dispersive use. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 85-272

Manufacturer. Confidential.

Chemical. (G) Substituted aliphatic-terminated poly (dimethylsiloxane).

Use/Production. (G) A formulation component for open, non-dispersive use. Prod. range: 1,000–3,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 16 workers.

Environmental Release/Disposal. 0.1 to 2.0 kg released to land. Disposal by landfill.

PMN 85-273

Manufacturer. Confidential.

Chemical. (G) Polyester urethane acrylate blocked.

Use/Production. (S) Industrial component of radiation cure elastomeric printing plate resin. Prod. range: 40,000–182,000 kg/yr.

Toxicity Data. LC₅₀ 48 hr (Daphnia magna): 420 mg/l; No effect level after 48 hr: 100 mg/l.

Exposure. Manufacture: Dermal, a total of 18 workers, up to 4 hrs/da, up to 70 da/yr.

Environmental Release/Disposal. No release. 1 to 8 kg/batch incinerated on site.

PMN 85-274

Importer. Biddle Sawyer Corporation.

Chemical. (G) Substituted phenylazo naphthalene sulfonic acid salt.

Use/Import. (S) Reactive dyes for textiles. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 85-275

Importer. Biddle Sawyer Corporation.

Chemical. (G) Substituted naphthylazo naphthalene sulfonic acid.

Use/Import. (S) Reactive dyes for textiles. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

PMN 85-276

Importer. Biddle Sawyer Corporation.
Chemical. (G) Substituted phenylazo substituted naphthalene sulfonic acid, salt.

Use/Import. (S) Direct dyestuff.
Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

PMN 85-277

Importer. Biddle Sawyer Corporation.
Chemical. (G) Substituted phenylazo substituted naphthalene sulfonic acid, salt.

Use/Import. (S) Direct dyestuff.
Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

PMN 85-278

Manufacturer. Rohm and Haas Company.

Chemical. (G) Functionalized polyacrylic acid derivative.

Use/Production. (S) Dispersant for water-based pigment slurries and trade sales/industrial high gloss paints, caulks and adhesives for industrial, commercial and consumer use. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >5.0 g/kg; Irritation: Skin—Non-irritant, Eye—Inconsequentially irritating; LC₅₀ 96 hr (Fathead minnow): >1,000 mg/l; LC₅₀ 48 hr (Daphnia magna): >1,000 mg/l; EC₅₀ 96 hr (Algae): >1,000 mg/l.

Exposure. Manufacture: Dermal, a total of 8 workers.

Environmental Release/Disposal. Release to water. Disposal by POTW and navigable waterway.

PMN 85-279

Manufacturer. Lawter International Inc.

Chemical. (G) Vinyl modified terpene resin.

Use/Production. (S) Industrial resins for adhesives (pressure sensitive). Prod. range: 2,200,000–3,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 6 workers, up to 6 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. 2 kg/day released to air with less than 1 kg/day to water and 10 to 250 kg/day to land. Disposal by biological treatment, landfill and navigable waterway.

PMN 85-280

Manufacturer. Confidential.

Chemical. (G) Disubstituted naphthalene sulfonic acid derivative.

Use/Production. (G) Chemical intermediate. Prod. range: 180–260 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: Dermal, a total of 4 workers, up to 0.2 hrs/da, up to 3 da/yr.

Environmental Release/Disposal. No release. Less than 0.2 to less than 2 kg/batch incinerated.

PMN 85-281

Manufacturer. Confidential.

Chemical. (G) Disubstituted naphthalene sulfonic acid derivative salt.

Use/Production. (G) Chemical intermediate. Prod. range: 190–250 kg/yr.

Toxicity Data. Acute oral: Males—2,263 mg/kg, Females—1,233 mg/kg; Irritation: Skin—Slight, Eye—Slight; Skin sensitization: Low potential.

Exposure. Manufacture and use: Dermal, a total of 4 workers, up to 1.2 hrs/da, up to 4 da/yr.

Environmental Release/Disposal. No release. Less than 0.2 to less than 8 kg/batch incinerated.

PMN 85-282

Manufacturer. Confidential.

Chemical. (G) Substituted benzoic acid derivative.

Use/Production. (G) Chemical intermediate. Prod. range: 160–500 kg/yr.

Toxicity Data. Acute oral: >3,200 mg/kg; Acute dermal: 1.0 g/kg; Irritation: Skin—Moderate.

Exposure. Manufacture and use: Dermal, total of 6 workers, up to 0.4 hr/da, up to 4 da/yr.

Environmental Release/Disposal. No release. Less than 3 kg/batch disposed of by biological treatment system with less than 0.3 to less than 3 kg/batch incinerated.

PMN 85-283

Manufacturer. Confidential.

Chemical. (G) Disubstituted naphthol.

Use/Production. (G) Chemical intermediate. Prod. range: 350–400 kg/yr.

Toxicity Data. Skin sensitization: Low potential.

Exposure. Manufacture and use: Dermal, a total of 3 workers, up to 1.0 hr/da, up to 4 da/yr.

Environmental Release/Disposal. No release. Less than 1 kg/batch disposed of by biological treatment system with less than 0.1 to less than 2 kg/batch incinerated.

PMN 85-284

Manufacturer. Confidential.

Chemical. (G) Substituted phenylazo disubstituted naphthol.

Use/Production. (G) Chemical intermediate. Prod. range: 250–400 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal and inhalation, a total of 5 workers, up to 1.5 hrs/da, up to 4 da/yr.

Environmental Release/Disposal. Less than 0.5 kg/batch disposed of by biological treatment system with less than 2 kg/batch incinerated.

PMN 85-285

Manufacturer. Confidential.

Chemical. (G) Polyhydroxy ether phosphate.

Use/Production. (S) Component of binders for zinc rich paint. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 10 workers, up to 8 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. 20 kg/batch released to air. Disposal by incineration.

PMN-85-286

Manufacturer. Confidential.

Chemical. (G) Polyhydroxy ether phosphate.

Use/Production. (S) Component of binders for magnetic coatings used in electronic information storage devices. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 5 workers, up to 8 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. Confidential.

PMN 85-287

Manufacturer. Confidential.

Chemical. (G) alkali metal dicarboxylate.

Use/Production. (G) Solution to be shipped outside the USA for dilution with other materials for use as a flavoring. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 85-288

Manufacturer. Confidential.

Chemical. (G) Alkyl oxirane reacted with polyalkylene glycol.

Use/Production. (G) Lubricant additive and heat transfer media. Prod. range: 10,000–100,000 kg/yr.

Toxicity data. No data submitted.

Exposure. Manufacture: Dermal, a total of 6 workers, up to 8 hrs/da, up to 6 da/yr.

Environmental Release/Disposal. 290 kg/batch released to water. Disposal by POTW.

PMN 85-289

Manufacturer. PPG Industries, Inc.

Chemical. (S) 2,5,8,10-tetraoxatridec-12-enoic acid, 9 oxo-, 2 propenyl ester, polymer with vinyl acetate.

Use/Production. (S) Commercial plastic products with applications requiring high quality optical properties. Prod. range: 20,000-100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 12 workers, up to 8 hrs/da, up to 300 da/yr.

Environmental Release/Disposal. 5 kg released to land. Disposal by sanitary landfill.

PMN 85-290

Manufacturer. PPG Industries, Inc.

Chemical. (S) 2,5,8,10-tetraoxatridec-12-enoic acid, 9 oxo-, 2-propenyl ester homopolymer.

Use/Production. (S) Commercial plastic products with application requiring high abrasion resistance and high quality optical properties. Prod. range: 45,000-100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 12 workers, up to 8 hrs/da, up to 300 da/yr.

Environmental Release/Disposal. 10 kg released to land. Disposal by sanitary landfill.

PMN 85-291

Manufacturer. PPG Industries, Inc.

Chemical. (S) 2,5,8,10-tetraoxatridec-12-enoc acid, 9-oxo-, 2-propenyl ester, polymer with methyl 2-methyl-2-propenyl ester polymer with methyl 2-methyl-2-propenoate.

Use/Production. (S) Commercial plastic products with applications requiring high quality optical properties. Prod. range: 20,000-100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 12 workers, up to 4 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. 5 kg released to land. Disposal by sanitary landfill.

PMN 85-292

Manufacturer. Confidential.

Chemical. (G) Organofunctional polysiloxane.

Use/Production. (S) Industrial paper release coating. Prod. range: Confidential.

Toxicity Data. Acute oral (Male & female): > 5,000 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation: Skin—Mild, Eye—Mild.

Exposure. Manufacture and processing: Dermal, a total of 32 workers, up to 1 shift/da, 4 different groups/3 shifts.

Environmental Release/Disposal. Negligible release to air. 2 kg/batch disposed of by Resource Conservation and Recovery Act (RCRA) approved landfill.

PMN 585293

Manufacturer. Confidential.

Chemical. (G) Chloroetherketone.

Use/Production. (S) Site-limited pesticide intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: > 2,500 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Inhalation: Negative.

Exposure. No exposure.

Environmental Release/Disposal. No release.

PMN 85-294

Manufacturer. Confidential.

Chemical. (G) Etherketone.

Use/Production. (S) Site-limited pesticide intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: > 2,500 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Inhalation: Negative.

Exposure. No exposure.

Environmental Release/Disposal. No release.

PMN 85-295

Manufacturer. Confidential.

Chemical. (G) Modified acrylic polymer.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 85-296

Importer. Confidential.

Chemical. (G) Silicone ester polyacrylate.

Use/Import. (S) Industrial copolymerizable slip additive for radiation curable coating. Prod. range: 7,000-14,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 6 workers, up to 2 hrs/da, up to 10-15 da/yr.

Environmental Release/Disposal. No data submitted.

PMN 85-297

Manufacturer. Confidential.

Chemical. (G) Isophorone diisocyanate adduct of a polyether glycol, an alkanediol, and a substituted alkanol.

Use/Production. (G) Formulation component for open, non-dispersive use. Prod. range: 3,000-6,000 kg/yr.

Toxicity Data. Acute oral: > 2.5 ml/kg; Acute dermal: 1.0 ml/kg; Inhalation: 0.123 mg/l.

Exposure. Manufacture and processing: Dermal, a total of 17 workers.

Environmental Release/Disposal. 0.01-2.0 kg released to land. Disposal by landfill.

PMN 85-298

Importer. Confidential.

Chemical. (G) Amino acrylate monomer.

Use/Import. (S) Industrial ultraviolet curable coating additive—polymerizable cointiator. Import range: 10,000-14,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 6 workers, up to 2 hrs/da, up to 10-15 da/yr.

Environmental Release/Disposal. No data submitted.

PMN 85-299

Importer. Confidential.

Chemical. (G) Polyester resin.

Use/Import. (G) Resin. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Import and processing: Inhalation.

Environmental Release/Disposal. No data submitted.

PMN 85-300

Importer. American Hoechst Corporation.

Chemical. (G) Bis-arylmethylene aminobutene, nickel complex.

Use/Import. (S) Colorant for plastics and synthetic fibers. Import range: Confidential.

Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—Mild, Eye—Non-irritant.

Exposure. Processing and use: Dermal, a total of 50 workers, up to 100-120 manhours/yr.

Environmental Release/Disposal. No data submitted.

Dated: December 17, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84-33328 Filed 12-21-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-53067; TS-FRL-2741-4]

Premanufacture Notices; Monthly Status Report for October 1984**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the Federal Register each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for October 1984.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance.

Nonconfidential portions of the PMNs may be seen in Rm. E-107 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53067]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW., Washington, D.C. 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613, 401 M Street, SW., Washington, D.C. 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: The monthly status report published in the Federal Register as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during October; (b) PMNs received previously and still under review at the end of October; (c) PMNs for which the notice review period has ended during October; (d) chemical substances for which EPA has received a notice of commencement to manufacture during October and (e) PMNs for which the review period has been suspended. Therefore, the October 1984 PMN Status Report is being published.

Dated: December 17, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report October 1984**I. 102 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH**

PMN No.	Identity and generic name	FR citation	Expiration date
85-1	Generic name: Aromatic oxime	49 FR 41100 (10-19-84)	Dec. 29, 1984.
85-2	Generic name: Nitro Alcohol	49 FR 41100 (41101) (10-19-84)	Dec. 30, 1984.
85-3	Generic name: Polyurethane polymer	49 FR 41100 (41101) (10-19-84)	Do.
85-4	Generic name: Substituted phenol	49 FR 41100 (41101) (10-19-84)	Do.
85-5	Adipic acid, azelaic, and phthalic anhydride with ethylene glycol terminated with 2-Ethyl hexanol	49 FR 41100 (41101) (10-19-84)	Do.
85-6	Generic name: Alkyl phosphate potassium salt	49 FR 41100 (41101) (10-19-84)	Do.
85-7	Generic name: Spiro(isobenzofuran xanthenol)	49 FR 41100 (41101) (10-19-84)	Do.
85-8	Generic name: Polyether polyester urethane	49 FR 41100 (41101) (10-19-84)	Do.
85-9	Generic name: Fatty alcohol, ethoxylated, propoxylated, fatty acid ester	49 FR 41100 (41101) (10-19-84)	Dec. 31, 1984.
85-10	Benzothiazolium, 2-(2-ethoxy-1-propenyl)-3-ethyl, ethyl sulfate	49 FR 41100 (41101) (10-19-84)	Do.
85-11	Generic name: Aryl substituted aliphatic thiol	49 FR 41100 (41101) (10-19-84)	Jan. 1, 1985.
85-12	Generic name: Aliphatic nitrile	49 FR 41102 (10-19-84)	Jan. 2, 1985.
85-13	Generic name: Substituted borazole polymer	49 FR 41102 (10-19-84)	Do.
85-14	Dimethylsila-17-Crown-6	49 FR 41102 (10-19-84)	Do.
85-15	Generic name: Halogenated fatty acid ester	49 FR 41102 (41103) (10-19-84)	Do.
85-16	Generic name: Acrylamide unsaturated quaternary ammonium copolymer	49 FR 41102 (41103) (10-19-84)	Jan. 6, 1985.
85-17	Generic name: Acrylic copolymer	49 FR 41102 (41103) (10-19-84)	Do.
85-18	Generic name: Substituted amino anthraquinones	49 FR 41102 (41103) (10-19-84)	Jan. 7, 1985.
85-19	Generic name: Terephthalic acid, polymer with 2-oxepanone, and an alkane diol	49 FR 41102 (41103) (10-19-84)	Do.
85-20	Generic name: Arylhydrozonotrimethyl-indolium, salt	49 FR 41102 (41103) (10-19-84)	Do.
85-21	Generic name: Substituted alkenyl dimethyl-chlorosilane	49 FR 41102 (41103) (10-19-84)	Do.
85-22	Generic name: Polymer of isooctyl acrylate and N-1-octylacrylamide	49 FR 41102 (41103) (10-19-84)	Do.
85-23	Generic name: Iron complex of a substituted phenyl azo	49 FR 41102 (41103) (10-19-84)	Do.
85-24	Generic name: 3-substituted propionic acid	49 FR 41102 (41103) (10-19-84)	Jan. 8, 1985.
85-25	Generic name: Methyl(aryl)indolizole-thiazolium, salt	49 FR 41102 (41103) (10-19-84)	Do.
85-26	Generic name: Substituted phenyl disulfide	49 FR 41102 (41103) (10-19-84)	Do.
85-27	1-(2-aminophenyl)ethanone hydrochloride	49 FR 41102 (41103) (10-19-84)	Do.
85-28	Generic name: Trisubstituted benzene	49 FR 43105 (10-26-84)	Jan. 9, 1985.
85-29	do	49 FR 43105 (10-26-84)	Do.
85-30	Generic name: Carbopolycyclic sulfonate of substituted phenyl azo substituted hetero-monocycle	49 FR 43105 (43106) (10-26-84)	Do.
85-31	Generic name: Carbopolycyclic sulfonate of substituted heteropolycyclic	49 FR 43105 (43106) (10-26-84)	Do.
85-32	Generic name: Alkyl mercaptothiadiazole	49 FR 43105 (43106) (10-26-84)	Jan. 12, 1985.
85-33	Generic name: Polymonocyclic urethane	49 FR 43105 (43106) (10-26-84)	Jan. 13, 1985.
85-34	Generic name: Polyoxypropylene polyoxy-ethylene block copolymer ester acyl lactam	49 FR 43105 (43106) (10-26-84)	Do.
85-35	Generic name: Polybutadiene ester acyl lactam	49 FR 43105 (43106) (10-26-84)	Do.
85-36	Generic name: Substituted pyridine	49 FR 43105 (43106) (10-26-84)	Do.
85-37	Generic name: Isocyanate-terminated polyurethane	49 FR 43105 (43106) (10-26-84)	Do.
85-38	Generic name: Hydroxyl-terminated polyurethane	49 FR 43105 (43106) (10-26-84)	Do.
85-39	Generic name: Benzoquinolonyl-sulfoxidone, substituted ammonium salt	49 FR 43105 (43106) (10-26-84)	Do.
85-40	Generic name: Aliphatic ketone	49 FR 43105 (43106) (10-26-84)	Do.
85-41	Carboxylic acids, C ₆ -C ₁₈ mono and C ₆ -C ₁₈ di-, polymers with adipic acid, 1,4-butanediol and propylene glycols	49 FR 43105 (43106) (10-26-84)	Do.
85-42	Carboxylic acids, C ₆ -C ₁₈ mono and C ₆ -C ₁₈ di-, polymers with adipic acid, 1,4-butanediol, propylene glycols and acetic anhydride	49 FR 43105 (43106) (10-26-84)	Do.
85-43	Polymer of phenol, triphenyl ethyl phosphonium iodide, trimellitic anhydride and EPON 828	49 FR 43105 (43107) (10-26-84)	Do.
85-44	Generic name: Substituted benzocycloolefine ethylidene	49 FR 43105 (43107) (10-26-84)	Do.
85-45	Generic name: 3-substituted propanoic acid, glycol ester	49 FR 43105 (43107) (10-26-84)	Do.
85-46	Generic name: Sulfonated polycyclic aromatics	49 FR 43105 (43107) (10-26-84)	Jan. 14, 1985.
85-47	Generic name: Sulfonated polycyclic aromatic, sodium salt	49 FR 43105 (43107) (10-26-84)	Do.
85-48	Generic name: Sulfonated polycyclic aromatic, ammonium salt	49 FR 43105 (43107) (10-26-84)	Do.
85-49	Generic name: Sulfonated polycyclic aromatic, calcium salt	49 FR 43105 (43107) (10-26-84)	Do.
85-50	Generic name: Sulfonated polycyclic aromatic, zinc salt	49 FR 43105 (43107) (10-26-84)	Do.
85-51	Generic name: Monoethanolamine salt of lignin	49 FR 43105 (43107) (10-26-84)	Jan. 15, 1985.
85-52	Generic name: Modified fatty acid polyamine condensate	49 FR 43105 (43107) (10-26-84)	Do.
85-53	Generic name: Crosslinked acrylic copolymer	49 FR 43105 (43107) (10-26-84)	Do.
85-54	Generic name: Organotungsten compound	49 FR 44139 (11-2-84)	Jan. 16, 1985.

I. 102 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
85-55	Generic name: Substituted sulfonated naphthalene	49 FR 44139 (11-2-84)	Do.
85-56	Generic name: Alkylcycloalkenyl ketone	49 FR 44139 (11-2-84)	Do.
85-57	Generic name: Cycloalkenyl alkyl oxirane	49 FR 44139 (44140) (11-2-84)	Do.
85-58	Generic name: Cycloalkenyl alkyl thirane	49 FR 44139 (44140) (11-2-84)	Do.
85-59	Generic name: Cycloalkenyl alkyl thiol	49 FR 44139 (44140) (11-2-84)	Do.
85-60	Generic name: Functional polyester	49 FR 44139 (44140) (11-2-84)	Jan. 19, 1985.
85-61	Generic name: Aromatic polyester	49 FR 44139 (44140) (11-2-84)	Do.
85-62	Generic name: Polyalkylene oxide aromatic diisocyanate prepolymer	49 FR 44139 (44140) (11-2-84)	Do.
85-63	Generic name: Alkyl substituted cyclopentanol	49 FR 44139 (44140) (11-2-84)	Jan. 20, 1985.
85-64	Generic name: Organosilicone copolymer	49 FR 44139 (44140) (11-2-84)	Do.
85-65	Generic name: Substituted cycloalkanone	49 FR 44139 (44140) (11-2-84)	Do.
85-66	Generic name: Polyurethane polymer	49 FR 44139 (44140) (11-2-84)	Do.
85-67	2,2'-diallyl-4,4'-sulfonyl diphenol	49 FR 44139 (44140) (11-2-84)	Do.
85-68	Generic name: Alkyd resin	49 FR 44139 (44140) (11-2-84)	Do.
85-69	Generic name: Condensation acrylic copolymer	49 FR 44139 (44140) (11-2-84)	Do.
85-70	Generic name: Epoxy modified alkyd resin	49 FR 44139 (44140) (11-2-84)	Do.
85-71	Generic name: Alkyd resin	49 FR 44139 (44141) (11-2-84)	Do.
85-72	Lanthanum phosphate, cerium and terbium activated	49 FR 44139 (44141) (11-2-84)	Do.
85-73	Generic name: Modified acrylic polymer	49 FR 44139 (44141) (11-2-84)	Do.
85-74	do.....	49 FR 44139 (44141) (11-2-84)	Do.
85-75	Generic name: Modified acrylic polymer	49 FR 44139 (44141) (11-2-84)	Do.
85-76	do.....	49 FR 44139 (44141) (11-2-84)	Do.
85-77	do.....	49 FR 44139 (44141) (11-2-84)	Do.
85-78	Generic name: Substituted propionamide	49 FR 44139 (44141) (11-2-84)	Do.
85-79	Generic name: Substituted naphthol dyestuff	49 FR 44139 (44141) (11-2-84)	Jan. 21, 1985
85-80	3-dodecyl-1-(2,2,6,6-tetramethyl-4-piperidinyl)-2,5-pyrrolidinedione	49 FR 44139 (44141) (11-2-84)	Do.
85-81	N-[3-methyl-5-(phenylamino)-2,4-pentadienylidene] benzanamine, monohydrobromide salt	49 FR 44139 (44141) (11-2-84)	Jan. 22, 1985
85-82	Generic name: Tetrasubstituted pyrazole salt	49 FR 44139 (44141) (11-2-84)	Do.
85-83	Generic name: Polyester from dimethyl terephthalate, ethylene glycol and 3-substituted propanoic acid glycol ester	49 FR 44139 (44141) (11-2-84)	Do.
85-84	Generic name: Perfluoroalkyl substituted acrylate polymer	49 FR 44139 (44142) (11-2-84)	Do.
85-85	Generic name: Sodium salt of sulfated linear C ₆ -11 alcohol ethoxylated	49 FR 44139 (44142) (11-2-84)	Do.
85-86	Generic name: Modified acrylic polymer	49 FR 44676 (11-8-84)	Jan. 23, 1985.
85-87	Generic name: Sulfonated carbocyclic diester	49 FR 44676 (11-8-84)	Do.
85-88	Generic name: Substituted phenylamino substituted carbopolycycle sulfonic acid, salt	49 FR 44676 (44677) (11-8-84)	Do.
85-89	Generic name: Polyester from dimethyl terephthalate, ethylene glycol, isophthalic acid and a carboxylic acid	49 FR 44676 (44677) (11-8-84)	Jan. 26, 1985
85-90	Polymer of dimethyl terephthalate, ethylene glycol, dimethyl 5-sulfoisophthalate, sodium salt and polyethylene glycol	49 FR 44676 (44677) (11-8-84)	Do.
85-91	Generic name: Alcohol ether sulfate, sodium salt	49 FR 44676 (44677) (11-8-84)	Do.
85-92	Generic name: Hydroxyethylthiopropylalcohol	49 FR 44676 (44677) (11-8-84)	Do.
85-93	Generic name: Rosin-modified phenolic resin	49 FR 44676 (44677) (11-8-84)	Jan. 27, 1985.
85-94	Generic name: Carboxylated styrene/acrylic multipolymer	49 FR 44676 (44677) (11-8-84)	Do.
85-95	Generic name: Carboxylated acrylic multipolymer	49 FR 44676 (44677) (11-8-84)	Do.
85-96	Generic name: Reaction product from the catalyzed reaction of 1,3-disubstituted benzene and an oxoalkane, reacted with sodium sulfide	49 FR 44676 (44677) (11-8-84)	Do.
85-97	Generic name: Modified polymer of alkyl acrylates and alkyl methacrylates	49 FR 44676 (44677) (11-8-84)	Do.
85-98	2,2'-(1,3-phenylene) bis (4,5-dihydro-oxazole)	49 FR 44676 (44677) (11-8-84)	Do.
85-99	Generic name: (Polyoxyalkylene) bis (N-trimellitimidide)	49 FR 44676 (44677) (11-8-84)	Jan. 28, 1985.
85-100	Generic name: Modified melamine formaldehyde resin	49 FR 44676 (44678) (11-8-84)	Do.
85-101	do.....	49 FR 44676 (44678) (11-8-84)	Do.
85-102	Generic name: Modified soybean-tung alkyd resin	49 FR 44676 (44678) (11-8-84)	Do.

II. 131 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH

PMN No.	Identity and generic name	FR citation	Expiration date
84-1100	Generic name: Aliphatic polyurethane aqueous dispersion	49 FR 35414 (35415) (9-7-84)	Nov. 21, 1984.
84-1101	Generic name: Type I anion exchange resin, bicarbonate/carbonate form	49 FR 35414 (35415) (9-7-84)	Do.
84-1102	Generic name: Modified polymer of acrylates and methacrylates	49 FR 35414 (35415) (9-7-84)	Do.
84-1103	Generic name: Terpolymer of acrylate and methacrylates	49 FR 35414 (35415) (9-7-84)	Do.
84-1104	Generic name: Substituted triazines	49 FR 35414 (35415) (9-7-84)	Do.
84-1105	Generic name: Tetra amino di-substituted metal complex	49 FR 35414 (35415) (9-7-84)	Do.
84-1106	Generic name: Alkoxyated poly(oxyalkylene)diamine	49 FR 35414 (35415) (9-7-84)	Nov. 24, 1984.
84-1107	Generic name: Copper complex of a substituted biphenyl sulfonated salt	49 FR 35414 (35415) (9-7-84)	Do.
84-1108	Generic name: Polyurethane polymer	49 FR 35414 (35415) (9-7-84)	Nov. 25, 1984.
84-1109	Generic name: Modified rosin	49 FR 35414 (35415) (9-7-84)	Do.
84-1110	Generic name: Terephthalic acid, polymer with polytetramethylene ether glycol, 2-oxepanone, and an alkane diol	49 FR 35414 (35415) (9-7-84)	Do.
84-1111	Generic name: Reacted brominated epoxy resin	49 FR 35414 (35415) (9-7-84)	Do.
84-1112	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	49 FR 35414 (35415) (9-7-84)	Nov. 26, 1984.
84-1113	Generic name: Acid form of sulfonated, alkylated diphenyl oxide	49 FR 35414 (35416) (9-7-84)	Do.
84-1114	Generic name: Sodium salt of sulfonated, alkylated diphenyl oxide	49 FR 35414 (35416) (9-7-84)	Do.
84-1115	Generic name: Phenolic modified rosin ester	49 FR 35414 (35416) (9-7-84)	Do.
84-1116	Adipic acid and phthalic anhydride polymers with ethylene glycol and neopentylglycol, glycol terminated with 2-ethyl hexanol	49 FR 35414 (35416) (9-7-84)	Do.
84-1117	Adipic acid, azelaic acid, phthalic anhydride, polymers with ethylene glycol neopentyl glycol and 2-ethyl hexanol	49 FR 35414 (35416) (9-7-84)	Do.
84-1118	Generic name: Carboxyl functional acrylic copolymer	49 FR 35414 (35416) (9-7-84)	Do.
84-1119	1,2,3-Propanetricarboxylic acid, 2-(acetoxyl)-, tri-n-hexyl ester	49 FR 35414 (35416) (9-7-84)	Do.
84-1120	1,2,3-Propanetricarboxylic acid, 2-(butoxy)-, tri-n-hexyl ester	49 FR 35414 (35416) (9-7-84)	Do.
84-1121	1,2,3-Propanetricarboxylic acid, 2-(acetoxyl)-, tri-n-(octyl/decyl) ester	49 FR 35414 (35416) (9-7-84)	Do.
84-1122	Generic name: Silicone glycol	49 FR 35414 (35416) (9-7-84)	Do.
84-1123	Generic name: Substituted sulfonated naphthalene	49 FR 35414 (35416) (9-7-84)	Nov. 27, 1984.
84-1124	Generic name: Modified styrene-divinylbenzene polymer	49 FR 35414 (35416) (9-7-84)	Do.
84-1125	Generic name: Methanone, alkyl-aryl	49 FR 35414 (35417) (9-7-84)	Do.
84-1126	Generic name: Methanone, alkyl-substituted phenyl	49 FR 35414 (35417) (9-7-84)	Do.
84-1127	Generic name: Sulfamic acid, substituted amine salt	49 FR 35414 (35417) (9-7-84)	Do.
84-1128	Generic name: Isocyanatealkoxy alkanol	49 FR 35414 (35417) (9-7-84)	Do.
84-1129	Acetic acid, ester with C ₆ -C ₁₁ iso alcohols, C ₁₀ -rich	49 FR 35414 (35417) (9-7-84)	Do.
84-1130	Acetic acid, ester with C ₆ -C ₁₁ alcohols, C ₉ -rich	49 FR 35414 (35417) (9-7-84)	Do.

II. 131 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
84-1131	Acetic acid, ester with C ₁₁ -C ₁₄ iso alcohols, C ₁₂ -rich	49 FR 35414 (35417) >(9-7-84)	Do.
84-1132	Generic name: Heterocyclic substituted copper phthalocyanine	49 FR 35151 (35152) (9-7-84)	Nov. 28, 1984.
84-1133	Generic name: Hydroxy acrylic resin	49 FR 35151 (36152) (9-14-84)	Do.
84-1134	do	49 FR 35151 (36152) (9-14-84)	Do.
84-1135	Generic name: Vinyl urethane	49 FR 35151 (36152) (9-14-84)	Do.
84-1136	Generic name: Substituted aromatic amide	49 FR 35151 (36152) (9-14-84)	Do.
84-1137	Generic name: Cycloaliphatic epoxide	49 FR 35151 (36152) (9-14-84)	Do.
84-1138	Generic name: Sulfonated vinyl homopolymer salt	49 FR 36151(36152) (9-14-84)	Dec. 2, 1984.
84-1139	Generic name: Cellulosic ether	49 FR 36151(36152) (9-14-84)	Dec. 3, 1984.
84-1140	Generic name: Monobasic acid—modified alkyl resin	49 FR 36151(36152) (9-14-84)	Do.
84-1141	Generic name: Phenylene bis(benzothiazoyl-oxoalkylamide) [methylimidazole] derivative, mixed salts	49 FR 36151(36152) (9-14-84)	Do.
84-1142	Generic name: Aliphatic polyester	49 FR 36151(36152) (9-14-84)	Do.
84-1143	Generic name: 2,4,6-trisubstituted phenol	49 FR 36151(36152) (9-14-84)	Do.
84-1144	Generic name: Isoalkyleneoxy alkanoate	49 FR 36151(36152) (9-14-84)	Do.
84-1145	Generic name: Alkyltrialkoxysilane	49 FR 36151(36152) (9-14-84)	Do.
84-1146	Generic name: Substituted polyethylene glycol succinate	49 FR 36151(36153) (9-14-84)	Do.
84-1147	Generic name: Polyether polyol	49 FR 36151(36153) (9-14-84)	Dec. 4, 1984.
84-1148	do	49 FR 36151(36153) (9-14-84)	Do.
84-1149	Generic name: Disubstituted carbopolycycle, salt	49 FR 37458 (9-24-84)	Dec. 8, 1984.
84-1150	2,2'-Thio-bis-[4,6,1,1-dimethylethyl]-1,3-benzenediol	49 FR 37458 (9-24-84)	Do.
84-1151	2,2'-Methylene-bis-[4,6-bis(1,1-dimethylethyl)-1,3-benzenediol]	49 FR 37458 (9-24-84)	Do.
84-1152	Generic name: Copper complex of a substituted phenyl azo	49 FR 37458 (9-24-84)	Do.
84-1153	Generic name: Aromatic substituted urea	49 FR 37458(37459) (9-24-84)	Do.
84-1154	do	49 FR 37458(37459) (9-24-84)	Do.
84-1155	Generic name: Quaternary polyamine	49 FR 37458(37459) (9-24-84)	Do.
84-1156	Generic name: Quaternary ammonium chloride of an oxyalkylated polyamine	49 FR 37458(37459) (9-24-84)	Do.
84-1157	Generic name: Oxyalkylated phenolic ester	49 FR 37458(37459) (9-24-84)	Do.
84-1158	Generic name: Quaternary ammonium chloride of an oxyalkylated polyamine	49 FR 37458(37459) (9-24-84)	Do.
84-1159	Generic name: Oxyalkylated tetrol 2-butenedipic acid ester	49 FR 37458(37459) (9-24-84)	Do.
84-1160	Generic name: Propoxylated imidazoline	49 FR 37458(37459) (9-24-84)	Do.
84-1161	Generic name: 4-substituted benzoic acid	49 FR 37458(37459) (9-24-84)	Do.
84-1162	Generic name: Fatty acids, esters with polyols	49 FR 37458(37459) (9-24-84)	Dec. 9, 1984.
84-1163	Generic name: Perfluoroalkyl substituted polyurethane	49 FR 37458(37459) (9-24-84)	Do.
84-1164	Generic name: Disubstituted benzoic acid	49 FR 37458(37459) (9-24-84)	Do.
84-1165	Generic name: Substituted benzotriazole	49 FR 37458(37459) (9-24-84)	Do.
84-1166	Generic name: Functionally modified polyurethane	49 FR 37458(37460) (9-24-84)	Do.
84-1167	Generic name: Epoxy ester	49 FR 37458(37460) (9-24-84)	Do.
84-1168	Generic name: Polysubstituted urethane	49 FR 37458(37460) (9-24-84)	Do.
84-1169	Generic name: Phenol, benzylic ether	49 FR 37458(37460) (9-24-84)	Do.
84-1170	Generic name: Rhodium carboxylate	49 FR 37458(37460) (9-24-84)	Do.
84-1171	Generic name: Perfluoroalkyl substituted polyurethane	49 FR 37458(37460) (9-24-84)	Dec. 10, 1984.
84-1172	1-Dodecanamine sulfate, mixture of mono- and di- amine salts	49 FR 37458(37460) (9-24-84)	Do.
84-1173	1-Octanamine hydrogen sulfate, mixture of mono- and di- amine salts	49 FR 37458(37460) (9-24-84)	Do.
84-1174	Tricyclo [3.3.1.1 ^{1,7}] decan-1-amine sulfate, mixture of mono- and di- amine salts	49 FR 37458(37460) (9-24-84)	Do.
84-1175	Generic name: Polyester polyol	49 FR 38356 (9-28-84)	Dec. 11, 1984.
84-1176	Generic name: Alkyl aliphatic alcohol	49 FR 38356 (9-28-84)	Do.
84-1177	Generic name: Metal salt of azonaphthoic acid	49 FR 38356 (9-28-84)	Do.
84-1178	Generic name: Phenolic modified rosin ester	49 FR 38356 (38357) (9-28-84)	Do.
84-1179	do	49 FR 38356 (38357) (9-28-84)	Do.
84-1180	Generic name: Aminopolyamide resin	49 FR 38356 (38357) (9-28-84)	Do.
84-1181	do	49 FR 38356 (38357) (9-28-84)	Do.
84-1182	Generic name: Aminopolyamide-epichloro-hydrin resin	49 FR 38356 (38357) (9-28-84)	Do.
84-1183	do	49 FR 38356 (38357) (9-28-84)	Do.
84-1184	Generic name: Polychlorofluoro aromatic alkylated hydrocarbon	49 FR 38356 (38357) (9-28-84)	Dec. 15, 1984.
84-1185	Generic name: Alkali metal salt of an unsaturated carboxylic acid	49 FR 38356 (38357) (9-28-84)	Do.
84-1186	Generic name: Polyester of carbomono-cyclic ester and alkylene glycols	49 FR 38356 (38357) (9-28-84)	Do.
84-1187	Generic name: Polyester of carbomono-cyclic acid and alkylene glycols	49 FR 38356 (38357) (9-28-84)	Do.
84-1188	Generic name: Modified acrylamide polymer	49 FR 38356 (38357) (9-28-84)	Do.
84-1189	Generic name: Modified acrylamide polymer	49 FR 38356 (38358) (9-28-84)	Do.
84-1190	do	49 FR 38356 (38358) (9-28-84)	Do.
84-1191	1,4-pentadiene-3-one, 1,5-bis[4-(dimethyl-amino phenyl)]	49 FR 38356 (38358) (9-28-84)	Do.
84-1192	Generic name: Functional aromatic polyether	49 FR 38356 (38358) (9-28-84)	Do.
84-1193	Generic name: Functional polyester	49 FR 38356 (38358) (9-28-84)	Do.
84-1194	Generic name: Acrylated polyester	49 FR 38356 (38358) (9-28-84)	Do.
84-1195	Generic name: Type I anion exchange resin, sulfate form	49 FR 38356 (38358) (9-28-84)	Do.
84-1196	Generic name: Type II anion exchange resin, sulfate form	49 FR 38356 (38358) (9-28-84)	Do.
84-1197	Generic name: Type II anion exchange resin, bicarbonate/carbonate form	49 FR 38356 (38358) (9-28-84)	Do.
84-1198	Generic name: Substituted phenol/formaldehyde resin	49 FR 38356 (38358) (9-28-84)	Do.
84-1199	Generic name: Polyester urethane polymer	49 FR 38356 (38358) (9-28-84)	Do.
84-1200	Generic name: Hydrocarbon rosin phenolic resin	49 FR 38356 (38358) (9-28-84)	Do.
84-1201	Generic name: Polyamine amide imide	49 FR 38356 (38358) (9-28-84)	Do.
84-1202	Generic name: Modified cellulosic	49 FR 38356 (38359) (9-28-84)	Dec. 17, 1984.
84-1203	Generic name: Substituted amino benzoic acid derivative	49 FR 38356 (38359) (9-28-84)	Do.
84-1204	Generic name: Substituted, sulfonated naphthylazo sodium salt	49 FR 38356 (38359) (9-28-84)	Dec. 19, 1984.
84-1205	Benzenamine, 2-hydroxy-5-(2-sulfoxy-ethyl)sulfonyl-	49 FR 39379 (39380) (10-5-84)	Do.
84-1206	Benzenemethanamine, 3-methoxy	49 FR 39379 (39380) (10-5-84)	Do.
84-1207	Generic name: Titanium zirconium lignosulfonate	49 FR 39379 (39380) (10-5-84)	Do.
84-1208	Generic name: Copolymer from poly(alkylene carbomono-cyclic dicarboxylate) and disubstituted carbomono-cyclic	49 FR 39379 (39380) (10-5-84)	Dec. 23, 1984.
84-1209	Polymer of hydroxy ethyl acrylate, Desmodur W, Duracarb 140-600 and glycerine	49 FR 39379 (39380) (10-5-84)	Do.
84-1210	Polymer of maleic anhydride and Jeffamine M-600	49 FR 39379 (39380) (10-5-84)	Do.
84-1211	Generic name: Reaction product of alkyl-diamine and excess formaldehyde	49 FR 39379 (39380) (10-5-84)	Do.
84-1212	Generic name: Alkyl diamino polyacetonitrile	49 FR 39379 (39380) (10-5-84)	Do.
84-1213	Generic name: Sodium salt of alkyl-diamino-polycarboxylic acid	49 FR 39379 (39380) (10-5-84)	Do.
84-1214	Generic name: Acrylic copolymer	49 FR 39379 (39380) (10-5-84)	Do.
84-1215	Generic name: Alkyd copolymer	49 FR 39379 (39380) (10-5-84)	Do.
84-1216	do	49 FR 39379 (39380) (10-5-84)	Do.
84-1217	Generic name: Alkyd base for an alkyd modified acrylic copolymer	49 FR 39379 (39380) (10-5-84)	Do.
84-1218	Generic name: Polymer of aliphatic diamine and unsubstituted aromatic and aliphatic acids	49 FR 39379 (39380) (10-5-84)	Do.
84-1219	Generic name: Substituted pyridine	49 FR 39379 (39380) (10-5-84)	Dec. 24, 1984.
84-1220	Generic name: Disubstituted piperazine	49 FR 39379 (39381) (10-5-84)	Dec. 25, 1984.
84-1221	Generic name: Disubstituted benzothiazole salt	49 FR 39379 (39381) (10-5-84)	Do.

II. 131 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
84-1222	Generic name: Polymer of substituted methacrylic acid and polydimethyl siloxane	49 FR 39379 (39381) (10-5-84)	Do.
84-1223	Generic name: Aliphatic ester	49 FR 39379 (39381) (10-5-84)	Do.
84-1224	Generic name: Aliphatic polyester	49 FR 39379 (39381) (10-5-84)	Do.
84-1225	do	49 FR 39379 (39381) (10-5-84)	Do.
84-1226	Generic name: Substituted amine-boron compound	49 FR 39379 (39381) (10-5-84)	Do.
84-1227	Generic name: Halogenated aromatic substituted alkane	49 FR 39379 (39381) (10-5-84)	Do.
84-1228	Generic name: Polyalkoxyalkanol	49 FR 39379 (39381) (10-5-84)	Do.
84-1229	do	49 FR 39379 (39381) (10-5-84)	Do.
84-1230	Generic name: Methyl sulfate, quaternized polyurethane	49 FR 41100 (10-19-84)	Dec. 26, 1984.

III. 125 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)

PMN No.	Identity and generic name	FR citation	Expiration date
83-831	Generic name: Disazo solvent red dye	48 FR 29054 (29055) (6-24-83)	Sept. 14, 1983
84-7	N,N,N',N'-tetraglycidyl-1,3-bisaminomethyl cyclohexane	48 FR 46851 (46853) (10-14-83)	Oct. 2, 1983.
84-382	2-propenoic acid 3-(2-hydroxyethyl) 3-oxypropyl ester	49 FR 6160 (6161) (2-17-84)	Oct. 3, 1984.
84-460	Copper ferrocyanide salt of C. I. basic green 1 and C. I. basic yellow 1	49 FR 9013 (9015) (3-9-84)	Oct. 24, 1984.
84-461	Copper ferrocyanide salt of C. I. basic blue 1	49 FR 9013 (9015) (3-9-84)	Do.
84-491	Generic name: Substituted aliphatic acid halide	49 FR 11009 (11010) (3-23-84)	Oct. 11, 1984
84-492	Generic name: Substituted hydroxylamine	49 FR 11009 (11010) (3-23-84)	Do.
84-816	Generic name: Organophosphonium salt	49 FR 24782 (24784) (6-15-84)	Oct. 3, 1984.
84-840	Generic name: Modified epoxy resin	49 FR 25677 (6-22-84)	Oct. 6, 1984.
84-841	do	49 FR 25678 (6-22-84)	Do.
84-912	Benzoxazolium, 5-chloro-2-[2-[15-chloro-3-(4-sulfobutyl)-2(3H)-benzoxazolylidene] methyl]-1-butenyl-3-(4-sulfobutyl)-triethyl ammonium salt	49 FR 28616 (28618) (7-13-84)	Oct. 2, 1984.
84-914	Benzoic acid, 4-hydroxy-3-methoxy-, ethyl ester	49 FR 28616 (28618) (7-13-84)	Do.
84-915	Generic name: Acrylic modified alkylidene resin	49 FR 28616 (28618) (7-13-84)	Do.
84-917	Generic name: Mixed chromium complexes of substituted hydroxyphenol azo hydroxy-naphthalenes, sodium salts	49 FR 29451 (7-20-84)	Oct. 3, 1984.
84-918	Generic name: Urethane-ester polymer	49 FR 29451 (29452) (7-20-84)	Do.
84-919	do	49 FR 29451 (29452) (7-20-84)	Do.
84-920	do	49 FR 29451 (29452) (7-20-84)	Do.
84-921	Generic name: Hydroxyl functional styrene-acrylic polymer	49 FR 29451 (29452) (7-20-84)	Oct. 6, 1984.
84-922	3,5-dinitrobenzyl chloride	49 FR 29451 (29452) (7-20-84)	Do.
84-923	Generic name: Polyurethane prepolymer	49 FR 29451 (29452) (7-20-84)	Do.
84-924	Generic name: Substituted anthraquinone	49 FR 29451 (29452) (7-20-84)	Oct. 7, 1984.
84-925	do	49 FR 29451 (29452) (7-20-84)	Do.
84-926	Generic name: Hydroxyl-terminated poly (oxyalkylene) polyol	49 FR 29451 (29452) (7-20-84)	Do.
84-928	Polymer: 2-Butenedioic acid (Z), mono-methyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-1-methylpropyl hydrogen 2-butenedioate, potassium hydroxide	49 FR 29451 (29452) (7-20-84)	Do.
84-929	Polymer: 2-Butenedioic acid (Z), mono-methyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-1-methylpropyl hydrogen 2-butenedioate, sodium hydroxide	49 FR 29451 (29452) (7-20-84)	Do.
84-930	Polymer: 2-Butenedioic acid (Z), mono-methyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-1-methylpropyl hydrogen 2-butenedioate, ammonium hydroxide	49 FR 29451 (29452) (7-20-84)	Do.
84-931	Polymer: 2-Butenedioic acid (Z), mono-methyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-1-methylpropyl hydrogen 2-butenedioate, potassium hydroxide	49 FR 29451 (29452) (7-20-84)	Do.
84-932	Polymer: 2-Butenedioic acid (Z), mono-methyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-1-methylpropyl hydrogen 2-butenedioate, sodium hydroxide	49 FR 29451 (29452) (7-20-84)	Do.
84-933	Polymer: 2-Butenedioic acid (Z), mono-methyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-1-methylpropyl hydrogen 2-butenedioate, ammonium hydroxide	49 FR 29451 (29452) (7-20-84)	Do.
84-934	Generic name: Polyamide	49 FR 29451 (29452) (7-20-84)	Do.
84-935	do	49 FR 29451 (29452) (7-20-84)	Do.
84-936	Generic name: Aromatic keto-ester	49 FR 29451 (29452) (7-20-84)	Do.
84-937	Polymer of Desmodur W, teracol 650, hydroxy ethyl acrylate and jeffamine	49 FR 29451 (29452) (7-20-84)	Do.
84-939	Generic name: Polymer of Desmodur W, caprolactone diol, hydroxy ethyl acrylate and jeffamine	49 FR 29451 (29452) (7-20-84)	Do.
84-940	Generic name: Vinyl acetate-acrylic copolymer	49 FR 29451 (29452) (7-20-84)	Do.
84-941	Generic name: Substituted polyisobutylene-succinimide	49 FR 29451 (29452) (7-20-84)	Oct. 8, 1984.
84-942	Generic name: Acrylated epoxysilicone	49 FR 29451 (29452) (7-20-84)	Do.
84-943	Generic name: Aromatic alkyl ether	49 FR 29451 (29452) (7-20-84)	Do.
84-944	do	49 FR 29451 (29452) (7-20-84)	Do.
84-945	Generic name: Trisubstituted aminobenzoic acid ester	49 FR 29451 (29452) (7-20-84)	Oct. 9, 1984.
84-946	Generic name: Modified epoxy resin solution	49 FR 30238 (30239) (7-27-84)	Oct. 10, 1984.
84-947	Generic name: Modified pigment yellow 12	49 FR 30238 (30239) (7-27-84)	Do.
84-948	Oxidase alcohol	49 FR 30238 (30239) (7-27-84)	Do.
84-949	Generic name: Modified epoxy resin	49 FR 30238 (30239) (7-27-84)	Do.
84-950	Generic name: Dimer acids, monocarboxylic acid, polyamines polyamide resin	49 FR 30238 (30239) (7-27-84)	Do.
84-952	Generic name: Ketimine	49 FR 30238 (30239) (7-27-84)	Oct. 13, 1984.
84-953	Generic name: Reacted epoxy resin	49 FR 30238 (30239) (7-27-84)	Do.
84-955	Generic name: Modified polyester resin	49 FR 30238 (30239) (7-27-84)	Do.
84-956	Generic name: Polyester resin	49 FR 30238 (30239) (7-27-84)	Do.
84-957	do	49 FR 30238 (30239) (7-27-84)	Do.
84-958	Generic name: Modified polymer of styrene with alkyl acrylate and alkyl methacrylate	49 FR 30238 (30239) (7-27-84)	Oct. 14, 1984.
84-959	Generic name: Substituted polyamine	49 FR 30238 (30239) (7-27-84)	Do.
84-960	Generic name: Complex polyurethane	49 FR 30238 (30239) (7-27-84)	Do.
84-961	Generic name: Modified polymer of styrene with alkyl methacrylates	49 FR 30238 (30240) (7-27-84)	Do.
84-962	Generic name: Metal salt of phosphonic acid ester	49 FR 30238 (30240) (7-27-84)	Do.
84-964	Generic name: Disubstituted hexanamide	49 FR 30238 (30240) (7-27-84)	Do.
84-965	Generic name: Alkyd resin	49 FR 30238 (30240) (7-27-84)	Do.
84-966	Generic name: Oligomeric diol	49 FR 30238 (30240) (7-27-84)	Do.
84-967	Generic name: Polyether urethane polymer	49 FR 30238 (30240) (7-27-84)	Do.
84-968	Generic name: Alkyl ester	49 FR 30238 (30240) (7-27-84)	Do.
84-969	Generic name: Modified sodium polyacrylate	49 FR 30238 (30240) (7-27-84)	Do.
84-970	Generic name: Substituted sodium sulfosuccinamate	49 FR 30238 (30240) (7-27-84)	Do.
84-971	Generic name: 2-propanol-1,1-thiobis, oxirane extended, alkyl terminated	49 FR 30238 (30240) (7-27-84)	Do.
84-972	Generic name: Epoxidized alcohol	49 FR 30238 (30240) (7-27-84)	Do.
84-973	Generic name: Substituted triazine	49 FR 30238 (30240) (7-27-84)	Do.
84-974	Generic name: Acrylic ester terpolymer	49 FR 30238 (30241) (7-27-84)	Do.

III. 125 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)—Continued

PMN No.	Identity and generic name	FR citation	Expiration date.
84-975	Generic name: Polymer of aliphatic diamines, an alkanediol polyester, a monoalcohol polyether, a metal salt of an alkanediol polyether, and aliphatic diisocyanate.	49 FR 30238 (30241) (7-27-84)	Oct. 15, 1984.
84-976	Generic name: Polyamic acid	49 FR 30238 (30241) (7-27-84)	Do.
84-977	Generic name: Aluminum modified long oil alkyd 85 percent in white spirit	49 FR 30238 (30241) (7-27-84)	Oct. 16, 1984.
84-978	Generic name: Polyurea polyurethane polymer	49 FR 30238 (30241) (7-27-84)	Do.
84-979	do.	49 FR 30238 (30241) (7-27-84)	Do.
84-980	do.	49 FR 30238 (30241) (7-27-84)	Do.
84-981	Generic name: Polyether polyol oligomer	49 FR 30238 (30241) (7-27-84)	Do.
84-982	1,3-bis(1-phenylethyl)benzene	49 FR 30238 (30241) (7-27-84)	Do.
84-983	Generic name: Polyester resin based on mixed phthalic acids and mixed polyols	49 FR 30238 (30241) (7-27-84)	Do.
84-984	Generic name: Modified polyester polyurethane	49 FR 31136 (8-3-84)	Oct. 17, 1984.
84-985	Generic name: Modified terpolymer of maleic anhydride, styrene and 1-substituted alkene, sodium salt	49 FR 31136 (31137) (8-3-84)	Do.
84-986	4,4'-bis[4-[3-acetylamin-4-(4,8-disulfo-2-naphthylazo)]anilino-6-(3-carboxypyridino)]1,3,5-triazin-2-ylamino]-2,2'-disulfostilbene dihydroxide hexasodium salt.	49 FR 31136 (31137) (8-3-84)	Oct. 20, 1984.
84-987	2,4-bis[4-[3-acetylamin-4-(4,8-disulfo-2-naphthylazo)]anilino-6-(3-carboxypyridino)]1,3,5-triazin-2-ylamino]benzenesulfonate-dihydroxide-pentasodium.	49 FR 31136 (31137) (8-3-84)	Do.
84-988	Hexasodium salt = 1,4-bis[4-(3-carboxypyridino-6-[3,6-disulfo-8-hydroxy-7-(2-sulfophenylazo-1-naphthylamino)]-1,3,5-triazine-2-ylamino]benzene-dihydroxide.	49 FR 31136 (31137) (8-3-84)	Do.
84-990	[2-[alpha[3-[4-(3-carboxypyridino)-6-(2-chloro-5-sulfoanilino)]-1,3,5-triazin-2-ylamino]-2-hydroxy-5-sulfophenylazo]benzylidene hydrazino]-4-sulfobenzoate-(0,0') (5-)]copper (II) acid trisodium salt hydroxide.	49 FR 31136 (31137) (8-3-84)	Do.
84-991	Cellulose, acetate propionate, [(1-oxo-2-propenyl)amino] methyl ether.	49 FR 31136 (31137) (8-3-84)	Oct. 21, 1984.
84-993	1,3-phenylene-bis[3-methyl-1-phenylpentylidene]bis-lithium	49 FR 31136 (31137) (8-3-84)	Do.
84-994	Generic name: Modified corn oil	49 FR 31136 (31137) (8-3-84)	Do.
84-995	Generic name: Aromatic substituted ammonium sulfonide	49 FR 31136 (31137) (8-3-84)	Do.
84-996	Generic name: Poly alkyl benzene sulfonic acid	49 FR 31136 (31137) (8-3-84)	Oct. 22, 1984.
84-997	do.	49 FR 31136 (31138) (8-3-84)	Do.
84-998	do.	49 FR 31136 (31138) (8-3-84)	Do.
84-999	do.	49 FR 31136 (31138) (8-3-84)	Do.
84-1000	Generic name: Benzene alkyl sulfonic acid	49 FR 31136 (31138) (8-3-84)	Do.
84-1001	Generic name: Ethoxylated sorbitol, fatty acid ester	49 FR 31136 (31138) (8-3-84)	Oct. 23, 1984.
84-1002	Generic name: Hydroxyl-terminated poly (oxyalkylene)polyol containing polyurea	49 FR 31136 (31138) (8-3-84)	Do.
84-1003	Generic name: Hydroxyl-terminated poly (oxyalkylene)polyol containing polyurea	49 FR 31136 (31138) (8-3-84)	Do.
84-1004	Generic name: Dihydroxyalkylamine	49 FR 31136 (31138) (8-3-84)	Do.
84-1006	Terpolymer of isoprene, styrene and aliphatic styrene	49 FR 32110 (8-10-84)	Oct. 24, 1984.
84-1008	Generic name: Alkyl thiadiazole	49 FR 32110 (8-10-84)	Do.
84-1009	Generic name: Aliphatic polycarbonate urethane	49 FR 32110 (8-10-84)	Do.
84-1010	do.	49 FR 32110 (8-10-84)	Do.
84-1011	Generic name: Aliphatic polyester urethane	49 FR 32110 (8-10-84)	Do.
84-1012	do.	49 FR 32110 (8-10-84)	Do.
84-1013	do.	49 FR 32110 (8-10-84) (32111)	Do.
84-1014	do.	49 FR 32110 (8-10-84) (32111)	Do.
84-1015	Generic name: Modified acrylamide polymer	49 FR 32110 (8-10-84)	Do.
84-1016	do.	49 FR 32110 (32111) (8-10-84)	Do.
84-1017	do.	49 FR 32110 (32111) (8-10-84)	Do.
84-1018	Generic name: Urethane adduct	49 FR 32110 (32111) (8-10-84)	Oct. 24, 1984.
84-1019	Generic name: Polysubstituted alkyl thiocyanate	49 FR 32110 (32111) (8-10-84)	Do.
84-1020	Generic name: Isophthalic polyester	49 FR 32110 (32111) (8-10-84)	Do.
84-1021	Generic name: Modified styrene-divinylbenzene polymer	49 FR 32110 (32111) (8-10-84)	Do.
84-1022	do.	49 FR 32110 (32111) (8-10-84)	Do.
84-1023	Quadrupolymer of isoprene, 1,3-butadiene, styrene and alpha-methylstyrene	49 FR 32110 (32111) (8-10-84)	Oct. 28, 1984.
84-1024	Generic name: Alkyl substituted 4-amino, 1-8 naphthalimide	49 FR 32110 (32111) (8-10-84)	Do.
84-1025	Generic name: Modified essential oil	49 FR 32110 (32111) (8-10-84)	Do.
84-1026	Generic name: Phenol, benzylic ether	49 FR 32110 (32111) (8-10-84)	Do.
84-1027	Generic name: Sulfurized reaction products of animal oil, vegetable fatty ester, olefin and turpentine	49 FR 32110 (32111) (8-10-84)	Do.
84-1028	1,4-dimethyl cyclohexane ethoxylate propoxylate	49 FR 32110 (32112) (8-10-84)	Do.
84-1029	Generic name: Polyether aromatic isocyanate terminated prepolymer	49 FR 32110 (32112) (8-10-84)	Do.
84-1030	Generic name: Poly(alkylsuccinic diester)	49 FR 33718 (8-24-84)	Oct. 29, 1984.
84-1031	Generic name: Poly(alkylsuccinic diester)	49 FR 33718 (33719) (8-24-84)	Do.
84-1032	Generic name: Styrene/acrylate latex	49 FR 32110 (32112) (8-10-84)	Do.
84-1033	Generic name: Alkylated phenol	49 FR 32110 (32112) (8-10-84)	Do.
84-1034	Generic name: Mercaptocarboxylic acid ester reaction product with olefin	49 FR 32110 (32112) (8-10-84)	Do.
84-1035	Generic name: Polyamide-imide	49 FR 32110 (32112) (8-10-84)	Do.
84-1036	do.	49 FR 32110 (32112) (8-10-84)	Do.
84-1037	Generic name: Diphenylmethane diisocyanate terminated polyester polyol polyurethane prepolymer	49 FR 33718 (33719) (8-24-84)	Oct. 31, 1984.

IV. 50 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE

PMN No.	Chemical identification	FR citation	Date of commencement
81-203	Generic name: Substituted alkyl cyanoacrylate ester	46 FR 29524(29525) (6-2-81)	Oct. 1, 1982.
82-198	Generic name: Modified polyurethane of a substituted alkane diol and a diisocyanate	47 FR 11957(11959) (3-19-82)	Oct. 23, 1984.
83-436	Generic name: Chloroaromatic compound	48 FR 6396(6397) (2-11-83)	On or about Sept. 17, 1984.
83-492	4-(4-methyl-1-piperidinyl)pyridine	48 FR 8343(8344) (2-28-83)	Oct. 4, 1984.
83-630	Generic name: Reaction product of an aromatic diglycidyl ether, an amine and a cyclic ester	48 FR 17365 (4-22-83)	Oct. 7, 1984.
83-686	Generic name: Modified ethylene-tetrafluoroethylene copolymer	48 FR 21370(21371) (5-12-83)	Sept. 4, 1984.
83-843	2,2'-[ethylenedioxy-bis-(2-phenylazo)]bis [p-2,3-dihydro-2-oxo-1H-benzimidazol-5-yl] 3-oxo-butanamide	48 FR 30434 (7-1-83)	Oct. 11, 1983.
83-1026	Generic name: Disubstituted sulfamoylcarbamoylazo substituted naphthalene sulfonic acid, sodium salt	48 FR 37698 (8-19-83)	Sept. 27, 1984.
83-1062	Generic name: Polycarboxylic acid	48 FR 39689 (9-1-83)	Sept. 28, 1984.
83-1162	Generic name: Substituted pyridine	48 FR 41638(41643) (9-16-83)	Oct. 12, 1984.
83-1163	do.	48 FR 41638(41643) (9-16-83)	Do.
83-1174	Generic name: Monosubstitutedheterocyclizediazonium chloride	48 FR 41638(41643) (9-16-83)	Sept. 12, 1984.
83-1212	Generic name: Monosubstitutedheterocyclesulfonyl chloride	48 FR 43397(43398) (9-23-83)	Sept. 13, 1984.
83-1214	Generic name: Disubstitutedchloromethyl silane	48 FR 43397(43398) (9-23-83)	Sept. 18, 1984.
83-1243	Generic name: Polymer of formaldehyde and substituted phenols and hydrobromic acid	48 FR 43397(43400) (9-23-83)	Do.
84-30	Generic name: Modified polyethylene ionomer	48 FR 48863(48865) (10-21-83)	Oct. 22, 1984.

IV. 50 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE—Continued

PMN No.	Chemical identification	FR citation	Date of commencement
84-290	Generic name: Reaction product of glycerin, ethylene oxide and hydrocarbyl halide	49 FR 930(931) (1-8-84)	On or about Oct 15, 1984
84-385	Generic name: Substituted phenylmagnesium chloride	49 FR 6160(6161) (2-17-84)	On or about Sept. 17, 1984
84-529	Generic name: Mixed mono and di-amides of an organic acid	49 FR 13744(13745) (4-6-84)	Oct. 15, 1984
84-605	Generic name: Polyester	49 FR 18034 (4-26-84)	Aug. 14, 1984
84-661	Generic name: Polyurethane plastics	49 FR 20060(20061) (5-11-84)	Aug. 9, 1984
84-674	Cuprate(2), [substituted[3-dimethylamino]propyl]amino[sulfonyl]-29H, 31H-phthalic-phthalocyanine-substituted-sulfonate(4)-N ²⁰ , N ²¹ , N ²² -sodium, formate	49 FR 20060(20062) (5/11/84)	Oct. 3, 1984
84-684	Generic name: Polymer of formaldehyde and substituted phenols	49 FR 21113 (5-18-84)	Sept. 19, 1984
84-693	Generic name: Dithiocarbamate salt	49 FR 22128(22129) (5-25-84)	Sept. 13, 1984
84-697	Generic name: Polyurethane plastics	49 FR 22128(22129) (5-25-84)	Sept. 25, 1984
84-699	Generic name: Substituted substituted substituted naphthalenedisulfonic acid, sodium salt	49 FR 22128(22129) (5-25-84)	Oct. 16, 1984
84-708	Polymer of Naphtha, (petroleum) light stemcracked debenzene polymers, linseed oil, soya oil, phthalic anhydride, isophthalic acid, glycerine, castor oil, maleic anhydride-fumarc acid, oxalic acid, pentaerythritol	49 FR 22128(22130) (5-25-84)	Sept. 5, 1984
84-716	Generic name: Modified alkylphenol resin	49 FR 22128(22131) (5-25-84)	Sept. 20, 1984
84-749	Generic name: Cyclic ester	49 FR 23916(23917) (6-8-84)	Sept. 11, 1984
84-755	Generic name: Aromatic ester	49 FR 23916(23917) (6-8-84)	Do.
84-783	5-fluorosulfonyl-2-methoxybenzenesulfonyl chloride	49 FR 23916(23919) (6-8-84)	Sept. 10, 1984
84-793	Generic name: Disubstituted anthraquinone-2-sulfonic acid	49 FR 23916(23920) (6-8-84)	Oct. 15, 1984
84-815	Polycaprolactone diol, adduct with modified 4,4'-diphenylmethane diisocyanate and polyoxyethylene	49 FR 24782(24784) (6-15-84)	Sept. 20, 1984
84-830	Generic name: Styrene, nitrile acrylic copolymer	49 FR 25676(25677) (6-22-84)	Sept. 27, 1984
84-831	Generic name: Styrene acrylic copolymer	49 FR 25676(25677) (6-22-84)	Do.
84-832	Generic name: Acrylic polymer	49 FR 25676(25677) (6-22-84)	Do.
84-838	Generic name: Tetrasubstituted naphthalenecarboxamide	49 FR 25676(25677) (6-22-84)	Sept. 25, 1984
84-847	Generic name: Acrylic copolymer, sodium salt	49 FR 25676(25678) (6-22-84)	On or about Oct 15, 1984
84-854	(1,1',3,3'-terphenyl)-2'-(octadecyloxy), 4-n-octadecyloxy-2,6-diphenylphenol	49 FR 26800(26801) (6-29-84)	On or about Sept. 22, 1984
84-864	Generic name: Vinyl acetate-acrylate copolymer	49 FR 26800(26801) (6-29-84)	Nov. 15, 1984
84-866	Generic name: Alkyl methacrylate polymer	49 FR 26800(26802) (6-29-84)	Oct. 10, 1984
84-867	do	49 FR 26800(26802) (6-29-84)	Do.
84-868	do	49 FR 26800(26802) (6-29-84)	Do.
84-914	Benzoic acid, 4-hydroxy-3-methoxy-, ethyl ester	49 FR 28616(28618) (7-13-84)	Oct. 15, 1984
84-921	Generic name: Hydroxyl functional styreneacrylic polymer	49 FR 29451(29452) (7-20-84)	Oct. 8, 1984
84-922	3,5-dinitrobenzyl chloride	49 FR 29451(29452) (7-20-84)	Oct. 15, 1984
84-941	Generic name: Substituted polyisobutylene succinimide	49 FR 29451(29453) (7-20-84)	Oct. 29, 1984
84-977	Generic name: Aluminum modified long oil alkyl 85% in white spirit	49 FR 30238(30241) (7-27-84)	Oct. 17, 1984
84-983	Generic name: Polyester resin based on mixed phthalic acids and mixed polyols	49 FR 30238(30241) (7-27-84)	Do.
84-1001	Generic name: Ethoxylated sorbitol, fatty acid ester	49 FR 31136(31138) (8-3-84)	Oct. 26, 1984

V. 100 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED

PMN No.	Identity/generic name	FR citation	Date suspended
83-1	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 46371 (10-18-82)	Oct. 22, 1982
83-333	Generic name: Reaction product of polycyclohexyl sulfonic acid salt with phosphorus halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite alkali	48 FR 72(73) (1-3-83)	Mar. 14, 1983
83-401	Generic name: Naphthalenetrisulfonic acid, chlorotriazinylamino-methoxymethylphenyl-azo	48 FR 5304 (2-4-83)	Aug. 18, 1983
83-418	Generic name: Benzenedisulfonic acid, chlorotriazinylaminodimethylphenylazo-sulfonaphthaleneazo-	48 FR 5304 (5306) (2-4-83)	Do.
83-461	Generic name: Substituted alkoxy silane	48 FR 7299 (7300) (2-18-83)	Apr. 25, 1983
83-634	Generic name: Substituted mono azo aromatic	48 FR 17385 (4-22-83)	July 5, 1983
83-669	Generic name: Chromium complex of substituted phenolazosulfonaphthol with naphthalazosulfonaphthol	48 FR 20490 (5-6-83)	Aug. 5, 1983
83-677	Generic name: Chromium complex of substituted alkylaminophenol with sulfonaphthalazosulfophenylpyrazolone	48 FR 20490 (20491) (5-6-83)	Do.
83-755	4-hydroxy-6-phenylaminonaphthalene-2-sulfonic acid	48 FR 24967 (6-3-83)	Aug. 17, 1983
83-770	Generic name: Cobalt complex of a substituted phenolazosulfonaphthol	48 FR 24967 (24968) (6-3-83)	Aug. 15, 1983
83-771	Generic name: Chromium complex of substituted phenolazoalkylarylamino-formimidphenol with sulfonaphthalazosulfonaphthol	48 FR 24967 (24968) (6-3-83)	Do.
83-860	Generic name: Metal complexed substituted aromatic azo compound	48 FR 30434 (30435) (7-1-83)	Sept. 21, 1983
83-875	4-(2-cyano-4-nitrophenylazo)-[N-(2-cyanoethyl)-N-(2-phenoxyethyl)amino] benzene	48 FR 31460 (31462) (7-8-83)	Do.
83-876	4-(2-cyano-4-nitrophenylazo)-[N,N-bis(2-propionylloxyethyl)amino]-3-chlorobenzene	48 FR 31460 (31462) (7-8-83)	Do.
83-913	Generic name: Copper sulfonaphthalazopolymers hydroxy phenazobenzoate	48 FR 32381 (32383) (7-15-83)	Oct. 1, 1983
83-1006	Generic name: (Amino)-(hydroxy)-(substituted) (substituted) naphthalenedisulfonic acid, and (amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, salts with sodium and potassium	48 FR 36647 (36648) (8-12-83)	Oct. 14, 1983
83-1007	Generic name: (Substituted)-(substituted)-hydroxy-naphthalenedisulfonic acid, sodium salts	48 FR 36647 (36648) (8-12-83)	Do.
83-1012	Generic name: Bis(sulfophenylchloro-triazinaminosulfophenylazo) hydroxyamino-disulfonaphthalene	48 FR 36647 (36648) (8-12-83)	Oct. 24, 1983
83-1018	Generic name: Substituted-naphthalene tetradisulfonic acid, bis[(substituted-hydroxyphenylazo)phenyl]derivative	48 FR 36647 (36648) (8-12-83)	Do.
83-1033	Generic name: C ₆ carboxylic acid	48 FR 37699 (37700) (8-19-83)	Dec. 8, 1983
83-1238	Generic name: Substituted anthraquinone	48 FR 43397 (43400) (9-23-83)	Dec. 9, 1983
84-15	Generic name: Substituted heterocyclic metal complex	48 FR 48863 (48864) (10-21-83)	Jan. 3, 1984
84-17	do	48 FR 48863 (48864) (10-21-83)	Mar. 1, 1984
84-18	1(1,1 dimethylethoxy)-propan-2-ol	48 FR 48863 (48864) (10-21-83)	Jan. 6, 1984
84-36	Generic name: Substituted heterocyclic metal complex	48 FR 48863 (48866) (10-21-83)	Mar. 1, 1984
84-50	do	48 FR 50951 (50952) (11-4-83)	Do.
84-64	Generic name: Substituted-phenylamino monochloro-triazinylamino sulfophenylazo-substituted-disulfonaphthalenylazo-naphthalene-disulfonic acid, hexasodium salt	48 FR 50951 (50953) (11-4-83)	Jan. 5, 1984
84-99	Generic name: Hydroxyalkyl ether	48 FR 50944 (50945) (11-4-83)	Jan. 11, 1984
84-108	Generic name: Trisubstituted heterocyclic disubstituted monocycle	48 FR 50944 (50945) (11-4-83)	Mar. 3, 1984
84-121	Generic name: Substituted heterocyclic metal complex	48 FR 50944 (50946) (11-4-83)	Mar. 1, 1984
84-308	Benzoic acid, 2-(((2-((2-methyl-1-oxo-2-propenyl)oxy)ethyl)amino)carbonyl)oxy-, methyl ester	49 FR 930 (932) (1-6-84)	Mar. 22, 1984
84-307	2-propenoic acid, 2-methyl-, 2-((hexahydro 2-oxo-1H-azepin-1-yl)carbonyl)amino)ethyl ester	49 FR 930 (932) (1-6-84)	May 3, 1984
84-341	Poly[oxy(1-oxo-1,6-hexanediyl)], alpha-hydro-omega-hydroxy-, ester with 3-hydroxy-2,2-dimethylpropyl-3-hydroxy-2,2-dimethylpropanoate (2:1), di-2-propenoate	49 FR 3523 (3525) (1-27-84)	Do.
84-342	Poly[oxy(1-oxo-1,6-hexanediyl)], alpha-(1-oxo-2-propenyl)-omega-[(tetrahydro-2-furanyl)methoxy]-	49 FR 3523 (3525) (1-27-84)	Do.
84-343	Poly[oxy(1-oxo-1,6-hexanediyl)], alpha-hydro-omega-hydroxy-, ester with 2,2'-oxybis(methylene)bis[2-(hydroxymethyl)-1, 3-propanediol-2-propanoate]	49 FR 3523 (3525) (1-27-84)	Do.
84-344	2-propenoic acid, [2-[[[1,1-dimethyl-2-[[1-oxo-2-propenyl]oxy]ethyl]-5-ethyl-1,3-dioxan-5-yl]methyl ester	49 FR 3523 (3525) (1-27-84)	May 4, 1984

V. 100 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED—Continued

PMN No.	Identity/generic name	FR citation	Date suspended
84-358	Generic Name: Polyaromatic urethane poly (unsaturated) ester	49 FR 6891 (2-24-84)	Apr. 26, 1984.
84-375	Generic Name: Sodium salt of alkyl dithiocarbamates	49 FR 4980 (4891) (2-9-84)	May 11, 1984.
84-376	Generic Name: Aryl esters of alkyl dithiocarbamates	49 FR 4980 (4891) (2-9-84)	Do.
84-378	Generic Name: Aromatic Sulfonate of substituted heteropolycycle	49 FR 6160 (6161) (2-17-84)	Apr. 30, 1984.
84-379	do	49 FR 6160 (6161) (2-17-84)	Do.
84-380	do	49 FR 6160 (6161) (2-17-84)	Do.
84-391	Generic name: Cuprate(5-), [5-hydroxy-2-[[4-[[5-hydroxy-6-[[2-methoxy-5-(substituted)phenyl]azo]-7-sulfo-2-naphthalenyl]amino]-6-[[3-sulphophenyl]amino]-1,3,5-triazin-2-yl]amino]-6-[[2-hydroxy-5-sulphophenyl]azo]-1,7-naphthalene-disulfonate(7-)], pentasodium	49 FR 6160 (6162) (2-17-84)	Apr. 27, 1984.
84-392	Generic name: Alkoxyated cycloaliphatic diamine	49 FR 6160 (6162) (2-17-84)	Do.
84-416	Dimethylbis(N-ethylacetamido)silane	49 FR 5991 (5993) (2-24-84)	May 11, 1984.
84-425	Generic name: Alkyl arylphosphonium salt	49 FR 7654 (7655) (3-1-84)	Apr. 13, 1984.
84-485	Generic name: Poly(oxy-1,2-ethanediyl)alpha-acyl-w-alkyl	49 FR 11009 (11010) (3-23-84)	June 4, 1984.
84-490	Generic name: Substituted aminofluorane	49 FR 11009 (11010) (3-23-84)	Aug. 16, 1984.
84-558	Generic name: Carboxylated alkane diol	49 FR 14802 (14803) (4-13-84)	June 27, 1984.
84-591	Generic name: Sodium salt of an alkylated, sulfonated aromatic	49 FR 16833 (16835) (4-20-84)	July 5, 1984.
84-597	Generic name: Blocked aliphatic polyisocyanate	49 FR 16833 (16835) (4-20-84)	July 19, 1984.
84-649	Generic name: Chromate, bis(substituted substituted phenolato)inorganic salts	49 FR 19110 (19113) (5-4-84)	July 20, 1984.
84-650	Generic name: Chromate, bis(substituted substituted substituted pyrazolyl), sodium	49 FR 19110 (19113) (5-4-84)	Do.
84-651	Generic name: Chromate, bis(substituted substituted naphthalenolato)sodium	49 FR 19110 (19113) (5-4-84)	Do.
84-660	Generic name: Substituted aryl olefin	49 FR 19110 (19114) (5-4-84)	July 17, 1984.
84-664	Generic name: Chromate, (substituted substituted phenolato) (substituted substituted substituted substituted phenolato) sodium	49 FR 20060 (20061) (5-11-84)	July 20, 1984.
84-665	Generic name: Chromate, bis(substituted substituted substituted phenolato), sodium	49 FR 20060 (20061) (5-11-84)	Do.
84-669	Oleic, linoleic, palmitic acid ester of ethoxylated C ₁₂ C ₁₈ alcohols	49 FR 20060 (20061) (5-11-84)	July 18, 1984.
84-673	Generic name: Chromate (substituted naphthalenolato) (substituted substituted naphthalenolato) inorganic salts	49 FR 20060 (20061) (5-11-84)	July 20, 1984.
84-698	Generic name: 9,10-Anthracenedione sulfonic acid, sodium salt	49 FR 22128 (22129) (5-25-84)	July 25, 1984.
84-703	Oxo-octyl acetate	49 FR 22128 (22130) (5-25-84)	Aug. 25, 1984.
84-704	Generic name: Substituted alkyl arene	49 FR 22128 (22130) (5-25-84)	Aug. 3, 1984.
84-713	Generic name: Acrylated alkoxyated aliphatic polyol	49 FR 22128 (22130) (5-25-84)	Do.
84-737	Generic name: Glycol ether	49 FR 22865 (22866) (6-1-84)	Aug. 15, 1984.
84-738	do	49 FR 22865 (22866) (6-1-84)	Do.
84-742	Generic name: Cross-linked modified polyvinyl amide	49 FR 22865 (22866) (6-1-84)	Do.
84-760	Generic name: Aliphatic diacrylate	49 FR 22865 (22866) (6-1-84)	July 23, 1984.
84-792	Generic name: Disubstituted anthraquinone-2-sulfonic acid, alkali metal salt	49 FR 23916 (23919) (6-8-84)	Aug. 22, 1984.
84-796	Generic name: Polyfunctional aziridine	49 FR 23916 (23920) (6-8-84)	Do.
84-814	Generic name: Polysubstituted polyol	49 FR 24782 (6-15-84)	Aug. 17, 1984.
84-820	Generic name: Phosphonium salt	49 FR 24782 (24784) (6-15-84)	Aug. 27, 1984.
84-824	Generic name: Brominated aromatic	49 FR 24782 (24784) (6-15-84)	Aug. 23, 1984.
84-839	Generic name: Polyfunctional aziridine	49 FR 25676 (6-22-84)	Do.
84-858	Generic name: Polyalkylene glycol ether acrylate	49 FR 25676 (25677) (6-22-84)	Aug. 27, 1984.
84-860	Generic name: Disubstituted nitrobenzene	49 FR 26800 (26801) (6-29-84)	Aug. 31, 1984.
84-880	Generic name: Modified melamine formaldehyde polymer	49 FR 26800 (26801) (6-29-84)	Sept. 26, 1984.
84-881	Generic name: Modified polymer of styrene with alkyl acrylate and alkyl methacrylates	49 FR 28614 (7-13-84)	Aug. 22, 1984.
84-885	Generic name: Carboxylic acid chloride	49 FR 28614 (28615) (7-13-84)	Aug. 30, 1984.
84-886	Generic name: Triazine derivative	49 FR 28614 (28615) (7-13-84)	Oct. 4, 1984.
84-895	Generic name: Substituted-substituted benzenesulfonic acid coupled with substituted-substituted benzenes and substituted substituted naphthalenedi-sulfonic acid, sodium salt	49 FR 28614 (28616) (7-13-84)	Oct. 22, 1984.
84-900	1,3,5-Triazine-2,4,6 (1H,3H,5H)-trione, 1,3,5-tris(2,3-dibromopropyl)-	49 FR 28616 (28617) (7-13-84)	Sept. 19, 1984.
84-901	Bis(tetrabromobisphenol A)bis(tribromophenyl)methylene tetracarboxylate	49 FR 28616 (28617) (7-13-84)	Sept. 28, 1984.
84-902	Hexabromodiphenyl amine	49 FR 28616 (28617) (7-13-84)	Sept. 21, 1984.
84-903	N-methylhexabromodiphenyl amine	49 FR 28616 (28617) (7-13-84)	Do.
84-910	Phenol, p-allyl	49 FR 28616 (28617) (7-13-84)	Do.
84-913	Generic name: N,N'-bis(2-(2-(3-alkylthio)vinyl)-1,4-phenylene diamine double salt	49 FR 28616 (28618) (7-13-84)	Sept. 26, 1984.
84-916	Generic name: Mixed chromium complexes of substituted hydroxyphenyl azo hydroxynaphthalenes, amine salts	49 FR 29451 (7-20-84)	Do.
84-927	Generic name: Carbopolycyclic alkenyl ether	49 FR 29451 (29452) (7-20-84)	Sept. 28, 1984.
84-938	Polymer of hydroxy ethyl acrylate and polyisocyanate T 1890/100	49 FR 29451 (29453) (7-20-84)	Sept. 29, 1984.
84-951	Generic name: Substituted aminobenzoic acid ester	49 FR 30238 (30239) (7-27-84)	Oct. 1, 1984.
84-954	Generic name: Substituted aromatic	49 FR 30238 (30239) (7-27-84)	Oct. 4, 1984.
84-963	6-Nitro-2(3H)-benzoxazolon	49 FR 30238 (30240) (7-27-84)	Oct. 10, 1984.
84-969	4-amino-3,6-bis[5-[4-(3-carboxypyridinio)-5-(4-chloro-3-sulfonateanilino)-1,3,5-triazin-2-ylamino]-2-sulfonate-phenylazo]-5-hydroxy-2,7-naphthalene-disulfonate-dihydroxide, hexasodium	49 FR 31136 (31137) (8-3-84)	Oct. 11, 1984.
84-992	Generic name: Polyurethane polymer	49 FR 31136 (31137) (8-3-84)	Oct. 16, 1984.
84-1005	Generic name: Alkyl amine derivative	49 FR 32110 (8-10-84)	Oct. 18, 1984.
84-1007	Generic name: 3-alkyl-2-(2-anilino)vinyl thiazolinium salt	49 FR 32110 (8-10-84)	Oct. 24, 1984.
84-1042	Methylammonium n-methylthiocarbamate	49 FR 33718 (33719) (8-24-84)	Oct. 5, 1984.
84-1051	Generic name: Halogenated aromatic substituted olefin	49 FR 33718 (33720) (8-24-84)	Oct. 31, 1984.
84-1052	Generic name: Spent sulfite liquor, reaction product with an aromatic monomer	49 FR 33718 (33720) (8-24-84)	Oct. 30, 1984.
84-1053	Generic name: Ethoxylated vegetable fatty acids, end-capped	49 FR 33718 (33720) (8-24-84)	Aug. 28, 1984.

[FR Doc. 84-33352 Filed 12-21-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

December 17, 1984.

The Federal Communications

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.

Copies of the submissions are available from Doris Peacock, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on these information collections should contact Marty Wagner, Office of Management and Budget, Room 3235 NEOB,

Washington, D.C. 20503, (202) 395-4814.

OMB No.: 3060-0057

Title: Application for Equipment Authorization

Form No.: FCC 731

Action: Revision (burden only)

Estimated Annual Burden: 10,000

Responses: 240,000 Hours

OMB No.: None

Title: Equipment Authorization—Verification (§§ 2.955, 15.69(b), 15.814(b), and 15.834(b)-(c))

Action: Approval for existing collection in use without an OMB control number

Respondents: Businesses (including small businesses)

Estimated Annual Burden: 5,250
Recordkeepers: 94,500 Hours

Description: Sections 2.955, 15.69(b), 15.814(b), and 15.834(b)-(c) of the Commission's Rules require manufacturers (or importers) of certain radio frequency devices to verify compliance of these devices with technical standards set by the Commission. Manufacturers must retain records associated with the verification of the devices.

William J. Tricarico

Secretary, Federal Communications Commission.

[FR Doc. 84-33309 Filed 12-21-84; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

The Federal Communications 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.

Copies of these submissions are available from Doris R. Peacock, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on any information collection should contact Marty Wagner, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-4814.

OMB No.: 3060-0085

Title: Employment Inquiry

Form No.: FCC 65

Action: Revision

Estimated Annual Burden: 900
Responses: 225 Hours

OMB No.: 3060-0097

Title: Fee Refund Program (Phase I)—
Refund Request Form

Form No.: FCC 199-A/B

Action: Extension

Estimated Annual Burden: 150
Responses: 75 Hours

OMB No.: 3060-0100

Title: Fee Refund Program (Phase II)—
Refund Request Form

Form No.: FCC 199-C

Action: Extension

Estimated Annual Burden: 500

Responses: 125 hours

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-33308 Filed 12-21-84; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1491]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

December 17, 1984.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the Federal Register. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services. (CC Docket No. 81-893)

Filed by: Brian R. Moir, Jay L. Witkin & Daniel J. Harrold, Attorneys for International Communications Association on 11-30-84.

Subject: Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Gayles or Shreveport, Louisiana) (MM Docket No. 83-519, RM-4419)

Filed by: James A. Gammon, Attorney for Word of Life Ministries, Inc., on 7-27-84.

Frederick D. Cooke, Jr. & Carolyn A. Wimby, Attorneys for Wesley Godfrey on 8-20-84.

Subject: Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Battle Creek, Michigan) (MM Docket No. 83-1000, RM-4577)

Filed by: Daniel W. Toohey, Todd D. Gray & Carolyn A. Wimby, Attorneys for The University of Michigan on 12-10-84.

Subject: Investigation of Access and Divestiture Related Tariffs. (CC Docket No. 83-1145, Phase I and Phase II, Part I)

Filed by: Thomas Pace, Communications Counsel for Dow Jones & Co., Inc., on 11-20-84.

H. Richard Juhnke, Arthur H. Simms, Lawrence P. Keller & Peter G. Wolfe, Attorneys for Western Union Telegraph Company on 12-10-84.

Judith A. Maynes, Robert B. Stechert & Daniel Stark, Attorneys for American

Telephone and Telegraph Company on 12-10-84.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-33310 Filed 12-21-84; 8:45 am]

BILLING CODE 6712-01-M

[FCC Nos. 84-620, 84-621, and 84-622]

Prescription of Revised Percentages of Depreciation for: The Chesapeake and Potomac Telephone Company, et al.; Alascom, Inc., et al; AT&T Communications (Interstate Division and Twenty-Two Interexchange Subsidiaries), et al.

AGENCY: Federal Communications Commission.

ACTION: Depreciation rate prescription orders.

SUMMARY: Pursuant to sections 4(i) and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 220(b), Federal Communications Commission has ordered the fifty-three named telephone companies to apply the percentages of depreciation which are set forth in the Appendices to the Orders. The named companies filed for revised depreciation rates for various accounts and submitted studies and data to substantiate their requests. The intended effect of this action is to charge, as accurately as circumstances will allow, the cost of consumption of depreciable assets to the periods in which the assets are useful in the production of revenues.

EFFECTIVE DATE: The companies are to apply the depreciation rates as of the date or dates set forth in the Appendices to the Orders. In no case is an effective date prior to January 1, 1984 nor later than January 1, 1985.

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

FOR FURTHER INFORMATION CONTACT: Kenneth P. Moran, Chief, Depreciation Rates Branch, (202) 634-1730.

SUPPLEMENTARY INFORMATION: Order

In the matter of The Prescription of Revised Percentages of Depreciation pursuant to the Communications Act of 1934, as amended, for: The Chesapeake and Potomac Telephone Co., The Chesapeake and Potomac Telephone Co. of Maryland, The Chesapeake and Potomac Telephone Co. of Virginia, The Chesapeake and Potomac Telephone Co. of West Virginia, Continental Telephone Co. of Virginia, General Telephone Co. of Florida, General Telephone Co. of Indiana, General Telephone Co. of Michigan, General Telephone Co. of Ohio, Illinois Bell

Telephone Co., Inc., New England Telephone and Telegraph Co., South Central Bell Telephone Co. and The Southern New England Telephone Co.

Adopted: December 10, 1984.

Released: December 19, 1984.

By the Commission:

I. Introduction

1. The Communications Act of 1934, as amended, grants the Commission the authority to prescribe depreciation rates when it deems necessary. By this order we prescribe revised depreciation rates for common carriers and to revise these depreciation rates for the fourteen common carriers listed in the caption using both the vintage group remaining-life (VG) and equal life group remaining-life (ELG) procedures.

II. Background

A. Methods

2. We approved the use of these procedures in our final decision in *Property Depreciation*, Docket No. 20188, 83 FCC 2d 267 (9180), reconsideration 87 FCC 2d 916 (1981). The remaining-life procedures are designed to distribute the unrecovered cost of an account (including any reserve deficit or surplus) over its estimated average remaining life. The equal life group procedure was adopted to allow for depreciation at rates more representative of consumption of capital than the vintage group procedure which had been used exclusively prior to our decision in that docket. In accordance with our decision we implemented rates using these new procedures in all depreciation prescription orders beginning in 1981. This order continues the use of these procedures.

B. Review Procedures

3. Since the late 1940's the Commission has reviewed and prescribed the depreciation rates of approximately one-third of the larger FCC-subject telephone carriers each year. In most cases we have prescribed rates for a carrier only after the following actions have been completed:

- (1) Submittal of depreciation studies by the carrier.
- (2) Staff review of the carrier's rate filings and studies in support of its proposed life and salvage factors.
- (3) Independent staff analysis of such information as the carrier's plant mortality data and equipment retirement plans.
- (4) Preparation of preliminary staff recommendations.
- (5) Discussion of the carrier's filings and the preliminary FCC staff proposals at a conference in which representatives of the carrier, the staffs of the respective

state commissions, and the FCC staff participate (i.e., a three-way meeting).

4. The fourteen carriers for which rates are under consideration submitted studies proposing new depreciation rates based upon revised life and salvage estimates. These studies were reviewed in detail by our staff, which then prepared its preliminary life, net salvage, and rate proposals and forwarded them to the companies and the state commissions. Some of the state commissions prepared similar studies and recommendations. Three-way meetings were then held at which the life, net salvage, and depreciation rate proposals of all three parties were thoroughly discussed.

5. After completing its analysis and developing its recommendations, our staff issued a Public Notice on September 10, 1984, entitled, "Depreciation Rate Prescriptions Proposed for Domestic Telephone Companies—Notice of Opportunity for Comment." The staff transmitted to each company and state commission a copy of the September 10 Public Notice and schedules showing the proposed depreciation rates.

III. Discussion of Issues

6. Comments were filed by six telephone operating companies, four regional holding companies, ten state regulatory commissions, and three state agencies representing ratepayer interests. A copy of each of these comments and a staff-prepared summary are available for inspection in the Commission's Common Carrier Bureau offices. Many of the issues raised by the commenting parties have been discussed and disposed of in previous orders.¹ Accordingly, in this order we do not address every issue raised by every commenter.

A. Composite Rates and Annual Updates

7. In our 1983 depreciation prescription orders, see, e.g., *Depreciation Rates*, 96 FCC 2d 257 (1983), reconsideration, FCC Order 84-505, released October 31, 1984, we ordered the use of composite remaining-life depreciation rates. Composite rates were introduced to avoid the

unnecessary complexity that would be introduced in coming years if we continued prescription of separate ELG rates for each new vintage of each account. Although we continue to prefer the use of one composite rate for each account, a number of companies have filed for three separate rates for each account: one for the original cost of the ELG vintages, one for the original cost of the VG vintages, and one for net salvage for the account as a whole. Both compositing procedures, i.e., one and three rates, result substantially in the same depreciation expense level. In spite of our preference for the simplicity of one composite rate, we will prescribe either one or three composite rates as requested. We direct the staff to continue to monitor this procedure and inform us if further changes or refinements are necessary.

8. In our 1983 prescription orders we also allowed the use of optional annual updates for all accounts to assure that the composite rates would be kept current. These updates are designed to reflect depreciation rate changes necessitated by plant additions and retirements without altering the prescribed service life and net salvage estimates. We believe this practice should be continued to assure that composite rates are kept as up-to-date as possible between triennial depreciation studies.

B. Effective Dates

9. Prior to our decision in Docket No. 20188 depreciation rates were usually prescribed retroactively to the beginning of the year in which they were filed. This appeared to be a reasonable practice because the rates were based on depreciation studies made as of the beginning of the review year. However, the rapid increase in depreciation expenses and the more complex interaction of federal and state regulatory actions have prompted us, in recent years, to allow effective dates for new depreciation rates at any time between January of the filing year and the first month following the release of the prescription order. The companies under consideration have all filed for effective dates consistent with our recent orders (i.e., between January 1, 1984 and January 1, 1985) except for the General Telephone Company of Florida which requested a May 1, 1985 effective date. The issue of effective dates has been considered repeatedly in recent depreciation orders, and General of Florida provides no reasons why we should change our policy on effective dates. The Florida Commission filed no comments on this issue. While we would

¹ For example, the state commissions of the District of Columbia, Louisiana, Maine, and Michigan continue to object to this Commission's preemption of state authority over depreciation rates. As we have found in prior orders, however, our preemptive authority on depreciation matters is both clear and ample. See *Amendment of Part 31, 92 F.C.C. 2d 864 (1984)*, *aff'd Virginia State Corporation Commission v. F.C.C.*, 737 F. 2d 388 (4th Cir. 1984); *South Central Bell Telephone Company v. Louisiana Public Utilities Commission*, No. 83-3495 (5th Cir. October 11, 1984).

prefer the effective date of new rates to coincide with the study date, i.e., the beginning of the filing year, the complex interaction of federal and state regulatory actions continues to mandate a flexible approach. Therefore, we shall again grant the effective dates proposed by the companies with the exception of General Telephone Company of Florida, for which we prescribe a January 1, 1985 effective date.

C. Submission of Whole-Life Depreciation Studies

10. In *Property Depreciation*, 83 FCC 2d at 290, we directed the staff to

... keep the Commission fully informed as to the difference in amounts of annual charges involved in any recommendations for prescribed rates that it might make. For at least a period of three years, we require that all rates recommended for prescription carry with them a statement of the dollar impact in terms of annual expense, as between the rates calculated under the whole-life concept. Thereafter, the staff is to advise the Commission as to such differences whenever the proposed remaining-life rates result in an increase in proposed annual charges of 115% or more than the increase in annual charges arrived at by calculating whole-life rates.

11. With our approval of the 1983 prescription orders, we completed the implementation of remaining-life rates for all of the telephone companies for which we prescribe depreciation rates. However, after prescribing remaining-life rates for three years and considering the controversy that has developed regarding the pace at which reserve deficits are being written down,² we find that it is more essential than ever that the companies file rates on both a whole-life and remaining-life basis.³ Inasmuch as the computerized systems which the companies and regulators have in operation can easily determine both whole-life and remaining-life factors, we find that reporting both figures will cost the companies and regulators very little. We, therefore, require the companies to continue to report whole-life rates to the Commission for at least the next three-year prescription cycle.

D. Life and Net Salvage Factors

12. The only accounts in which three-way agreements on life and salvage factors were not reached are:

Company	Account
C&P of West Virginia.....	COE—Step-by-Step.
C&P of West Virginia.....	COE—Crossbar.

² See, e.g., paragraphs 19 and 20 below.

³ The difference between the remaining-life and whole-life rate is a measure of the rate at which the reserve deficit or surplus is being written down.

Company	Account
C&P of West Virginia.....	COE—Circuit (Other).
C&P of West Virginia.....	COE—Analog Electronic.
General of Florida.....	COE—Analog Electronic.
General of Michigan.....	COE—Electromechanical.

For all these accounts our staff reached agreement with either the company or the state commission staff.

13. For the accounts listed above the West Virginia Commission did not agree to the life and salvage parameters proposed by our staff and the company, and urged us to delay prescription of revised depreciation rates for these accounts until next year. In its comments West Virginia charged that the agreements on life and salvage are inconsistent with the West Virginia staff policy regarding capital construction by telephone utilities and may be inconsistent with an impending West Virginia rulemaking which could impose a construction certification requirement on telephone companies in the state. West Virginia stated that it plans to decide its telephone company construction and certification policy by mid-1985.

14. In deciding whether to delay the prescription of rates for C&P of West Virginia, we considered the life forecasts provided by the parties and the likelihood that these life forecasts will prove to be accurate. During the review process C&P of West Virginia submitted detailed plans which clearly show that significant changes in the prescribed life estimates are necessary for these accounts. After reviewing and discussing these plans with the Company, our staff agreed that significant increases in rates for these accounts are warranted.⁴ The West Virginia Commission argued that its regulatory actions may cause the Company to alter its plans and to revise further its depreciation rate proposals. While we do not dispute that West Virginia can affect the Company's plant construction and retirement activities through the exercise of its regulatory purview, we find it unlikely that the state's actions will cause extreme changes to the Company's plans to replace the plant in question here—especially the investment in the COE-Step-by-Step and COE-Crossbar accounts which are commonly thought to be technologically obsolete. Therefore, we believe the most prudent course is to prescribe the rates recommended by the Company and our staff now and to revise these rates as

⁴ Although our staff agreed that significant increases in depreciation rates for these accounts are warranted, it did not agree to rates as high as C&P of West Virginia initially proposed.

necessary to reflect the West Virginia Commission's capital construction and certification policies after they are finalized. We, therefore, request that the West Virginia Commission inform our staff of its telephone company construction policy determinations, and that our staff review these findings and determine what changes in C&P of West Virginia's rates it believes are necessary as soon as practicable—regardless of whether such consideration coincides with the Company's regular triennial review. We will then rule on the staff's recommendations and prescribe revised rates as necessary.

15. For General of Florida's COE—Analog Electronic account, our staff and the staff of the Florida Commission recommend a 15 year projection life, while the Company proposes a 12.8 year projection life. General of Florida argued two points in its opposition to our staff's recommendation. First, it contended that the group procedures used by our staff are inconsistent with our decision in Docket No. 20188. Second, it contended that our staff has increased the prescribed life estimate of this account by more than two years. In response to General's first contention, the rates recommended by our staff are based upon vintage group procedures for all investments placed before 1983 and equal life group procedures for all investments placed in 1983 and later. As such, we find the staff's recommendations to be consistent with our decision in Docket No. 20188, which allowed the use of equal life group rates for new additions only, and our initial prescription order for equal life group rates for General of Florida's central office equipment accounts (see *Depreciation Rates*, 92 FCC 2d 712 (1982)). In response to General's second contention, we note that our staff's current recommendations are for shorter lives than those underlying the currently prescribed rates as illustrated by the following table:

	Currently prescribed (years)	Staff recommendations (years)
Average service life.....	15.1	14.5
Average remaining life.....	12.2	10.3

We find General's contentions to be unpersuasive. Therefore, for General of Florida's COE-Analog Electronic account we adopt the life estimate recommended by our staff and the Florida Commission.

16. For General of Michigan's COE—Electromechanical Switching account, our staff and the Michigan Public

Service Commission staff recommend a 1989 average year of final retirement (AYFR), while General of Michigan proposes a slightly lower AYFR. General contends that the AYFR proposed by the commission staffs is inconsistent with its switch replacement schedule. Inasmuch as the Company has not met its retirement schedules in the past,⁵ we believe (and the Michigan Commission staff concurs) that further delays are likely in the future. Both our staff and the Michigan Commission staff have recommended a rate for this account which allows for a moderate delay in the Company's retirement schedule and we adopt the staff proposal.

E. Amortization and Dying Accounts

17. In Docket No. 20188 we expressed our concern that depreciation rates be prescribed in a manner that would allow for full capital recovery over life of the assets. Consistent with this policy, we revised our rules to allow for the use of the remaining-life procedure. In last year's depreciation prescription orders, we identified special situations⁶ in which we believed the use of remaining-life procedures would not adequately allow for full and timely capital recovery. For such accounts we ordered the use of amortization procedures in lieu of remaining-life procedures. During the 1984 review our staff identified the following twelve additional accounts for which it has recommended amortization procedures to allow for full and timely capital recovery:

Company and jurisdiction	Account	Amortization period
C&P of West Virginia, West Virginia.	COE—manual.....	2
New England Telephone, Maine.	COE—manual.....	2
New England Telephone, New Hampshire.	COE—manual.....	2
New England Telephone, New Hampshire.	COE—crossbar.....	2
New England Telephone, Vermont.	COE—SXS.....	3
New England Telephone, Vermont.	COE—crossbar.....	3
New England Telephone, Vermont.	Aerial wire.....	3
General of Michigan, Michigan.	Aerial wire.....	4
Continental of Virginia, Virginia.	Analog microwave.	3
Continental of Virginia, Virginia.	Aerial wire.....	4
Continental of Virginia, Virginia.	Furniture—minor items.	5
Continental of Virginia, Virginia.	Vehicles—minor items.	5

⁵ For example, during the 1981-83 period the Company retired less than half of the electromechanical switching investment that it had scheduled for retirement in its 1981 depreciation study.

⁶ For example, see *Depreciation Rates*, 96 FCC 2d 257 (1983), in which we discussed approximately twenty cases in which a plant account's investment was completely retired or was in the dying phase of its life cycle and a substantial reserve imbalance existed.

18. The Companies, state commissions, and our staff discussed these accounts at length and recommended that the deficiencies be amortized over the periods shown above. Only one party disagreed with the use of the amortizations described above, the Vermont Department of Public Service (Department).⁷ The Department contended that the proposed amortizations in Vermont constitute an acceleration of capital recovery and thus defeat the regulatory goal of rate stability. We have examined the Department's views and find that, although the amortizations do increase depreciation levels over those which would result solely from the use of remaining-life procedures, we cannot agree with the Department's contention that the use of the amortizations will cause a rate stability problem.⁸ The Vermont Public Service Board (Board) recently considered the Department's views in a state rate proceeding and rejected them on the basis that, in today's increasingly competitive telecommunications marketplace, continued deferral of capital recovery of reserve deficiencies is not in the interest of either the company or Vermont ratepayers. In light of the Board's determinations, we find that the use of the proposed amortization is consistent with our policy of allowing for full and timely capital recovery. Accordingly, we prescribe the rates and amortization amounts as specified in the Appendix.

F. Amortization of Reserve Deficits for Illinois Bell

19. Illinois Bell proposes to extend the use of the amortization procedure (in lieu of the remaining-life procedure) to all accounts for which reserve deficiencies are indicated, not just the dying accounts with large reserve imbalances.⁹ Specifically, Illinois Bell

⁷ The Vermont Department of Public Service represents ratepayer interests before the Vermont Public Service Board. The Public Service Board alone has the intrastate ratemaking authority for telephone service in Vermont.

⁸ The increase intrastate depreciation expense due to the proposed amortizations in Vermont is approximately \$800,000 per year. This amounts to an increase of less than 1% of the nearly \$90 million of annual intrastate revenues for New England Telephone in Vermont.

⁹ Indiana Bell has also proposed that rates be prescribed based upon an amortization plan contingent on rate relief by the Indiana Commission. Inasmuch as we have no indication that the state will support this plan, and a proposed effective date has not been specified, we find no need to consider this amortization proposal in this order. In addition to its amortization plan, Indiana Bell has proposed that remaining-life rates be prescribed effective January 1, 1985. These rates have been agreed to by our staff and that of the Indiana Commission, and are shown in the Appendix.

proposes three major changes to our current procedures: (1) To use the ELG method for depreciation of all vintages of plant; (2) to quantify and segregate the reserve deficiency (if any) using ELG concepts for all plant; and (3) to amortize the reserve deficiency over a fixed period of years which is unrelated to the average remaining life of the assets. The first two proposals of Illinois Bell require that ELG concepts be applied to the embedded assets. The company is supported by the Illinois Commerce Commission and most of the telephone companies that submitted comments in response to our Public Notice. In our decision in Docket No. 20188 and in our depreciation prescription orders since 1981,¹⁰ however, we have consistently denied the use of ELG for embedded plant because its proper implementation would require more detailed recordkeeping and increased administrative cost, and its use would unnecessarily complicate current procedures which already allow for full and timely capital recovery. Inasmuch as neither the company nor the commenters have presented any new evidence or arguments in support of the use of ELG for embedded vintages that were not already considered in our prior decisions, we shall not reconsider them here. Accordingly, we reject Illinois Bell's proposal to use ELG procedures for embedded plant.

20. Illinois Bell proposed to increase depreciation expense through the use of a five-year period¹¹ for amortization of the reserve deficit in most accounts. It justifies the need for this increase of depreciation expense over the levels produced by the existing remaining-life procedure by citing the increased risk that future competitive conditions will not allow customer prices that support the recovery of reserve deficits. Illinois Bell believes that many of its services, particularly those utilized by its larger customers, will be in a fully competitive environment in the foreseeable future, driving prices to marginal costs and leaving no revenues to cover reserve deficit depreciation through the remaining-life method. It proposes a five-year amortization period to assure that the deficits built up in the past are recovered through reasonable annual

¹⁰ See, e.g., *Depreciation Rates*, 96 FCC 2d 257 (1983), reconsideration, FCC Order 84-505, released October 31, 1984.

¹¹ Illinois Bell's initial proposal was for an eight-year amortization of reserve deficits calculated using ELG concepts. Alternatively, Illinois Bell proposed a five-year amortization employing conventional vintage group procedures in the event ELG for embedded plant was denied.

depreciation charges before competition cuts off its ability to do so. The Attorney General of Illinois, commenting on behalf of Illinois ratepayer interests, opposed the concept of amortization for Illinois Bell because he believes that most of the company's services will remain in monopoly status for the foreseeable future. Thus, he sees no need for the increase in annual depreciation expense to recover reserve deficits proposed by the company,¹² especially when the currently-used remaining-life method will recover deficits over the remaining life of the assets. The Illinois Commerce Commission considered the opinions of the company and the Attorney General of Illinois in a recent rate hearing and supported the position of the company.¹³ The Illinois Commission believes that the interests of Illinois Bell ratepayers will be best served if the built-up reserve deficits are eliminated promptly, before the risk of non-recovery that would be coincident with impending competition in many service offerings. We have considered the views of the company, the Illinois Commission, and the Attorney General of Illinois and

concur with the state commission that prompt recovery of reserve deficits through a five-year amortization procedure is a reasonable alternative to the remaining-life procedure under the circumstances in this jurisdiction. The Illinois Commission has determined that a five-year amortization produces annual expenses that are not excessive for Illinois Bell or its ratepayers. Finding that a reasonable case has been made for a five-year amortization of reserve deficits in many of Illinois Bell's accounts, and relying on the opinion of the Illinois Commission regarding the competitive situation in Illinois and the burden on its ratepayers,¹⁴ we prescribe the depreciation rates and amortizations shown in the Appendix.

21. We believe, along with most of the state commissions, that the remaining-life method is generally adequate to assure full and timely recovery of existing reserve deficits in embedded vintages. Nevertheless, many companies expressed a desire to implement amortizations of reserve deficits in their embedded plant for many of the same reasons given by Illinois Bell. In recognition of the varying competitive and regulatory situations in each state, we direct our staff to consider the possibility of the use of amortizations similar to that approved herein for Illinois Bell. Upon application by a company with the concurrence of its state commission we will entertain the

amortization approach for the elimination reserve deficits in embedded plant on a case-by-case basis. The opinion of the state regulatory commission will be a significant factor in any decision to allow the use of amortizations, as it has been in the case of Illinois Bell. Furthermore, we direct the staff to study this alternative to the remaining-life method and to propose necessary guidelines and accounting and reporting procedures as it deems necessary.

G. Conclusion

22. Having considered the proposals of the companies, the positions set forth by the companies and state commissions at the three-way meetings, the responses to the staff's review letters and Public Notice, and the recommendations of the staff, we adopt the depreciation rates and amortizations listed in the Appendix.

IV. Ordering Clauses

23. Accordingly, it is ordered, pursuant to sections 1, 4(i), 201-205 and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201-205 and 220(b), that the percentages of depreciation and amortizations set forth in the Appendix to this order are prescribed effective on the dates listed.

24. It is further ordered, that the companies shall submit to the Commission whole-life as well as remaining-life depreciation studies during the next rescription period.

Federal Communications Commission.

William J. Tricarico,

Secretary.

¹² The Attorney General of Illinois also suggested that depreciation recovery should be disaggregated by service so that any increases in depreciation expense are borne by the customers consuming the capital. He fears that monopoly customers will be saddled with a disproportionate share of capital recovery costs if "broad-brush" approaches like amortization are adopted. This issue is really one of rate design and as such is outside the purview of this order. Rate design is largely within the authority of individual state commissions. We require only that the state apply the depreciation rates and amortizations prescribed in this order.

¹³ Illinois Commerce Commission's *Second Interim Order in 83-0005*, adopted October 30, 1984.

¹⁴ We trust that the Illinois Commerce Commission will continue to monitor this situation, and advise us as necessary.

Appendix

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY

[Effective Jan. 1, 1985]¹

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
212.....	Buildings.....	2.4	4.0	0.2	1984
221.....	Central Office Equipment:				
	Manual.....	5.5		0.0	
	Crossbar.....	11.0		0.5	
	Non-Ded. circuit.....	4.9	16.4	0.2	1983
	DDS circuit.....	6.8	12.9	0.2	1983
	Radio.....	1.1	8.5	0.6	1983
	Analog electronic.....	7.5	9.2	-0.5	1983
	Digital electronic.....	5.0	8.6	0.0	1983
231.....	Station apparatus:				
	Teletypewriter.....	7.1		0.1	
	Telephone and miscellaneous.....	10.2		-1.1	
	Radio.....	5.1		-5.7	
232.....	Station connections—Other.....	5.0			
234.....	Large private branch exchanges:				
	Electronic.....	11.1		0.0	
	Other.....	16.4		2.8	
235.....	Public telephone equipment.....	DS	14.9	-4.0	
241.....	Pole lines.....	9.3		-1.1	
242.1.....	Aerial cable exchange.....	3.2	6.8	5.4	1982
		4.0	10.1	1.8	1982

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY—Continued

[Effective Jan. 1, 1985]¹

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
242.2	Underground cable exchange	4.1	6.5	1.9	1982
242.3	Buried cable exchange	3.0	8.0	0.4	1982
242.4	Submarine cable	3.3	4.8	0.1	1982
244	Underground conduit	1.6	1.9	0.0	1982
261	Furniture and office equipment:				
	Storeroom and other	6.4	12.0	-0.5	1984
	Computer and AMA systems	17.6	17.5	0.3	1984
	Art works	0.0		0.0	
262	Company official equipment	10.1		-0.8	
264	Vehicles and other work equipment:				
	Motor vehicles	10.3	12.8	-1.5	1984
	Other work equipment	6.0	16.1	-1.2	1984

¹ Except Accounts 235 and 262 which have an effective date of May 1, 1984, and the ELG rates for Accounts 212, 261, and 264 which have an effective date of January 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY OF MARYLAND

[Effective Jan. 1, 1985]¹

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
212	Buildings	2.5	4.2	-0.2	1984
221	Central office equipment:				
	Manual	33.5		0.0	
	Step-by-step	13.7		1.2	
	Crossbar	12.7		0.1	
	Non-Ded. circuit	7.4	13.1	0.0	1983
	DDS circuit	8.0	12.0	0.0	1983
	Radio	5.7	11.5	-1.1	1983
	Analog electronic	6.2	8.3	-0.2	1983
	Digital electronic	5.0	8.6	0.0	1983
231	Station apparatus:				
	Teletypewriter	10.2		-0.9	
	Telephone and miscellaneous	13.7		-2.9	
	Radio	12.9		-15.2	
232	Station connections—Other	5.0			
234	Large private branch exchanges:				
	Electronic	15.8		0.0	
	Other	9.9		7.2	
	DDS	15.4		-3.7	
235	Public telephone equipment	10.0		-0.1	
241	Pole lines	3.3	7.6	1.8	1982
242.1	Aerial cable:				
	Exchange	4.1	5.9	1.1	1982
	Toll	3.5	7.3	-3.6	1982
242.2	Underground cable:				
	Exchange	4.1	5.2	1.3	1982
	Toll	5.4	7.2	-4.2	1982
242.3	Buried cable:				
	Exchange	3.9	4.8	0.3	1982
	Toll	4.6	4.3	0.3	1982
242.4	Submarine cable	3.6	5.0	0.1	1982
243	Aerial wire	2.1		13.7	
244	Underground conduit	1.7	1.9	0.0	1982
261	Furniture and office equipment:				
	Storeroom and other	5.1	10.5	-0.2	1984
	Computer and AMA systems	15.3	14.7	-1.5	1984
	Art works	0.0		0.0	
262	Company official equipment	9.8		-5.0	
264	Vehicles and other work equipment:				
	Motor vehicles	9.2	11.1	-0.8	1984
	Other work equipment	6.0	16.7	-1.3	1984

¹ Except Accounts 235 and 262 which have an effective date of May 1, 1984, and the ELG rates for Accounts 212, 261, and 264 which have an effective date of January 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FROM THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY OF VIRGINIA

[Effective Jan. 1, 1984]¹

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
212	Buildings	2.3	4.8	0.0	1984
221	Central office equipment:				
	Manual	18.6		0.0	
	Step-by-step	23.0		-0.7	
	Crossbar	26.0		-0.6	
	Non-Ded. circuit	6.7	11.9	-0.1	1983
	DDS circuit	7.8	10.3	0.2	1983
	Radio	4.8	6.7	0.4	1983

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FROM THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY OF VIRGINIA—Continued

[Effective Jan. 1, 1984]¹

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
231	Electronic	6.2	8.6	-0.3	1983
	Station apparatus:				
	Teletypewriter	7.7		-1.0	
	Telephone and miscellaneous	15.8		-3.9	
	Radio	7.8		-0.3	
231	Station connections—other	5.0			
234	Large private branch exchanges:				
	Electronic	12.1		-0.5	
	Other	13.2		2.3	
	DDS	14.3		-3.5	
235	Public telephone equipment	9.7		-0.1	
241	Pole lines	3.1	7.7	1.1	1982
242.1	Aerial cable:				
	Exchange	4.3	6.8	0.4	1982
	Toll	3.7	6.1	1.5	1982
242.2	Underground cable:				
	Exchange	3.1	4.6	0.0	1982
	Toll	2.5	4.2	0.5	1982
242.3	Buried cable:				
	Exchange	4.6	5.6	0.2	1982
	Toll	4.7	5.8	0.4	1982
242.4	Submarine cable	4.4	6.1	0.2	1982
243	Aerial wire exchange	8.3		8.6	
244	Underground conduit	1.7	1.8	0.0	1982
261	Furniture and office equipment:				
	Storeroom and other	5.3	10.9	-0.4	1984
	Computer and AMA systems	14.3	20.0	-2.2	1984
	Art works	0.0		0.0	
262	Company official equipment	8.8		-0.8	
264	Vehicles and other work equipment:				
	Motor vehicles	11.2	13.3	-1.3	1984
	Other work equipment	6.3	17.2	-1.3	1984

¹ Except Account 235 and 262 which have an effective date of May 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY OF WEST VIRGINIA

[Effective Jan. 1, 1985]

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
212	Buildings	2.5	5.0	0.0	1984
221	Central office equipment:				
	Manual ²				
	Step-by-step	12.7		0.9	
	Crossbar	14.9		1.0	
	Non-Ded. circuit	6.6	11.4	0.0	1983
	DDS circuit	4.2	12.3	0.4	1983
	Radiotelephone	4.5	8.5	0.8	1983
	Analog electronic	5.6	7.8	-0.2	1983
	Digital electronic	4.5	8.0	0.0	1983
231	Station apparatus:				
	Teletypewriter	8.4			
	Telephone and miscellaneous	9.7			
	Radio	0.0			
232	Station Connections—Other	5.0			
234	Large private branch exchanges:				
	Electronic	13.1			
	Other	25.9			
	DDS	17.6			
235	Public telephone equipment	8.9		-0.6	
241	Pole lines	3.7	7.8	2.2	1982
242.1	Aerial cable:				
	Exchange	4.6	6.5	0.5	1982
	Toll	4.0	8.0	-1.6	1982
242.2	Underground cable:				
	Exchange	3.4	6.1	-0.4	1982
	Toll	3.2	7.7	-0.6	1982
242.3	Buried cable	5.6	6.1	0.3	1982
242.4	Submarine cable	3.7	6.1	0.1	1982
243	Aerial wire exchange	6.0		2.4	
244	Underground conduit exchange	1.7	1.6	0.0	1982
261	Furniture and office equipment:				
	Furniture and office equipment	3.8	6.8	-0.5	1984
	Computer and AMA systems	16.8	15.6	-0.1	1984
	Art works	0.0		0.0	
262	Company official equipment	6.9		-1.1	
264	Vehicles and other work equipment:				
	Motor vehicles	11.1	13.9	-0.3	1984
	Other work equipment	7.1	17.2	-1.5	1984

¹ Except Accounts 235 and 262 which have an effective date of May 1, 1984, and the ELG rates for Accounts 212, 261, and 264 which have an effective date of January 1, 1984.² The January 1, 1984 net book cost is to be amortized in equal amounts over a 2 year period.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR CONTINENTAL TELEPHONE COMPANY OF VIRGINIA

[Effective Jan. 1, 1984]

Account No.	Class or subclass of plant	Average remaining life (years)	Future net salvage (percent)	Reserve ratio (percent)	Remaining life rate (percent)	First ELG year
212	Buildings.....	33.0	1.0	18.9	2.4	
	Leasehold improvements.....	7.1	0.0	41.6	8.2	
221	Central office equipment:					
	Step-by-step.....	2.5	2.0	34.7	25.3	
	Mobile.....	2.5	2.0	34.7	25.3	
	Switchboard (cord).....	4.5	0.0	73.9	5.8	
	Switchboard (TSD).....	4.4	0.0	85.5	3.3	
	Analog electronic.....	5.5	0.0	34.9	11.9	
	Crossbar.....			100.0	0.0	
	Analog microwave ¹					
	Digital microwave.....	12.9	0.0	15.9	6.5	1982
	Power.....	5.0	1.0	18.9	16.0	
	Circuit.....	7.5	10.0	18.2	9.6	1982
	ANI.....	2.9	2.0	66.5	10.9	
	Digital electronic.....	12.1	0.0	8.6	7.6	1982
231	Station apparatus:					
	"Deregulated".....	5.5	12.0	6.9	14.7	
	Spec. service, etc.....				9.6	
232	Station connections:					
	Drop—airial.....				4.0	
	Drop—buried.....				3.8	
234	Large private branch exchanges.....	2.5	0.0	63.8	14.5	
235	Public telephone equipment.....	7.1	0.0	21.5	11.1	
241	Pole lines.....	15.0	55.0	49.0	7.1	1982
242.1	Aerial cable.....	17.5	2.0	27.2	4.0	1982
242.2	Underground cable.....	26.0	0.0	22.0	3.0	1982
242.3	Buried cable.....	21.0	4.0	16.0	3.8	1982
242.4	Submarine cable.....	17.8	0.0	55.6	2.5	1982
243	Aerial wire ²					
244	Underground conduit.....	39.0	0.0	25.0	1.9	1982
251	Furniture and office equipment:					
262	Company official equipment.....	6.0	0.0	20.4	10.0	
	Furniture and office equipment.....	18.3	8.0	39.4	2.9	
	Minor items ³					
264	Vehicles and other work equipment:					
	Vehicles.....	2.0	20.0	78.4	0.8	
	Other work equipment.....	13.8	0.0	42.3	4.2	
	Minor items ³					

¹ The January 1, 1984 net book cost is to be amortized over a 3 year period.² The January 1, 1984 net book cost is to be amortized over a 4 year period.³ The January 1, 1984 net book cost is to be amortized over a 5 year period.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR GENERAL TELEPHONE COMPANY OF FLORIDA

[Effective Jan. 1, 1985] ¹

Account No.	Class or subclass of plant	Average remaining life (years)	Future net salvage (percent)	Reserve ratio (percent)	Remaining life rate (percent)	First ELG (year)
212	Buildings.....	31.0	0.0	21.00	2.5	1984
221	Central office equipment:					
	Manual switching.....	13.4	1.0	8.30	6.8	
	Automatic Sw (electro-mech).....	2.8	-1.2	50.10	18.3	
	Electronic switching.....	10.8	0.0	29.40	6.5	1983
	Digital switching.....	13.7	5.0	14.80	5.9	1983
	Auto Msg Rec (electro-mech).....	2.8	-1.4	63.70	13.5	
	Circuit.....	9.2	17.0	17.70	7.1	1983
	Radio.....	6.7	3.0	37.60	8.9	1983
231	Station apparatus:					
	Telephone.....				13.1	
	Teletypewriter.....				6.7	
	Radiotelephone.....				8.6	
232	Station connections—other.....				5.0	
234	Large private branch exchanges.....				17.7	
235	Public telephone equipment.....				13.8	
241	Pole lines.....	16.60	-60.0	37.60	7.4	1982
242.1	Aerial cable.....	18.50	-6.0	33.60	3.9	1982
242.2	Underground cable.....	27.00	12.0	16.50	2.6	1982
242.3	Buried cable.....	24.00	-5.0	21.40	3.5	1982
242.4	Submarine cable.....	17.40	-12.0	42.10	4.0	1982
243	Aerial wire.....	7.60	-30.0	51.20	10.4	
244	Underground conduit.....	47.00	-7.0	15.40	1.9	1982
251	Furniture and office equipment:					
	Furniture.....	12.90	1.0	15.20	6.5	1984
	Computer.....	5.70	1.0	17.20	14.4	1984
	Office equipment.....	7.20	1.0	8.50	12.6	1984
262	Company official equipment.....				12.6	
264	Vehicles and other work equipment:					
	Motor vehicles.....	6.90	20.0	54.60	3.7	1984
	Vehicle shop equipment.....	13-60	6.0	31.50	4.6	1984
	Tools and other work equipment.....	6.90	2.0	29.60	9.9	1984

Except Accounts 235 and 262 which have an effective date of May 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR GENERAL TELEPHONE COMPANY OF INDIANA

[Effective Jan. 1, 1985]¹

Account No.	Class or subclass of plant	Average remaining life (years)	Future net salvage (percent)	Reserve ratio (percent)	Remaining life rate (percent)	First ELG year
212	Buildings	39.0	5.0	16.61	2.0	1985
221	Central office equipment:					
	Manual switching	6.7	-4.0	-1.70	15.8	
	Automatic Sw (electro-mech)	4.3	-5.0	37.40	15.7	
	Automatic message recording	4.3	-3.0	12.10	21.1	
	Circuit	9.1	5.0	21.73	8.1	1983
	Radio	7.7	-2.0	16.39	11.1	1983
	Electronic switching	11.7	6.0	21.19	6.2	1983
	Digital electronic	13.2	4.0	10.10	6.5	1983
231	Station apparatus:					
	Telephone				12.2	
	Teletypewriter				7.5	
	Radiotelephone				4.5	
232	Station connections—other				5.0	
234	Large private branch exchanges				14.3	
235	Public telephone equipment				12.2	
241	Pole lines	13.9	-45.0	40.00	7.6	1982
242.1	Aerial cable	15.5	-20.0	36.56	5.4	1982
242.2	Underground cable	31.0	-29.0	24.10	3.4	1982
242.3	Buried cable	18.1	-8.0	24.74	4.6	1982
242.4	Submarine cable	5.1	0.0	97.25	0.5	
243	Aerial wire	4.6	-90.0	-13.03	44.1	
244	Underground conduit	46.0	-10.0	25.13	1.8	1982
261	Furniture and office equipment	14.2	4.0	27.84	4.8	1984
	Computers	5.8	5.0	5.36	15.5	1984
262	Company official equipment				12.1	
264	Vehicles and other work equipment:					
	Motor vehicles	3.5	17.0	41.04	12.0	1984
	Aircraft	5.4	65.0	12.34	4.2	1984
	Vehicle shop equipment	15.6	7.0	23.08	4.5	1984
	Tools and work equipment	13.9	18.0	30.99	3.7	1984

¹ Except Accounts 235 and 262 which have an effective date of May 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR GENERAL TELEPHONE COMPANY OF MICHIGAN

[Effective Jan. 1, 1985]¹

Account No.	Class or subclass of plant	Average remaining life (years)	Future net salvage (percent)	Reserve ratio (percent)	Remaining life rate (percent)	First ELG year
212	Buildings	31.0	-3.0	26.37	2.5	1985
221	Central office equipment:					
	Manual switching	4.7	-4.0	52.71	10.9	
	Automatic Sw (electro-mech)	5.3	2.0	41.50	10.7	
	Automatic message recording	3.0	-2.0	71.15	10.3	
	Circuit	9.0	4.0	21.73	8.3	1983
	Radio	9.7	-3.0	32.57	7.3	1983
	Electronic switching	10.2	5.0	39.47	5.4	1983
	Digital electronic	12.5	0.0	6.66	7.5	1983
	ETS4/TRS4	3.0	-4.0	63.28	13.6	
231	Station apparatus:					
	Telephone				11.9	
	Teletypewriter				7.3	
	Radiotelephones				8.2	
232	Station connections—other				5.0	
234	Large private branch exchanges				18.0	
235	Public telephone equipment				11.9	
241	Pole lines	15.2	-60.0	34.21	8.3	1982
242.1	Aerial cable	20.0	-22.0	35.62	4.3	1982
242.2	Underground cable	28.0	-15.0	23.23	3.3	1982
242.3	Buried cable	19.8	-7.0	23.96	4.2	1982
242.4	Submarine cable	11.4	-2.0	14.72	7.7	1982
243	Aerial wire ²					
244	Underground conduit	46.0	-8.0	15.93	2.0	1982
261	Furniture and office equipment	12.1	5.0	34.43	5.0	1984
	Computers	5.2	5.0	6.50	17.0	1984
262	Company official equipment				14.0	
264	Vehicles and other work equipment:					
	Motor vehicles	4.3	12.0	46.25	9.7	1984
	Aircraft	2.5	40.0	50.37	3.9	
	Vehicle shop equipment	9.0	5.0	24.64	7.8	1984
	Tools and other work equipment	8.0	5.0	43.91	6.4	1984

¹ Except Accounts 235 and 262 which have an effective date of May 1, 1984.² The January 1, 1984 net book cost less the future net salvage estimate of -50% is to be amortized over a 4 year period.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR GENERAL TELEPHONE COMPANY OF OHIO

[Effective Jan. 1, 1985]¹

Account No.	Class or subclass of plant	Average remaining life (years)	Future net salvage (percent)	Reserve ratio (percent)	Remaining life rate (percent)	First ELG year
212	Buildings	19.5	8.0	30.68	3.1	1985
221	Central office equipment:					
	Manual switching	1.7	-6.0	59.20	27.5	
	Automatic Sw (electro-mech)	5.1	0.0	49.88	9.8	
	Automatic message recording	2.7	-5.0	47.25	21.4	
	Circuit	9.4	4.0	19.00	8.2	1983
	Radio	3.8	-1.0	70.64	8.0	1983
	Electronic switching	11.3	2.0	18.12	7.1	1983
	Digital switching	12.1	1.0	3.31	7.9	1983
231	Station apparatus:					
	Telephone				11.3	
	Small PBX				36.2	
	Telephone booths				13.9	
	Teletypewriter				10.2	
	Radiotelephone				8.7	
232	Station connections—other				5.0	
234	Large private branch exchanges				13.0	
235	Public telephone equipment				12.2	
241	Pole lines	13.8	-45.0	34.51	8.0	1982
242.1	Aerial cable	19.8	-25.0	35.73	4.5	1982
242.2	Underground cable	22.0	-22.0	31.87	4.1	1982
242.3	Buried cable	18.3	-8.0	21.52	4.7	1982
242.4	Submarine cable	12.3	0.0	45.09	4.5	
243	Aerial wire	8.5	-67.0	-8.37	20.6	
244	Underground conduit	45.0	-12.0	25.16	1.9	1982
251	Furniture and office equipment	14.4	12.0	35.59	3.6	1984
	Computers	5.4	5.0	10.61	15.6	1984
252	Company official equipment				11.3	
254	Vehicles and other work equipment:					
	Motor vehicles	3.3	21.0	49.00	9.1	1984
	Vehicle shop equipment	7.9	5.0	19.59	9.5	1984
	Tools and other work equipment	13.7	12.0	46.19	3.1	1984

¹ Except Accounts 235 and 262 which have an effective date of May 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR ILLINOIS BELL TELEPHONE COMPANY

[Effective Jan. 1, 1985]¹

Account No.	Class or subclass of plant	Average remaining life (years)	Future net salvage (percent)	Reserve ratio (percent)	Remaining life rate (percent)	Annual amort. expense * (thousands)	First ELG year
212	Buildings	32.0	0.0	25.12	2.3	\$2,304	1985
221	Central office equipment:						
	Manual				4.9		
	Step-by-step				19.8		
	Crossbar				18.5		
	Non-Ded. circuit	8.1	-4.0	37.9	8.2	14,813	1983
	DDS circuit	8.5	2.0	20.3	9.1	7	1983
	Radio	10.2	-6.0	37.2	6.7		1983
	Analog electronic	12.7	0.0	24.65	5.9	21,572	1983
	Digital electronic	15.4	0.0	15.64	5.5	855	1983
231	Station apparatus:						
	Teletypewriter				13.5		
	Telephone and miscellaneous				12.1		
	Radio				4.2		
232	Station connections—other				5.0		
234	Large private branch exchanges:						
	Electronic				38.6		
	Other				17.8		
	DDS				18.2		
235	Public telephone equipment:						
	Teletypewriter				13.5		
	Telephone and miscellaneous				12.1		
	Radio				4.2		
	PBX retirement units				38.6		
241	Pole lines	17.3	-81.0	73.48	6.2	2,025	1982
242.1	Aerial cable:						
	Exchange—building	19.4	-20.0	26.52	4.8	3,604	1982
	Exchange—other	16.8	-25.0	37.85	5.2	4,812	1982
	Toll	1.7	68.0	20.79	6.6	202	1982
242.2	Underground cable:						
	Exchange—main and sub	20.0	-13.0	35.71	3.9	18,124	1982
	Exchange—trunk	15.8	14.0	41.73	2.8	301	1982
	Toll	11.4	36.0	35.19	2.5	1,350	1982
242.3	Buried cable:						
	Exchange	22.0	-10.0	26.0	3.8	5,944	1982
	Toll	13.7	-2.0	46.57	4.0	969	1982
242.4	Submarine cable	11.8	2.0	68.2	2.5		1982
243	Aerial wire exchange	2.7	-63.0	107.34	20.6	135	
244	Underground conduit	51.0	-5.0	21.32	1.6	676	1982
251	Furniture and office equipment:						
	Furniture	9.8	3.0	25.04	7.4	456	1985
	Computer and AMA systems	4.9	10.0	44.3	9.3		1985
262	Company official equipment:						
	Coin operated				12.1		

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR ILLINOIS BELL TELEPHONE COMPANY—Continued

[Effective Jan. 1, 1985]¹

Account No.	Class or subclass of plant	Average remaining life (years)	Future net salvage (percent)	Reserve ratio (percent)	Remaining life rate (percent)	Annual amort. expense ² (thousands)	First ELG year
	Coinless				12.1		
	Other				12.1		
264	Vehicles and other work equipment:						
	Motor vehicles	4.1	10.0	51.5	9.4		1985
	Other work equipment	6.6	9.0	35.49	8.4	263	1985

¹ Reflects amortization of the January 1, 1984 reserve deficiencies over a 5 year period; remaining life rates are continued for these accounts using the calculated reserve rate.² Except Accounts 235 and 262 which have an effective date of January 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR INDIANA BELL TELEPHONE COMPANY, INCORPORATED

[Effective Jan. 1, 1985]

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
212	Buildings	2.5	3.8	0.0	1986
221	Central office equipment:				
	Step-by-step	22.4		-0.2	
	Crossbar	19.6		0.7	
	Non-Ded. circuit	8.4	13.9	-1.2	1983
	DDS circuit	7.9	11.8	-0.5	1989
	Radio	10.6	13.8	0.8	1983
	Analog electronic	6.6	8.9	-0.1	1983
	Digital electronic	0.0	8.6	0.0	1983
231	Station apparatus:				
	Teletypewriter	14.3			
	Telephone and miscellaneous	10.7			
	Radio	3.8			
232	Station connections—other	5.0			
234	Large private branch exchanges:				
	Electronic	14.2			
	Other	28.0			
	DDS	17.6			
235	Public telephone equipment:				
	Coin operated equipment	10.7			
	Coinless equipment	10.7			
	Other	10.7			
241	Pole Lines	3.4	8.5	3.5	1982
242.1	Aerial Cable	3.9	6.7	1.0	1982
242.2	Underground Cable	3.3	7.3	-0.4	1982
242.3	Buried Cable	3.8	5.5	0.4	1982
242.4	Submarine Cable	4.1	4.5	-0.1	1982
243	Aerial Wire	9.3	0.0	2.5	
244	Underground Conduit	1.7	1.9	0.8	1982
261	Furniture and office equipment:				
	Store room and other	4.8	6.0	-0.1	1985
	Computer and AMA systems	15.4	17.5	-0.5	1985
262	Company official equipment:				
	Teletypewriter	14.3			
	Telephone and miscellaneous	10.7			
	Radio	3.8			
	Non-electronic and miscellaneous	28.0			
	Electronic PBX	14.2			
	DDS PBX	17.6			
264	Vehicles and other work equipment:				
	Motor vehicles	13.7	16.7	-1.4	1985
	Other work equipment	7.8	10.4	-0.3	1985

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY—MAINE

[Effective Jan. 1, 1985]

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
212	Buildings	2.9	4.2	-0.1	1983
221	Central office Equipment:				
	Manual	10.0		0.5	
	Step-by-step	14.3		-0.3	
	Crossbar	7.5	10.2	0.1	1983
	Non-Ded. circuit	12.4	15.8	0.6	1983
	DDS circuit	5.7	11.5	0.4	1983
	Radio	6.1	9.2	0.0	1983
	Electronic				
231	Station apparatus:				
	Teletypewriter	9.0			
	Telephone and miscellaneous	6.3			
	Radio	5.7			

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY—MAINE—Continued

[Effective Jan. 1, 1985]

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
232	Station connections—other	5.0			
234	Large private branch exchanges:				
	Electronic	12.7			
	Other	22.2			
	DDS	5.1			
235	Public telephone equipment	6.6		-0.1	
241	Pole lines	2.9	6.0	3.4	1982
242.1	Aerial cable:				
	Exchange	4.0	5.3	1.0	1982
	Toll	3.1	6.3	-0.5	1982
242.2	Underground cable:				
	Exchange	3.9	5.3	0.5	1982
	Toll	4.2	5.5	0.1	1982
242.3	Buried cable:				
	Exchange	3.5	7.0	0.6	1982
	Toll	4.3	5.4	0.7	1982
242.4	Submarine cable:				
	Exchange	2.6	4.8	0.1	1982
	Toll	3.8	3.9	-0.1	1982
243	Aerial wire exchange	15.3		7.5	
244	Underground conduit	1.6	1.7	0.3	1982
261	Furniture and office equipment:				
	Other	4.5	8.4	-0.2	1983
	Computer & AMA Systems	2.4	15.6	4.8	1983
	Art Works	0.0		0.0	
262	Company official equipment	12.2		-1.0	
264	Vehicles and other work equipment:				
	Motor vehicles	14.5	15.8	-0.9	1983
	Other work equipment	8.0	12.2	-1.1	1983

¹ The January 1, 1984 debit depreciation reserve balance of \$640,048 is to be amortized in equal amounts over a 2 year period.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY—MASSACHUSETTS

[Effective Jan. 1, 1985]

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
212	Buildings	2.7	3.6	-0.3	1983
221	Central office equipment:				
	Step-by-step	7.6		0.2	
	Crossbar	17.2		-0.9	
	Non-Ded. circuit	7.0	11.6	0.3	1983
	DDS Circuit	9.6	22.5	0.2	1983
	Radio	5.5	9.1	0.2	1983
	Electronic	5.8	8.9	-0.1	1983
231	Station apparatus:				
	Teletypewriter	8.9			
	Telephone and miscellaneous	11.4			
	Radio	3.9			
232	Station connections—other	5.0			
234	Large private branch exchanges:				
	Electronic	12.1			
	Other	24.0			
	DDS	16.0			
235	Public telephone equipment	11.0		-0.1	
241	Pole lines	2.3	5.6	2.5	1982

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY—NEW HAMPSHIRE

[Effective Dec. 1, 1984]

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
212	Buildings	2.6	3.8	-0.3	1983
221	Central office equipment:				
	Manual ¹			0.5	
	Step-by-step	8.4		-0.2	
	Crossbar ²	10.5		0.1	1983
	Non-Ded. circuit	7.8	11.8	0.6	1983
	DDS circuit	11.2	16.7	0.0	1983
	Radio	7.6	6.7	0.0	1983
	Electronic	6.2	8.7	0.0	1983
231	Station apparatus:				
	Teletypewriter	12.1			
	Telephone and miscellaneous	9.1			
	Radio	0.0			
232	Station connections—other	5.0			

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY—NEW HAMPSHIRE—Continued

[Effective Dec. 1, 1984]

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
234	Large private branch exchanges:				
	Electronic	13.0			
	Other	23.7			
	DDS	16.5			
235	Public telephone equipment	9.1		-0.1	
241	Pole lines	3.0	5.9	1.7	1982
242.1	Aerial cable:				
	Exchange	3.8	5.7	0.7	1982
	Toll	3.7	6.2	-0.9	1982
242.2	Underground cable:				
	Exchange	3.9	5.2	0.1	1982
	Toll	4.6	5.5	-0.6	1982
242.3	Buried cable:				
	Exchange	4.0	6.1	0.2	1982
	Toll	4.4	6.1	0.2	1982
242.4	Submarine cable:				
	Exchange	3.0	3.9	0.4	1982
	Toll	2.2	3.3	0.1	1982
243	Aerial wire exchange	18.9		9.7	
244	Underground conduit	1.6	1.7	0.1	1982
261	Furniture and office equipment:				
	Other	5.0	8.3	-0.3	1982
	Computer and AMA systems	10.2	15.7	0.9	1983
	Art works	0.0		0.0	
262	Company official equipment	13.0		-0.9	
264	Vehicles and other work equipment:				
	Motor vehicles	14.5	13.5	-1.0	1983
	Other work equipment	8.4	12.3	-1.9	1983

¹ The January 1, 1984 credit depreciation reserve balance of \$156,000 is to be amortized over a 2 year period.² The January 1, 1984 reserve deficiency of \$8,069,429 is to be amortized over a 2 year period; remaining life rates are continued for this account using the calculated reserve ratio.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY—RHODE ISLAND

[Effective Jan. 1, 1985]

	Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	First FLG year
212	Buildings	2.5	3.2	-0.3	1983
221	Central office equipment:				
	Step-by-step	13.0		1.2	
	Crossbar	12.6		-0.2	
	Non-Ded. circuit	6.0	19.5	-0.3	1983
	DDS circuit	15.4	24.8	0.3	1983
	Radio	1.7	8.7	0.3	1983
	Electronic	5.7	8.7	-0.1	1983
231	Station apparatus:				
	Teletypewriter	6.3			
	Telephone and miscellaneous	6.3			
	Radio	0.0			
232	Station connections—other	5.0			
234	Large private branch exchanges:				
	Electronic	12.1			
	Other	17.1			
	DDS	9.8			
235	Public telephone equipment	7.1		-0.1	
241	Pole lines	2.2	5.0	2.4	1982
242.1	Aerial cable:				
	Exchange	3.1	5.2	1.6	1982
	Toll	2.6	6.4	-0.9	1982
242.2	Underground cable:				
	Exchange	3.7	4.3	0.9	1982
	Toll	4.2	5.8	-2.5	1982
242.3	Buried cable:				
	Exchange	3.1	4.6	0.2	1982
	Toll	4.0		0.2	1982
242.4	Submarine cable:				
	Exchange	0.5	3.7	0.1	1982
	Toll	1.3	0.0	0.0	
243	Aerial wire exchange	11.0		5.8	
244	Underground conduit	1.5	1.7	0.1	1983
261	Furniture and office equipment:				
	Other	3.0	7.0	-0.5	1983
	Computer & AMA Systems	14.5	15.5	1.0	1983
	Art Works	0.0		0.0	
2	Company official equipment	12.4		-1.1	
264	Vehicles and other work equipment:				
	Motor Vehicles	11.1	12.8	-1.2	1983
	Other Work Equipment	8.4	12.2	-0.8	1983

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY—VERMONT

[Effective Oct. 1, 1984]

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
212	Buildings.....	3.4	4.4	-0.3	1983
221	Central office equipment:				
	Step-by-step ¹	9.5		0.8	
	Crossbar ²	8.7		0.0	m
	Non-Dec. circuit.....	8.6	10.7	-0.1	1983
	DDS circuit.....	17.5	38.5	0.2	1983
	Radio.....	6.2	12.5	0.5	1983
	Electronic.....	6.2	9.4	0.0	1983
231	Station apparatus:				
	Teletypewriter.....	11.3			
	Telephone and miscellaneous.....	6.4			
	Radio.....	0.0			
232	Station connections—other.....	5.0			
234	Large private branch exchanges:				
	Electronic.....	12.6			
	Other.....	23.5			
	DDS.....	19.0			
235	Public telephone equipment.....	6.8		0.1	
241	Pole lines.....	3.4	6.4	2.7	1982
242.1	Aerial cable:				
	Exchange.....	4.0	5.3	0.6	1982
	Toll.....	3.2	6.2	-0.5	1982
242.2	Underground cable:				
	Exchange.....	3.9	4.6	0.4	1982
	Toll.....	3.8	5.7	0.7	1982
242.3	Buried cable:				
	Exchange.....	4.2	6.5	0.2	1982
	Toll.....	4.0	5.8	0.3	1982
242.4	Submarine cable:				
	Exchange.....	2.9	3.6	0.1	1982
	Toll.....	1.8	0.0	-0.1	1982
243	Aerial wire exchange ³	11.5		5.7	
244	Underground conduit.....	1.6	1.7	0.1	1982
261	Furniture and office equipment:				
	Other.....	5.9	8.5	-0.6	1983
	Computer and AMA systems.....	29.1	0.0	-14.6	1983
	Art Works.....	0.0		0.0	
262	Company official equipment.....	13.1		1.0	
264	Vehicles and other work equipment:				
	Motor vehicles.....	21.2	15.3	-0.2	1983
	Other work equipment.....	6.0	10.1	0.1	1983

¹ The January 1, 1984 reserve deficiency of \$4,671,588 is to be amortized over a 3 year period; remaining life rates are continued for this account using the calculated reserve ratio.² The January 1, 1984 reserve deficiency of \$2,327,293 is to be amortized over a 3 year period; remaining life rates are continued for this account using the calculated reserve ratio.³ The January 1, 1984 reserve deficiency of \$1,047,501 is to be amortized over a 3 year period; remaining life rates are continued for this account using the calculated reserve ratio.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR SOUTH CENTRAL BELL TELEPHONE COMPANY—ALABAMA

[Effective Aug. 1, 1984]¹

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
212	Buildings.....	2.2	4.5	-0.1	1984
221	Central office equipment:				
	Step-by-Step.....	11.1		-0.9	
	Crossbar.....	18.9		-1.7	
	Non-Dec. circuit.....	6.8	16.1	-0.2	1982
	DDS circuit.....	8.5	14.1	0.3	1982
	Radio.....	3.2	8.6	1.4	1982
	Electronic.....	5.5	8.2	-0.2	1982
231	Station apparatus:				
	Teletypewriter.....	10.2			
	Telephone and miscellaneous.....	8.4			
	Radio.....	6.3			
232	Station connections—other.....	5.0			
234	Large private branch exchanges:				
	Electronic.....	11.9			
	Other.....	24.2			
	DDS.....	17.6			
235	Public telephone equipment.....	8.4		0.0	
241	Pole lines.....	3.6	7.6	1.3	1982
242.1	Aerial cable:				
	Exchange.....	6.1	7.1	0.5	1982
	Toll.....	10.4	8.8	-0.7	1982
242.2	Underground cable:				
	Exchange.....	3.4	6.4	-0.6	1982
	Toll.....	3.5	5.7	-0.5	1982
242.3	Buried cable:				
	Exchange.....	4.9	5.0	0.3	1982
	Toll.....	3.8	7.0	0.0	1982
242.4	Submarine cable.....	3.1	6.9	-0.1	1982
243	Aerial wire—exchange.....	13.4	23.8	4.3	1984
244	Underground conduit.....	1.5	2.5	0.1	1982

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR SOUTH CENTRAL BELL TELEPHONE COMPANY—ALABAMA—Continued

[Effective Aug. 1, 1984] ¹

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
261.....	Furniture and office equipment:				
	Storeroom and other.....	4.5	7.1	-0.2	1984
	Computer and AMA system.....	13.1	17.5	-0.6	1984
	Art Works.....	0.0		0.0	
262.....	Company official equipment.....	9.7		0.0	
264.....	Vehicles and other work equipment:				
	Motor vehicles.....	12.8	12.3	-1.5	1984
	Other work equipment.....	11.8	10.1	-4.3	1984

¹ Except Accounts 235 and 262 which have an effective date of April 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR SOUTH CENTRAL BELL TELEPHONE COMPANY—KENTUCKY

[Effective Jan. 1, 1985] ¹

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
212.....	Buildings.....	2.4	4.3	0.0	1984
221.....	Central office equipment:				
	Step-by-step.....	10.9		-1.3	
	Crossbar.....	15.9		-1.5	
	Non-Ded circuit.....	7.9	16.9	-1.0	1982
	DDS circuit.....	9.1	19.2	-0.1	1982
	Radio.....	6.1	9.6	0.3	1982
	Electronic.....	5.4	8.1	-0.3	1982
231.....	Station apparatus:				
	Teletypewriter.....	14.9			
	Telephone and miscellaneous.....	10.7			
	Radio.....	0.1			
	Electronic.....	5.0			
232.....	Station connections—other.....				
234.....	Large private branch exchanges:				
	Electronic.....	13.1			
	Other.....	30.3			
	DDS.....	17.2			
235.....	Public telephone equipment.....	10.7		0.0	
241.....	Pole lines.....	3.8	8.3	2.3	1984
242.1.....	Aerial cable:				
	Exchange.....	5.4	7.5	0.2	1982
	Toll.....	5.2	7.9	-1.6	1982
242.2.....	Underground cable:				
	Exchange.....	3.5	6.5	-0.1	1982
	Toll.....	4.3	6.7	-0.7	1982
242.3.....	Buried cable:				
	Exchange.....	4.9	5.8	0.2	1982
	Toll.....	4.3	6.9	0.0	1982
242.4.....	Submarine cable.....	3.2	7.9	0.0	1982
243.....	Aerial wire exchange.....	8.8	21.7	3.0	1984
244.....	Underground conduit.....	1.5	2.5	0.1	1982
261.....	Furniture and office equipment:				
	Storeroom and other.....	7.9	8.8	-0.3	1985
	Computer and AMA systems.....	14.3	17.5	0.0	1985
	Art works.....	0.0		0.0	
262.....	Company official equipment.....	13.4		0.0	
264.....	Vehicles and other works equipment:				
	Motor vehicles.....	13.8	13.5	-1.5	1985
	Other works equipment.....	5.6	15.9	-1.0	1985

¹ Except Accounts 235 and 262 which have an effective date of April 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR SOUTH CENTRAL BELL TELEPHONE COMPANY—LOUISIANA

[Effective Oct. 1, 1984] ¹

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
212.....	Buildings.....	2.5	5.4	-0.1	1984
221.....	Central office equipment:				
	Manual.....	9.7		-1.5	
	Step-by-step.....	10.6		-0.4	
	Crossbar.....	22.6		-2.0	
	Non-Ded circuit.....	7.5	14.4	0.2	1982
	DDS circuit.....	9.0	14.4	-0.5	1982
	Radio.....	6.1	9.6	0.4	1982
	Electronic.....	5.5	8.0	-0.2	1982
231.....	Station apparatus:				
	Teletypewriter.....	13.7			
	Telephone and miscellaneous.....	10.2			
	Radio.....	8.4			
232.....	Station connections—other.....	5.0			

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR SOUTH CENTRAL BELL TELEPHONE COMPANY—LOUISIANA—Continued

[Effective Oct. 1, 1984]¹

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
234	Large private branch exchanges:				
	Electronic	11.8			
	Other	30.5			
	DDS	18.1			
235	Public telephone equipment	10.2		0.0	
241	Pole lines	4.1	8.5	2.6	1982
242.1	Aerial cable:				
	Exchange	7.7	10.4	1.0	1982
	Toll	9.8	9.0	-2.1	1982
242.2	Underground cable:				
	Exchange	3.5	6.5	-0.1	1982
	Toll	4.1	6.7	-0.7	1982
242.3	Buried cable:				
	Exchange	5.6	8.6	0.3	1982
	Toll	4.0	6.8	0.0	1982
242.4	Submarine cable	2.9	7.1	-0.1	1982
243	Aerial wire exchange	5.8	25.6	4.3	1984
244	Underground conduit	1.5	2.5	0.1	1982
251	Furniture and office equipment:				
	Storeroom and other	7.8	6.7	-0.3	1984
	Computer and AMA systems	15.2	17.5	-0.1	1984
	Art works	0.0		0.0	
252	Company official equipment	12.7		0.0	
254	Vehicles and other work equipment:				
	Motor vehicles	11.8	13.3	-0.9	1984
	Other work equipment	6.1	21.7	-0.9	1984

¹ Except Accounts 235 and 262 which have an effective date of April 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR SOUTH CENTRAL BELL TELEPHONE COMPANY—MISSISSIPPI

[Effective Apr. 1, 1984]

Account No.	Class or subclass of plant	VG rate	ELG rate	Net salvage rate	First ELG year
212	Buildings	2.2	4.3	0.0	1984
221	Central office equipment:				
	Step-by-step	9.0		-0.1	
	Crossbar	18.3		-0.5	
	Non-Ded circuit	6.9	13.6	0.0	1982
	DDS circuit	10.7	13.6	-1.2	1982
	Radio	6.6	9.6	0.5	1982
	Electronic	6.7	8.4	-0.3	1982
231	Station apparatus:				
	Teletypewriter	7.8			1982
	Telephone and miscellaneous	10.0			
	Radio	4.3			
232	Station connections—other	5.0			
	Large private branch exchanges:				
	Electronic	13.4			
	Other	23.1			
	DDS	17.8			
235	Public telephone equipment	10.0		0.0	
241	Pole lines	3.6	9.6	1.5	1982
242.1	Aerial cable:				
	Exchange	6.0	8.0	0.2	1982
	Toll	7.3	8.8	-1.2	1982
242.2	Underground cable:				
	Exchange	4.2	7.6	-1.0	1982
	Toll	3.8	6.9	-1.8	1982
242.3	Buried cable:				
	Exchange	5.4	6.5	0.2	1982
	Toll	3.7	6.8	0.0	1982
242.4	Submarine cable	3.2	7.1	0.1	1982
243	Aerial wire exchange	11.1	25.6	5.4	1984
244	Underground conduit	1.5	2.5	0.1	1982
251	Furniture and office equipment:				
	Storeroom & Other	6.3	11.6	-0.2	1984
	Computer & AMA Systems	14.3	17.5	-0.3	1984
	Art Works	0.0		0.0	
252	Company official equipment	8.9			
254	Vehicles and other work equipment:				
	Motor Vehicles	13.1	13.9	-1.3	1984
	Other Work Equipment	7.3	14.1	-1.7	1984

¹ Except Accounts 235 and 262 which have an effective date of April 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR SOUTH CENTRAL BELL TELEPHONE COMPANY—TENNESSEE

[Effective Jan. 1, 1985]¹

Account No.	Class or subclass of plant	VG rate percent	ELG rate percent	Net salvage rate percent	First ELG year
212	Buildings	2.3	4.2	0.0	1988
221	Central office equipment:				
	Step-by-step	9.2		-0.8	
	Crossbar	21.3		-1.8	
	Non-Ded circuit	8.9	14.4	-0.7	1982
	DDS circuit	8.8	14.3	-0.1	1982
	Radio	5.6	9.3	0.3	1982
	Electronic	5.5	7.7	0.1	1982
221	Station apparatus:				
	Teletypewriter	12.6			
	Telephone and miscellaneous	10.2			
	Radio	8.0			
	Station connections—other	5.0			
234	Large private branch exchanges:				
	Electronic	13.6			
	Other	33.4			
	DDS	17.7			
235	Public telephone equipment	10.2		0.0	
241	Pole lines	4.4	8.9	2.5	1982
242.1	Aerial cable:				
	Exchange	5.3	8.0	-0.3	1982
	Toll	6.6	9.6	-1.4	1982
242.2	Underground cable:				
	Exchange	3.4	6.5	-0.7	1982
	Toll	5.5	8.8	-1.3	1982
242.3	Buried cable:				
	Exchange	4.3	5.1	0.0	1982
	Toll	5.4	8.6	0.1	1982
242.4	Submarine cable	3.1	5.6	0.0	1982
243	Aerial wire exchange	11.5	25.6	4.3	1986
244	Underground conduit	1.5	2.5	0.1	1982
261	Furniture and office equipment:				
	Storeroom and other	5.3	8.2	-0.2	1985
	Computer and AMA systems	16.0	17.5	-0.6	1985
	Art works	0.0		0.0	
262	Company official equipment	12.1		0.0	
264	Vehicles and other work equipment:				
	Motor vehicles	12.2	12.7	-1.4	1985
	Other work equipment	5.4	17.2	-1.1	1985

¹ Except Accounts 235 and 262 which have an effective date of April 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY

[Effective Jan. 1, 1985]

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
212	Buildings	2.5	4.5	0.3	1985
221	Central office equipment:				
	Manual	7.5		2.6	
	Step-by-step	5.5		0.5	
	Crossbar	10.0		0.9	
	Non-Ded circuit	7.1	10.1	0.7	1982
	DDS circuit	13.7	16.5	-0.5	1982
	Radiotelephone	5.9	9.9	0.3	1982
	Analog electronic	5.9	8.2	-0.1	1982
	Digital electronic	5.4	7.9	0.0	1982
231	Station apparatus:				
	Teletypewriter	23.1		-0.4	
	Telephone and miscellaneous	17.5		-1.5	
	Radio	3.6		-3.5	
	Station connections—other	5.0			
234	Large private branch exchanges:				
	Electronic	19.2		-1.2	
	Other	32.3		0.6	
	DDS	27.5		-4.6	
235	Public telephone equipment	8.3		-0.1	
241	Pole lines	2.6	5.1	2.4	1982
242.1	Aerial cable	3.8	6.7	0.6	1982
242.2	Underground cable	3.6	5.8	0.4	1982
242.3	Buried cable	3.6	5.1	0.2	1982
242.4	Submarine cable	2.7	4.7	0.0	1982
243	Aerial wire	4.7		10.2	
244	Underground conduit	1.8	2.8	0.2	1982
261	Furniture and office equipment:				
	Storeroom and other	6.3	8.9	-0.3	1985
	Computer	13.9	22.2	-1.2	1985
	Art works	0.0		0.0	
262	Company official equipment	21.6		-0.7	

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY—Continued

(Effective Jan. 1, 1985)

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
251	Vehicles and other work equipment:				
	Motor vehicles.....	11.6	14.3	-1.2	1985
	Garage and MV shop.....	3.9	9.0	0.0	1985
	Other work equipment.....	4.5	10.9	-0.1	1985

In the matter of The Prescription of Revised Percentages of Depreciation pursuant to the Communications Act of 1934, as amended for: Alascom, Inc., General Telephone Co. of the Southeast, General Telephone Co. of the Southwest, The Mountain States Telephone and Telegraph Co., The Ohio Bell Telephone Co., Pacific Bell, United Inter-Mountain Telephone Co. and Wisconsin Bell.

Adopted: December 10, 1984. Released: December 19, 1984.

By the Commission.

I. Introduction

1. The Communications Act of 1934, as amended, grants the Commission the authority to prescribe depreciation rates for common carriers and to revise these rates when it deems necessary. By this order we prescribe revised depreciation rates for the eight carriers listed above using the straight-line vintage group remaining-life and straight-line equal life group remaining-life procedures.

II. Background

A. Methods

2. We approved the use of these procedures in our final decision in *Property Depreciation*, Docket No. 20188, 83 FCC 2d 267 (1980), reconsideration, 87 FCC 2d 916 (1981). The remaining-life procedures are designed to distribute the unrecovered cost of an account (including any reserve deficit or surplus) over its estimated average remaining life. The equal life group procedure was adopted to allow for depreciation at rates more representative of consumption of capital than that allowed by the use of the vintage group procedure which has been used exclusively prior to our decision in Docket No. 20188. In accordance with our decision in that Docket we implemented rates using these new procedures in the depreciation prescription orders which we adopted beginning in 1981. This order represents a continuation of these procedures.

B. Review Procedures.

3. For many years it has been our practice to review and revise depreciation rates for one-third of the major domestic telephone companies every year. Thus, every three years depreciation rates for all the major telephone companies are reviewed and

revised as we find necessary. In our recent depreciation prescription orders (e.g., *Depreciation Rates*, 96 FCC 2d 257 (1983), reconsideration, FCC Order 84-505, released October 31, 1984), we discussed the increased volatility of depreciation rates using the new procedures (i.e., equal life group and remaining-life) and concluded it may be necessary to update the rates annually to keep them in line with accounting activity (i.e., plant additions, retirements, and net salvage). We also established streamlined study procedures whereby carriers could file for the annual update of rates in between complete reviews, using the same equipment life and salvage estimates that underlie prescribed rates. The carriers under consideration here filed for annual updates using these streamlined procedures.

4. Inasmuch as the rates under consideration are based primarily upon equipment life and salvage estimates underlying prescribed rates rather than revised estimates based upon new studies, much of the time and effort normally expended in a review was not required here. Furthermore, since these estimates had been discussed at length in prior three-way meetings,¹ it was not necessary to conduct such meetings during the current year. Instead, the questions that were raised during the review process were discussed in correspondence and telephone conversations.

5. Our staff reviewed the rate proposals submitted by the companies and found that, with two exceptions,² the rate proposals were based upon the life and salvage parameters underlying the currently prescribed rates, and the accounting activity that has occurred since the effective date of the prior studies. On September 14, 1984, our staff issued a public notice entitled, "Depreciation Rate Prescriptions

¹ It has been our practice to hold three-way meetings between representatives of the telephone carriers and the staffs of the respective state commissions and our Commission to discuss and resolve many of the issues raised in the carriers' depreciation rate filings.

² These exceptions are Wisconsin Bell's COE-Crossbar and United Inter-Mountain's Station Apparatus accounts. These accounts are discussed in detail in paragraphs 10, 11, 13, 14, and 15.

Proposed For Domestic Telephone Companies." This notice summarized the carriers' proposals for revised depreciation rates and the changes in depreciation expense that would result if those proposed depreciation rates were approved. On September 18, 1984, our staff transmitted to each company and the respective state commissions a copy of the public notice.

III. Issues

6. No comments were submitted regarding the rate filings of Alascom, General Telephone Company of the Southwest, General Telephone Company of the Southeast, or Mountain Bell. Six parties submitted comments regarding the rate filings of Ohio Bell, Pacific Bell, United Inter-Mountain (United), or Wisconsin Bell. Many of these comments were general in nature and raised issues that we addressed in prior prescription orders. Because we have already dealt with these issues in prior orders,³ and because the commenting parties have presented no new facts that would justify reconsideration of our prior decisions, we have not addressed them in this order. Instead, we focus here on the new substantive issues raised by the parties.

A. Amortization

7. In two of our 1983 depreciation prescription orders, e.g., *Depreciation Rates*, *supra*, we acknowledged that certain dying accounts may require special amortization treatment if either of the following conditions exists: (1) All of the plant investment has retired leaving a significant residue in the reserve; or (2) the plant investment is rapidly decreasing and a large reserve deficiency exists such that the application of remaining-life procedures alone would result in extremely high and volatile depreciation rates.

8. In its review of rates for the eight carriers under consideration here, our

³ For example, the respondents in this proceeding commented against the use of projection lives, Gompertz-Makeham survivor curves, composite ELG rates, and the remaining-life and ELG methods. We have discussed all of these issues and made decisions regarding them in prior depreciation prescription orders, see e.g., *Depreciation Rates*, *supra*.

staff found that these conditions exist for the accounts listed on the following table. It, therefore, recommended that amortizations should be used to resolve the associated reserve problems.

Company	State	Account
Alascom	Alaska	COE—Auto Message Recording.
General of the Southwest	New Mexico	COE—Manual Switching.
General of the Southwest	New Mexico	COE—Automatic Switching.
General of the Southwest	New Mexico	COE—Auto Message Recording.
General of the Southwest	Oklahoma	COE—Manual Switching.
Pacific Bell	California	COE—Manual Switching.
Wisconsin Bell	Wisconsin	COE—Crossbar.

9. Inasmuch as the proposed amortizations are in accordance with our stated policy and no commenting parties dispute the need for the amortizations or the proposed amortization periods, we approve the amortizations shown in the Appendix to this order.

B. Wisconsin Bell COE—Crossbar

10. In *Depreciation Rates*, supra, we prescribed rates for Wisconsin Bell. In that order, as a general policy, we also directed the staff to perform annual updates of rates as it deems necessary. These updated rates were to be based upon life and salvage factors underlying the prescribed rates. In its initial filing Wisconsin Bell proposed a revised rate for its COE—Crossbar account based upon a new life estimate which is inconsistent with its prescribed rate. Thus, Wisconsin Bell's proposal did not comport with our annual update policy. Accordingly, we reject it, and, in accordance with our annual update policy, we adopt a rate determined by updating Wisconsin Bell's prescribed factors with the accounting activity that has occurred since its 1983 study.

11. Both Wisconsin Bell and the Wisconsin Commission express their concern that, if Wisconsin Bell's depreciation expense is not increased substantially in 1984, its COE—Crossbar reserve would likely become negative. Our staff reviewed Wisconsin Bell's COE—Crossbar plant and reserve accounts and found that, with the continued use of the prescribed rate, a negative reserve is likely. Our staff also found that by amortizing the COE—Crossbar reserve deficiency over a two year period, as the Wisconsin Commission recommends, a negative reserve can be averted. We do not agree, however, with the Wisconsin Commission proposal to determine the reserve deficiency effective December

31, 1985. Since all parties agree that the amortization should begin January 1, 1984, and since the effective date of the update study is January 1, 1984, we believe that the reserve deficiency should also be computed effective January 1, 1984. We find that the Wisconsin Commission recommendation to amortize the COE—Crossbar reserve deficiency over a two year period comports with our policy of writing reserve deficiencies off in a timely manner. We, therefore, approve this procedure using a reserve deficiency established as of January 1, 1984, and the life and salvage factors determined as described in paragraph 10.

C. Jurisdiction Over Wisconsin Bell

12. The Wisconsin Public Service Commission contends that, as a result of the Modification of Final Judgment in the *United States v. American Telephone and Telegraph Company*, 552 F. Supp. 131 (D.D.C.) *aff'd sub nom. Maryland v. United States*, 103 S. Ct. 1240 (1983), Wisconsin Bell is no longer subject to FCC depreciation prescription orders. We believe that we have the authority to prescribe depreciation rates for the divested BOCs, including Wisconsin Bell. *Virginia State Corporation Commission v. FCC*, 737 F. 2d 288 (4th cir. 1984); *NARUC v. FCC*, No. 83-1354 (D.C. Cir., October 26, 1984). Nevertheless, in order to comprehensively deal with the question of the extent of our jurisdiction over the divested BOCs, we plan to initiate a proceeding in the near future to resolve outstanding factual and legal jurisdictional issues which have arisen in several contexts.

D. United Inter-Mountain Station Apparatus

13. The Virginia State Corporation Commission questions the rates proposed by United for its Station Apparatus subaccounts. It contends that United has incorrectly recorded a large inventory adjustment on its books of account as an ordinary retirement. The Virginia Commission contends that United should have recorded the inventory adjustment as an extraordinary retirement. It argues that this incorrect accounting treatment resulted in a deflated depreciation reserve and, thus, an incorrect remaining-life depreciation rate.

14. Our rules¹⁴ state that extraordinary retirement accounting

should be used if the following two criteria are met: (1) The cause of the retirement is not a recognized factor in establishing the depreciation rate; and (2) the charging of the retirement against the reserve would result in the undue depletion of the reserve. Regarding the first criterion, at no time during our review of United's rates for these accounts did United inform us that significant variances between its continuing property records and its in-service equipment exist or that an inventory was in process that would likely result in a large write-off of its plant. As a result, prior depreciation rates have not been determined with recognition that such a write-off plant should occur in ordinary course.

Regarding the second criterion, if the inventory adjustment were booked as an ordinary retirement, the reserve balance for these subaccounts would drop by more than 80%. This would clearly constitute the undue depletion of the reserve. Because both criteria are met, we agree with the Virginia Commission that extraordinary retirement accounting should be applied.

15. In its review of United's proposals our staff found that United's life and salvage estimates for the Station Apparatus subaccounts are consistent with its currently prescribed rates. We, therefore, establish rates based upon United's life and salvage estimates and the reserve ratios adjusted to reflect the extraordinary retirement accounting discussed in paragraph 14.

E. Effective Dates

16. Prior to our decision in Docket No. 20188 depreciation rates were usually prescribed retroactively to the beginning of the year in which they were filed. This appeared to be a reasonable practice because the rates were based on depreciation studies made as of the beginning of the review year. However, the rapid increase in depreciation expenses and the more complex interaction of federal and state regulatory actions have prompted us, in recent years, to allow effective dates for new depreciation rates at any time between January of the filing year and the first month following the release of the prescription order. The companies under consideration have all filed for effective dates consistent with our recent orders (i.e., between January 1, 1984 and January 1, 1985). While we would prefer the effective date of new rates to coincide with the study date, i.e., the beginning of the filing year, the complex interaction of federal and state regulatory actions continues to mandate a flexible approach. Therefore, we shall

¹⁴ See 47 CFR 31-02.83.

again grant the effective dates proposed by the companies.

F. Conclusion

17. Having considered the responses to the public notice, the recommendations of the staff, and the carriers' proposals, we adopt the rates

and amortization amounts listed in the Appendix.

IV. Ordering Clause

18. Accordingly, it is ordered, pursuant to sections 1, 4(i), 201-205 and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i),

201-205 and 220(b), That the percentages of depreciation and amortization amounts set forth in the Appendix to this order are prescribed effective on the dates listed.

Federal Communications Commission.

William J. Tricarico,

Secretary.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR ALASCOM, INC.

[Effective Jan. 1, 1984]

Account No.	Class of subclass of plant	Average remaining life	Future net salvage (percent)	Reserve ratio (percent)	Remaining life rate (percent)
212	Buildings:				
	Buildings	29.0	14.0	16.7	2.4
	Towers	16.8	-42.0	31.1	6.6
221	Central office equipment:				
	Manual switching	17.1	-5.0	9.1	5.6
	Automatic switching	5.1	-5.0	27.0	15.3
	Automatic message recording ¹				
	Automatic Sw (Telex)	11.2	-5.0	38.9	5.9
	Circuit	9.3	8.0	18.2	7.9
	Other	6.0	9.4	29.3	10.2
231	Station apparatus: telephone	5.2	10.0	17.3	14.0
234	Large private branch exchange	5.6	10.0	-5.2	17.0
235	Public telephone equipment:				
	Coins	5.2	10.0	46.7	8.3
	Coinless	5.2	10.0	71.2	3.6
241	Pole lines	11.3	-25.0	-63.5	16.7
242.1	Aerial cable	9.9	10.0	22.8	6.8
242.2	Underground cable	9.9	0.0	99.9	0.0
242.3	Buried cable	17.7	-5.0	4.7	5.7
242.4	Submarine cable	5.1	-2.0	67.0	6.9
244	Underground conduit	26.3	-3.0	46.8	2.1
	Earth station	6.7	5.0	29.7	9.8
	Satellite	7.3	0.0	12.5	12.0
261	Furniture and office equipment:				
	Furniture and office equip.	12.8	20.0	12.8	5.2
	Data handling	2.9	10.0	43.0	16.2
	Mini computers	3.0	15.0	37.8	15.7
	Data base admin. computer	3.1	10.0	18.2	23.2
262	Company official equipment	5.0	10.0	29.2	12.2
264	Vehicles and other work equipment:				
	Other work equipment	8.2	13.0	54.3	4.0
	Motor vehicles	8.7	13.0	37.4	5.7
	Aircraft	3.5	40.0	32.1	8.0

¹Amortize debit reserve balance of \$1,098,056 over 24 months.

FEDERAL COMMUNICATIONS COMMISSION.—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR GENERAL TELEPHONE COMPANY OF THE SOUTHEAST—SOUTH CAROLINA

[Effective Jan. 1, 1985]¹

Account No.	Class or subclass of plant	Average remaining life	Future net salvage (percent)	Reserve ratio (percent)	Remaining life rate (percent)	First ELG year
212	Buildings	31.0	6.0	20.1	2.4	1984
221	Central office equipment:					
	Manual Sw (Digital)	17.8	0.0	47.7	2.9	
	Automatic Sw (Electro-mech)	2.7	2.0	36.6	22.7	
	Digital switching	16.1	5.0	6.1	5.5	1983
	Auto Msg Rec (non-digital)	2.0	0.0	63.3	18.4	
	Auto Msg Rec (digital)	16.9	5.0	6.3	5.2	1983
	Circuit	12.3	15.0	23.0	5.0	1983
	Radio	13.8	-5.0	23.1	5.9	1983
231	Station apparatus:					
	Telephones	6.0	3.0	24.0	12.2	
	Teletypewriter	3.4	3.0	57.0	11.8	
234	Large private branch exchanges	7.2	4.0	24.8	9.9	
235	Public telephone equipment				12.2	
241	Pole lines	12.2	-30.0	35.7	7.7	1983
242.1	Aerial cable	13.6	-16.0	31.3	6.2	1983
242.2	Underground cable	23.0	-14.0	17.7	4.2	1983
242.3	Buried cable	18.8	-5.0	19.3	4.6	1983
242.4	Submarine cable	10.5	-5.0	19.0	8.2	1983
243	Aerial wire	6.7	-60.0	-215.2	56.0	
244	Underground conduit	44.0	-1.0	17.7	1.9	
261	Furniture and office equipment other than machines	10.2	5.0	14.0	7.9	1984
262	Company official equipment				11.3	
264	Vehicles and other work equipment:					
	Motor vehicles	5.6	19.0	45.3	6.2	1984
	Vehicles shop equipment	12.6	2.0	12.9	6.8	1984
	Tools and other work equipment	11.9	3.0	21.9	6.3	1984

¹ Except accounts 235 and 262 which have an effective date of April 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR GENERAL TELEPHONE OF THE SOUTHWEST—ARKANSAS

[Effective Dec. 1, 1984] ¹

Account No.	Class or subclass of plant	Average remaining life	Future net salvage (percent)	Reserve ratio (percent)	Remaining life rate (percent)	First ELG year
212	Buildings.....				3.0	1984
221	Central office equipment:					
	Analog electronic.....	13.8	4.0	0.0	7.1	1981
	Digital electronic.....	16.7	0.0	0.0	6.0	1983
	T.S.P.S.....	13.8	3.0		7.0	1984
	Manual switching.....	2.5	2.0	39.8	23.3	
	Automatic switching.....	4.8	-4.0	44.0	12.5	
	Automatic message recording.....	3.5	0.0	36.6	18.1	
	Circuit.....	11.2	22.0	19.3	5.2	1983
	Radio.....	12.7	1.0	47.2	4.1	1983
231	Station apparatus:					
	Telephone.....				12.8	
	Teletypewriter.....				6.8	
	Radiotelephone.....				3.7	
	Small PBX.....				7.9	
234	Large private branch exchanges:					
	Digital.....				10.2	
	Other.....				20.6	
235	Public telephone equipment.....				10.5	
241	Pole lines.....	14.8	-80.0	17.0	9.7	1983
	Microwave and mobile towers.....	13.9	-15.0	0.0	8.3	1983
242.1	Aerial cable.....	16.9	-25.0	31.0	5.6	1983
242.2	Underground cable.....	24.0	-16.0	21.7	3.9	1983
242.3	Buried cable.....	18.0	-5.0	18.5	4.8	1983
242.4	Submarine cable.....	18.2	0.0	0.0	5.5	1983
243	Aerial wire.....	7.9	-128.0	-25.9	32.1	
244	Underground conduit.....	41.0	-5.0	22.7	2.0	1983
251	Furniture and office equipment:					
	Other than machines.....	15.8	2.0	22.1	4.8	1984
	Machines.....	8.3	2.0	23.4	9.0	1984
262	Company official equipment:					
	Large PBX.....				10.5	
	Apparatus.....				9.3	
264	Vehicles and other work equipment:					
	Passenger cars.....	3.4	16.0	28.4	16.4	1984
	Pickups and light trucks.....	3.6	18.0	49.4	9.1	1984
	Heavy trucks.....	3.7	17.0	54.6	7.7	1984
	Special motor vehicle.....	3.4	14.0	43.4	12.5	1984
	Trucks, tractors and trailers used by central supply.....	8.0	4.0	0.0	12.0	1984
	Trucks, tractors and trailers used by area cable const.....	9.0	4.0	0.0	10.7	1984
	Vehicle shop equipment.....	8.3	2.0	52.4	5.5	1984
	Tools and other work equipment.....	13.1	4.0	28.7	5.1	1984
	Trailers.....	14.5	17.0	57.1	1.8	1984
	Mobile tools.....	4.7	18.0	44.7	7.9	1984
	Aircraft.....	3.7	50.0	0.0	13.5	1984

¹ Except accounts 235 and 262 which have an effective date of May 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR GENERAL TELEPHONE OF THE SOUTHWEST—NEW MEXICO

[Effective Sept. 1, 1984] ¹

Account No.	Class or subclass of plant	Average remaining life	Future net salvage (percent)	Reserve ratio (percent)	Remaining life rate (percent)	First ELG year
212	Building.....				2.9	1984
221	Central office equipment:					
	Analog electronic.....	17.6	5.0	10.6	4.8	1983
	Digital electronic.....	17.2	5.0	0.7	5.5	1983
	T.S.P.S.....	14.0	3.0	1.5	6.8	1984
	Manual switching ²					
	Automatic switching ²					
	Automatic message recording ²					
	Circuit.....	10.8	11.0	22.5	6.2	1983
	Radio.....	10.1	1.0	21.6	7.7	1983
231	Station apparatus:					
	Telephone.....				10.6	
	Teletypewriter.....				2.8	
	Radiotelephone.....				5.5	
	Small PBX.....				8.8	
234	Large Private Branch Exchanges:					
	Digital.....				9.6	
	Other.....				12.3	
235	Public telephone equipment.....				9.0	
241	Pole lines.....	20.0	-65.0	44.3	6.0	1983
	Microwave and mobile towers.....	13.9	-13.0	51.5	4.4	1983
242.1	Aerial cable.....	15.4	-17.0	24.1	6.0	1983
242.2	Underground cable.....	26.0	-18.0	10.6	4.1	1983
242.3	Buried cable.....	21.0	-5.0	15.7	4.3	1983
242.4	Submarine cable.....	18.2			5.5	1983
243	Aerial wire.....	6.9	-47.0	-10.1	22.8	
244	Underground conduit.....	46.0	-5.0	17.6	1.9	1983
261	Furniture and office equipment:					
	Other than machines.....	15.6	4.0	20.3	4.8	1984

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR GENERAL TELEPHONE OF THE SOUTHWEST—
NEW MEXICO—Continued[Effective Sept. 1, 1984] ¹

Account No.	Class or subclass of plant	Average remaining life	Future net salvage (percent)	Reserve ratio (percent)	Remaining life rate (percent)	First ELG year
262	Machines.....	8.1	2.0	13.6	10.4	1984
	Company official equipment:					
	Large PBX.....				9.6	
	Apparatus.....				6.9	
264	Vehicles and other work equipment:					
	Passenger cars.....	3.4	16.0	48.2	10.5	1984
	Pickups and light trucks.....	3.6	18.0	41.2	11.3	1984
	Heavy trucks.....	3.7	17.0	55.8	7.4	1984
	Special motor vehicle equipment.....	3.4	14.0	39.1	13.8	1984
	Trucks, tractors and trailers used by central supply.....	8.0	4.0		12.0	1984
	Trucks, tractors and trailers, used by area cable const.....	9.0	4.0		10.7	1984
	Vehicle shop equipment.....	6.6	2.0	35.1	9.5	1984
	Tools and other work equipment.....	13.1	4.0	35.3	4.6	1984
	Trailers.....	10.6	17.0	84.6	0.0	1984
	Mobile tools.....	3.5	18.0	44.8	10.6	1984
	Aircraft.....	3.7	50.0		13.5	1984

¹ Except accounts 235 and 262 which have an effective date of May 1, 1984.² Net book cost to be amortized over 36 months.FEDERAL COMMUNICATIONS COMMISSION.—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR GENERAL TELEPHONE OF THE
SOUTHWEST—OKLAHOMA[Effective Dec. 1, 1984] ¹

Account No.	Class or subclass of plant	Average remaining life	Future net salvage percent	Reserve ratio percent	Remaining life rate percent	First ELG Year
212	Buildings.....				3.1	1984
221	Central office equipment:					
	Analog electronic.....	16.6	5.0	11.2	5.0	1983
2	Digital electronic.....	17.4	5.0	6.2	5.1	1983
	T.S.P.S.....	13.6	3.0	0.0	7.1	1984
	Manual switching ²					
	Automatic switching.....	3.3	-1.0	42.2	17.8	
	Automatic message recording.....	4.3	0.0	19.2	18.8	
	Circuit.....	11.1	20.0	22.9	5.1	1983
	Radio.....	12.7	1.0	57.3	3.3	1983
231	Station apparatus:					
	Telephone.....				13.2	
	Teletypewriter.....				6.7	
	Radiotelephone.....				0.3	
	Small PBX.....				4.2	
234	Large private branch exchanges:					
	Digital.....				9.6	
	Other.....				20.2	
235	Public telephone equipment.....				10.8	
241	Pole lines.....	17.3	-60.0	29.5	7.5	1983
	Microwave and mobile towers.....	13.9	-13.0	80.0	2.4	1983
242.1	Aerial cable.....	17.8	-24.0	26.5	5.5	1983
242.2	Underground cable.....	26.0	-14.0	11.0	4.0	1983
242.3	Buried cable.....	19.0	-5.0	19.7	4.5	1983
242.4	Submarine cable.....	18.2	0.0	49.7	2.8	1983
243	Aerial wire.....	5.0	-78.0	-40.0	43.6	
244	Underground conduit.....	50.0	-10.0	10.7	2.0	1983
261	Furniture and office equipment:					
	Other than machines.....	15.0	2.0	30.4	4.5	1984
	Machines.....	8.1	2.0	31.4	8.2	1984
262	Company official equipment:					
	Large PBX.....				9.6	
	Apparatus.....				9.3	
264	Vehicles and other work equipment:					
	Passenger cars.....	3.4	16.0	44.9	11.5	1984
	Pickups and light trucks.....	3.6	18.0	48.8	9.2	1984
	Heavy trucks.....	3.7	17.0	55.6	7.4	1984
	Special motor vehicle equipment.....	3.4	14.0	48.7	11.0	1984
	Trucks, tractors and trailers used by central supply.....	8.0	4.0		12.0	1984
	Trucks, tractors and trailers used by area cable const.....	9.0	4.0	72.6	2.6	1984
	Vehicle shop equipment.....	6.6	2.0	37.9	9.1	1984
	Tools and other work equipment.....	13.1	4.0	29.5	5.1	1984
	Trailers.....	10.6	17.0	30.1	5.0	1984
	Mobile tools.....	3.5	18.0	28.4	15.9	1984
	Aircraft.....	3.7	50.0	0.0	13.5	1984

¹ Except accounts 235 and 262 which have an effective date of May 1, 1984.² Net book cost to be amortized over 36 months.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR GENERAL TELEPHONE OF THE SOUTHWEST—TEXAS

[Effective Sept. 1, 1984]¹

Account No.	Class or subclass of plant	Average remaining life	Future net salvage (percent)	Reserve ratio (percent)	Remaining life rate (percent)	First ELG year
212	Buildings				2.8	1983
221	Central office equipment:					
	Analog electronic	15.7	4.0	12.0	5.4	1983
	Digital electronic	18.4	0.0	3.8	5.2	1983
	T.S.P.S.	14.5	3.0	15.2	5.6	1983
	Manual switching	0.9	3.0	48.3	54.1	
	Automatic switching	2.7	2.0	49.5	19.4	
	Automatic message recording	1.7	0.0	47.4	30.9	
	Circuit	12.0	18.0	21.0	5.1	1983
	Radio	12.7	1.0	30.2	5.4	1983
231	Station apparatus:					
	Telephone				9.5	
	Teletypewriter				8.7	
	Radiotelephone				3.8	
	Small PBX				12.2	
234	Large private branch exchanges:					
	Digital				10.3	
	Other				37.9	
235	Public telephone equipment				6.7	
241	Pole lines	17.3	-60.0	21.5	8.0	1983
	Microwave and mobile towers	13.9	-13.0	30.8	5.9	1983
242.1	Aerial cable	19.9	-21.0	22.9	4.9	1983
242.2	Underground cable	31.0	-13.0	14.7	3.2	1983
242.3	Buried cable	21.0	-5.0	14.3	4.3	1983
242.4	Submarine cable	18.2	0.0	42.0	3.2	1983
243	Aerial wire	6.1	-71.0	-21.5	31.6	
244	Underground conduit	46.0	-10.0	17.6	2.0	1983
261	Furniture and office equipment:					
	Other than machines	15.0	2.0	26.6	4.8	1983
	Machines	6.6	2.0	19.2	11.9	1983
262	Company official equipment:					
	Large PBX				11.3	
	Apparatus				6.9	
264	Vehicles and other work equipment:					
	Passenger cars	3.4	16.0	44.6	11.6	1982
	Pickups and light trucks	3.6	18.0	47.1	9.7	1983
	Heavy trucks	3.7	17.0	53.7	7.9	1983
	Special motor vehicle equipment	3.4	14.0	50.3	10.5	1983
	Trucks, tractors and trailers used by central supply	8.0	4.0	98.3	0.0	1983
	Trucks, tractors and trailers used by area cable const.	9.0	4.0	69.9	2.9	1983
	Vehicle shop equipment	6.6	2.0	32.6	9.9	1983
	Tools and other work equipment	13.1	4.0	35.8	4.6	1983
	Trailers	10.6	17.0	37.1	4.3	1983
	Mobile tools	3.5	16.0	27.5	15.6	1983
	Aircraft	3.7	50.0	30.0	5.4	1983

¹ Except accounts 235 and 262 which have an effective date of May 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR MOUNTAIN BELL TELEPHONE COMPANY—IDAHO

[Effective June 1, 1984]¹

Account No.	Class or subclass of plant	VG rate (percent)	Net salvage rate (percent)
221	Central office equipment:		
	Step-by-step	11.0	-0.4
	Crossbar	16.2	0.0
235	Public telephone equipment	11.3	-0.2
262	Company Official Equipment:		
	Station Apparatus	14.8	-0.2
	PBX and Key Systems	12.9	-0.4

¹ Except accounts 235 and 262 which have an effective date of April 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR MOUNTAIN BELL TELEPHONE COMPANY—NEW MEXICO

[Effective January 1, 1985]¹

Account No.	Class or subclass of plant	VG rate (percent)	Net salvage rate (percent)
221	Central office equipment:		
	Step-by-step	12.0	0.1
	Crossbar	23.2	0.7
235	Public telephone equipment	11.7	-0.4
262	Company official equipment:		
	Station apparatus	14.9	0.4
	PBX and key systems	11.7	-0.4

¹ Except accounts 235 and 262 which have an effective date of April 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR MOUNTAIN BELL TELEPHONE COMPANY—
UTAH[Effective Mar. 1, 1984]¹

Account No.	Class or subclass of plant	VG rate (percent)	Net salvage rate (percent)
221	Central office equipment:		
	Step-by-step	13.0	0.2
	Crossbar	16.8	0.1
235	Public telephone equipment	12.5	-0.4
262	Company Official Equipment:		
	Station apparatus	19.2	-0.3
	PBX and key systems	12.9	-0.5

¹ Except accounts 235 and 262 which have an effective date of April 1, 1984.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR OHIO BELL

[Effective Jan. 1, 1985]

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
212	Buildings	2.6	3.4	-0.2	1983
221	Central office equipment:				
	Manual	18.4		5.1	
	Step-by-step	15.7		2.7	
	Crossbar	18.8		1.8	
	Non-ded. circuit	8.0	14.3	-0.3	1983
	DDS circuit	5.6	13.4	0.0	1983
	Radio	5.0	14.4	-0.3	1983
	Electronic	5.7	8.1	-0.3	1983
231	Station apparatus:				
	Teletypewriter	11.2		0.1	
	Telephone and miscellaneous	14.4		-0.7	
	Radio	10.4		-1.3	
234	Large private branch exchanges:				
	Electronic	12.7		-0.2	
	Other	19.0		3.0	
	DDS	15.8		-0.2	
235	Public telephone equipment	14.4		-0.7	
241	Pole lines	3.1	7.3	2.1	1982
242.1	Aerial cable:				
	Exchange	4.6	5.6	0.5	1982
	Toll	5.1	9.5	-4.2	1982
242.2	Underground cable:				
	Exchange	3.4	5.5	-0.5	1982
	Toll	2.5	5.9	-1.7	1982
242.3	Buried cable:				
	Exchange	3.0	4.7	0.2	1982
	Toll	2.5	3.6	0.2	1982
242.4	Submarine cable:				
	Exchange	1.5	4.1	1.9	1982
	Toll	3.8	4.2	1.8	1982
243	Aerial wire	14.0		16.5	
244	Underground conduit	1.4	1.5	0.1	1982
261	Furniture and office equipment:				
	Furniture	3.8	9.0	-0.1	1983
	Computer	12.3	15.1	-1.1	1983
	Art works	0.0		0.0	
262	Company official equipment:				
	Teletypewriter	11.2		0.1	
	Telephone and miscellaneous	14.4		-0.7	
	Radio	10.4		-1.3	
	PBX-electronic	12.7		-2.0	
	PBX-other	19.0		3.0	
	PBX-DDS equipment	15.8		-0.2	
264	Vehicles and other work equipment:				
	Motor vehicles	11.9	15.0	-3.7	1983
	Tools	6.2	15.3	-0.8	1983

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR PACIFIC BELL

[Effective July 1, 1984]

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
212	Buildings	2.1	5.1	-0.1	1984
221	Central office equipment:				
	Manual ¹				
	Step-by-step	24.2		2.3	
	Crossbar	15.5		0.9	
	Non-ded. circuit	6.6	8.7	0.0	1983
	DDS circuit	8.1	11.1	0.2	1983
	Radio	5.4	8.5	0.1	1983
	Electronic	4.5	7.4	-0.3	1983
231	Station apparatus:				
	Teletypewriter	15.5		-0.1	

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR PACIFIC BELL—Continued

[Effective July 1, 1984]

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
	Telephone and miscellaneous	13.3		-5.8	
	Radio	5.6		0.1	
234	Large private branch exchanges:				
	Electronic	0.0		0.0	
	Other	18.5		1.5	
	DDS	16.3		-1.7	
235	Public telephone equipment	13.3		-5.8	
241	Pole lines	3.1	7.2	2.5	1982
242.1	Aerial cable:				
	Exchange	4.0	6.8	1.0	1982
	Toll	4.7	9.7	-0.8	1982
242.2	Underground cable:				
	Exchange	2.3	4.5	0.2	1982
	Toll	2.7	3.8	-0.4	1982
242.3	Buried cable:				
	Exchange	3.2	5.7	0.6	1982
	Toll	2.6	4.0	0.4	1982
242.4	Submarine cable	2.6	4.4	2.5	1982
243	Aerial wire:				
	Exchange	12.1		-1.3	
	Toll	11.9		-1.7	
244	Underground conduit	1.6	2.0	0.4	1982
261	Furniture and office equipment:				
	Furniture	3.7	7.6	-0.1	1984
	Computer and AMA	12.7	14.8	0.1	1984
	Art works	0.0		0.0	
262	Company official equipment:				
	Teletypewriter	15.5		-0.1	
	Telephone and miscellaneous	13.3		-5.8	
	Radio	5.6		0.1	
	PBX—other	18.5		1.5	
	PBX—electronic	0.0		0.0	
	PBX—DDS equipment	16.3		-1.7	
	Key systems	13.3		-5.8	
264	Vehicles and other work equipment	7.1	11.4	-1.0	1984

¹ Amortize net book balance over 12 mos.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR UNITED INTER-MOUNTAIN TELEPHONE COMPANY—TENNESSEE

[Effective Jan. 1, 1984]

Account No.	Class or subclass of plant	Average remaining life	Future net salvage (percent)	Reserve ratio (percent)	Remaining life rate (percent)
212	Buildings	29.0	0.0	21.6	2.7
221	Central office equipment:				
	Manual	1.0	-2.0	97.2	4.8
	Step-by-step	2.8	10.0	46.2	15.6
	Crossbar	5.5	9.0	29.6	11.2
	Auto switching ETS-4	3.5	-1.0	38.5	17.9
	Circuit	14.4	12.0	24.6	4.4
	Radio	7.3	0.0	36.5	8.7
	Mobile radio				10.0
	Electronic	19.1	0.0	4.0	5.0
	AMR	2.9	-1.0	47.5	18.4
231	Station apparatus:				
	Telephone and other	4.4	15.0	24.6	13.7
	Mobile radiotelephone				34.5
	Subscr. multiplex equipment				9.3
234	Large private branch exchange:				
	Digital and electronic stored	5.8	5.0	35.5	10.3
	Other	2.4	-2.0	6.2	39.9
235	Public telephone equipment	7.2	2.0	31.4	9.3
241	Pole lines	16.8	-20.0	34.3	5.1
242.1	Aerial cable	19.1	2.0	26.4	3.7
242.2	Underground cable	23.0	0.0	19.1	3.5
242.3	Buried cable	17.2	-1.0	17.0	4.9
242.4	Submarine cable			94.4	5.7
243	Aerial wire	10.9	-50.0	60.6	8.2
244	Underground conduit	40.0	0.0	20.9	2.0
261	Furniture and office equipment:				
	Furniture and office equipment	15.4	6.0	25.1	4.5
	Data processing computers			20.3	17.2
262	Company official equipment	5.8	1.0	22.7	13.2
264	Vehicles and other work equipment:				
	Passenger cars	6.3	15.0	42.3	6.8
	Light trucks and vans	6.3	15.0	36.6	7.7
	Heavy trucks	6.3	15.0	41.5	6.9
	Special purpose vehicle and OWE			68.3	5.6

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR UNITED INTER-MOUNTAIN TELEPHONE COMPANY—VIRGINIA

[Effective Jan. 1, 1984]

Account No.	Class or subclass of plant	Average remaining life	Future net salvage (percent)	Reserve ratio (percent)	Remaining life rate (percent)
212	Buildings.....			23.2	2.7
221	Central office equipment:				
	Manual.....	1.0	-4.0	90.9	13.1
	Step-by-step.....	3.8	3.0	58.8	10.1
	Crossbar.....	7.2	-5.0	39.8	9.1
	Circuit.....	10.7	10.0	38.8	5.0
	Radio.....	7.0	0.0	91.7	1.2
	Mobile radio.....			0.0	10.0
	Electronic.....	19.1	0.0	10.1	4.7
	AMR.....	1.5	-1.0	55.0	30.7
231	Station apparatus:				
	Telephone and other.....	4.9	15.0	2.9	12.3
	Subscr. multiplex equipment.....				9.3
234	Large private branch exchange:				
	Digital and elec. stored.....	3.9	9.0	40.2	13.0
	Other.....	1.5	-2.0	15.8	57.5
235	Public telephone equipment.....	7.1	2.0	32.0	9.3
241	Pole lines.....	18.3	-35.0	37.0	5.4
242.1	Aerial cable.....	19.5	-5.0	30.0	3.8
242.2	Underground cable.....	23.0	-5.0	20.7	3.7
242.3	Buried cable.....	16.0	-1.0	16.8	5.3
242.4	Submarine cable.....			110.4	
243	Aerial wire.....	10.0	-55.0	51.9	10.3
244	Underground conduit.....			16.9	2.0
261	Furniture and office equipment:				
	Furniture and office equip.....	15.4	6.0	27.9	4.3
	Data proc computers.....	8.1	5.0	12.3	10.2
262	Company official equipment.....	5.5	3.0	26.7	12.8
264	Vehicles and other work equipment:				
	Passenger cars.....	5.4	13.0	33.8	9.9
	Light trucks and vans.....	5.4	13.0	49.6	6.9
	Heavy trucks.....	5.4	13.0	37.4	9.2
	Special purpose veh. and OWE.....			60.9	3.7

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR WISCONSIN BELL

[Effective Jan. 1, 1984]¹

Account No.	Class or subclass of plant	VG rate (percent)	ELG rate (percent)	Net salvage rate (percent)	First ELG year
212	Buildings.....	2.4	3.1	0.0	1984
221	Central office equipment:				
	Manual.....	-1.2	0.0	1.2	
	Step-by-step.....	34.9	0.0	4.6	
	Crossbar.....	12.7		0.0	
	Non-Ded. circuit.....	7.6	14.4	-0.4	1983
	DDS circuit.....	8.0	10.8	0.0	1983
	Radio.....	5.7	9.0	-0.6	1983
	Electronic.....	5.8	7.7	-0.6	1983
231	Station apparatus:				
	Teletypewriter.....	15.3		-0.6	
	Telephone and miscellaneous.....	13.7		0.0	
	Radio.....	7.3		-0.4	
232	Station connections—other.....	5.0			
234	Large private branch exchanges:				
	Other.....	38.6		0.1	
	DDS.....	25.3		-11.3	
235	Public telephone equipment.....	13.7		0.0	
241	Pole lines.....	3.5	9.5	1.4	1982
242.1	Aerial cable:				
	Exchange.....	5.4	7.7	0.2	1982
	Toll.....	4.4	8.3	-4.4	1982
242.2	Underground cable:				
	Exchange.....	3.1	5.3	-0.2	1982
	Toll.....	2.5	5.8	-1.4	1982
242.3	Buried cable:				
	Exchange.....	4.0	4.9	0.1	1982
	Toll.....	4.2	5.0	0.1	1982
242.4	Submarine cable.....	4.0	6.0	0.1	1982
244	Aerial wire: exchange.....	45.2		16.2	
244	Underground conduit.....	1.5	1.7	0.1	1982
261	Furniture and office equipment:				
	Storeroom and other.....	6.2	6.7	-0.9	1984
	Computers.....	14.5	14.7	-0.7	1984
	Art works.....	0.0		0.0	
262	Company official equipment.....	13.5		-0.1	
264	Vehicles and other work equipment:				
	Motor vehicles.....	12.7	14.9	-1.3	1984
	Other work equipment.....	5.8	18.5	0.0	1984

¹ Except accounts 235 and 262 which have an effective date of May 1, 1984.² The January 1, 1984 reserve deficiency of 31,103.551 is to be amortized over a 2 year period; remaining life rates are continued for this account using the calculated reserve ratio.

Order

In the matter of the prescription of revised percentages of depreciation pursuant to the Communications Act of 1934, as amended for AT&T Communications (Interstate Division and twenty-two interexchange subsidiaries), Bell Telephone Company of Pennsylvania, Diamond State Telephone Co., General Telephone Company of the Northwest, General Telephone Company of the Southeast, Hawaiian Telephone Co., The Mountain States Telephone and Telegraph Co., New Jersey Bell Telephone Co., Northwestern Bell Telephone Co., Pacific Northwest Bell Telephone Co., and Southern Bell Telephone and Telegraph Co.

Adopted: December 10, 1984.

Released: December 19, 1984.

By the Commission.

I. Introduction

1. The Communications Act of 1934, as amended, grants the Commission the authority to prescribe depreciation rates for common carriers. In our decision in CC Docket No. 82-681, FCC Order 83-457, released November 2, 1983, the Commission established two new accounts: Account No. 235, Public Telephone Equipment, and Account No. 262, Other Communications Equipment. By this order we prescribe depreciation rates for these new accounts for the thirty-three common carriers listed above.¹

II. Background

2. Because the Public Telephone Equipment and Other Communications Equipment accounts are new accounts, there is very little data available to establish rates, except for the estimates that underlie the prescribed rates for the accounts from which these investments were transferred.² Recognizing this, all of the carriers under consideration filed for rates based upon prescribed factors. The carriers' use of prescribed factors instead of new studies of life and salvage factors allowed our staff to streamline its review process. In addition, since the prescribed life and salvage factors had already been discussed at length in prior three-way meetings,³ it was not necessary to

conduct such meetings during the current year. Instead, the questions that were raised during the review process were discussed in correspondence and telephone conversations.

3. After reviewing the filings, on October 2, 1984, our staff issued a Public Notice entitled, "Depreciation Rate Prescriptions For Public Telephone and Other Communications Equipment," in which is solicited comments regarding the filings. On October 3, 1984, our staff transmitted a copy of this public notice and the rates proposed by each carrier to the carriers and their respective state commissions.

III. Issues

4. Responses to the public notice were submitted by six parties: Bell Atlantic, the Michigan Public Service Commission, the Minnesota Department of Public Service, the Minnesota Public Utilities Commission, The North Dakota Public Service Commission, and the Virginia State Corporation Commission. In the following paragraphs we discuss the issues raised by the commenting parties and the recommendations resulting from our staff's review of the carriers' filings.

A. AT&T Communications

5. AT&T proposed the use of only two distinct rates for its Interstate Division and all of its interexchange subsidiaries, one for its Public Telephone Equipment account and one for its Other Communications Equipment account. It based its proposals on the average of all life and salvage factors which the Commission prescribed for telephone carriers in 1983. The Michigan Commission questioned AT&T Communications' use of nationwide average life and salvage estimates for all of its interexchange subsidiaries.⁴ It argued that it would be better to use individually developed life estimates for each subsidiary. Since our initial depreciation prescription orders in the late 1940's, we have prescribed individual rates for each carrier and jurisdiction which were developed from studies of each carrier and jurisdiction's unique plant experience and expectations. These prescribed rates have varied considerably by jurisdiction because of the variations in the carriers' operations. As a result, we believe Michigan's concern is valid. However, because all of AT&T Communications' investment in Accounts No. 235 and 262

has been installed since divestiture,⁵ there is no data available which to determine life and salvage variations by jurisdiction. We see little choice but to use nationwide average factors for these accounts at the present time. To do otherwise would impose an enormous burden on the companies far out of proportion to the value of assets in question. In the future as data for AT&T Communications' plant becomes available by jurisdiction, we direct the staff to reexamine this issue and to determine if life and salvage factors vary enough by jurisdiction to warrant individual rates.

6. Our staff studied AT&T Communications' filing and found that the life and salvage parameters which it proposed were consistent with nationwide average prescribed parameters for Account Nos. 231 and 234 except for the life estimate for Public Telephone Equipment. For Account No. 231 the nationwide average projection life was approximately nine years. AT&T proposed a twelve year projection life for public telephone equipment, however, to reflect the results of its most recent product life cycle studies. These studies show that the Public Telephone category of Account No. 231 is expected to have a life approximately one-third longer than that of the account as a whole. We find that, with this adjustment for public telephone equipment, AT&T's proposals are consistent with the prescribed parameters and AT&T's most recent studies. Accordingly, we find its proposals to be reasonable.

B. Exchange Carriers

7. Our staff reviewed the remainder of the carriers' filings and found that, with two exceptions, their rate proposals were based upon the proper application of the prescribed rates or factors. Our staff found that General Telephone Company of the Southeast incorrectly computed the rate for its Other Communications Equipment account in Virginia due to a rounding error. The state concurs in this finding. In addition, our staff found that Southern Bell had applied out of date investment

¹ We do not herein prescribe rates for these accounts for all the FCC-subject carriers because for some it has been accomplished in other prescription orders, and for others the accounting changes have been implemented such that previously prescribed rates still apply.

² Prior to our decision in Docket No. 82-681, public telephone equipment was included in Account No. 231, Station Apparatus, and other communications equipment was included in Account No. 231 and Account No. 234, Large PBX.

³ It has been our practice to hold three-way meetings between representatives of the telephone carriers and the staffs of their respective state commissions and our Commission to discuss and resolve many of the issues raised in the carriers' depreciation rate filings.

⁴ The North Dakota Public Service Commission also questions the use of AT&T's nationwide average proposal for its Other Communications Equipment account in North Dakota.

⁵ AT&T Communications has no pre-divestiture public telephone equipment because all of the BOCs' Public Telephone Equipment remained with the BOCs as part of the Modification of Final Judgment in *United States v. American Tel. & Tel. Co.*, 552 F.Supp. 131 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 103 S. Ct. 1240 (1983). It has no pre-divestiture other communications equipment because all of the BOC investment in this type of equipment was transferred to AT&T Information Systems and has since been detariffed.

figures * in determining its rates for the Other Communications Equipment account. Our staff has corrected each of these rates and we adopt our staff's recommendations here.

8. Bell Atlantic supports the use of prescribed factors to determine the initial rates for these new accounts. However, it contends that changes in state and federal policy regarding competition in the public telephone market will lead to future decreases in equipment lives for the Public Telephone Equipment account. It, therefore, urges the Commission to review this issue and to prescribe the necessary changes in rates for this account outside the three-year review cycle. Although we are by no means certain that significant reductions in public telephone equipment lives are imminent,⁷ we agree with Bell Atlantic that this matter does require scrutiny. As a result, we direct our staff to monitor the situation and if it determines that extreme changes in public telephone equipment lives are occurring, it should recommend changes in the rates for prescription even if it results in prescriptions outside the regular three-year prescription cycle.

9. The Minnesota Department of Public Service and Minnesota Public Utilities Commission recommend that Northwestern Bell divide its Other Communications Equipment account into subaccounts. Our rules do not require such a subdivision and we are not convinced it is warranted, inasmuch as the account is relatively small.⁸ Nevertheless, we direct the staff to entertain discussion regarding this matter at the next Northwestern Bell three-way meeting.

10. Minnesota also questions the transfer of assets from plant-in-service to the supply account without a concomitant reserve transfer. It contends that, without a reserve transfer, the plant-in-service will be understated while the supply account will be overstated. According to our

current rules,⁹ however, the transfer of an asset from plant-in-service to the supply account calls for retirement accounting at gross book cost, not net book cost as Minnesota suggests. Such accounting will correctly result in the overall rate base being unchanged by the transfer.

C. Conclusion

11. Having considered the responses to the public Notice, the recommendations of the staff, and the carriers' proposals, we adopt the depreciation rates and effective dates¹⁰ listed in the Appendix.

IV. Ordering Clause

12. Accordingly, it is ordered, pursuant to sections 1, 4(i), 201-205 and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201-205 and 220(b), that the percentages of depreciation set forth in the Appendix to this order are prescribed effective on the dates listed.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

FEDERAL COMMUNICATIONS COMMISSION.— SCHEDULE OF ANNUAL PERCENTAGES OF DE- PRECIATION FOR AT&T COMMUNICATIONS IXD 22 IXC SUBSIDIARIES

[Effective Jan. 1, 1984]

Account No.	Class or subclass of plant	Depreciation rate (percent)	
		Investment	Net salvage
235.....	Public Telephone Equipment.....	10.8	-0.3
262.....	Other Communications Equipment.....	10.4	-0.2

FEDERAL COMMUNICATIONS COMMISSION.— SCHEDULE OF ANNUAL PERCENTAGES OF DE- PRECIATION FOR BELL TELEPHONE CO. OF PENNSYLVANIA

[Effective May 1, 1984]

Account No.	Class or subclass of plant	Depreciation rate (percent)	
		Investment	Net salvage
235.....	Public Telephone Equipment.....	10.8	-0.3
262.....	Other Communications Equipment.....	10.4	-0.2

⁷The detailed accounting treatment for such transfers is the subject of a pending Commission inquiry. See CC Docket No. 84-468, Notice of Inquiry, FCC 84-199, released May 16, 1984.

¹⁰These rates are to be effective retroactively to the dates at which the accounts were established.

FEDERAL COMMUNICATIONS COMMISSION.— SCHEDULE OF ANNUAL PERCENTAGES OF DE- PRECIATION FOR DIAMOND STATE TELE- PHONE CO.

[Effective May 1, 1984]

Account No.	Class or subclass of plant	Depreciation rates (percent)	
		Investment	Net salvage
235.....	Public Telephone Equipment.....	14.8	-0.1
262.....	Other Communications Equipment.....	18.8	0.1

FEDERAL COMMUNICATIONS COMMISSION.— SCHEDULE OF ANNUAL PERCENTAGES OF DE- PRECIATION FOR GENERAL TELEPHONE CO. OF THE NORTHWEST

[Effective May 1, 1984]

Jurisdiction	Account No.	Class or subclass of plant	Depreciation rate (percent)
Idaho.....	235.....	Public Telephone Equipment.....	
		Coin Telephone.....	12.9
		Coinless Telephone.....	12.9
Montana.....	262.....	Other Communications Equipment.....	12.7
		Coin Telephone.....	13.4
		Coinless Telephone.....	13.4
Oregon.....	262.....	Other Communications Equipment.....	12.1
		Coin Telephone.....	15.4
		Coinless Telephone.....	15.4
Washington.....	262.....	Other Communications Equipment.....	12.8
		Coin Telephone.....	14.1
		Coinless Telephone.....	14.1

FEDERAL COMMUNICATIONS COMMISSION.— SCHEDULE OF ANNUAL PERCENTAGES OF DE- PRECIATION FOR GENERAL TELEPHONE CO. OF THE SOUTHEAST

[Effective Apr. 1, 1984]

Jurisdiction	Account No.	Class or subclass of plant	Depreciation rate (percent)
Alabama.....	235.....	Public Telephone Equipment.....	
		Coin Telephone.....	14.2
		Coinless Telephone.....	12.6
Georgia.....	262.....	Other Communications Equipment.....	
		Coin Telephone.....	12.8
		Coinless Telephone.....	

* Although the accounts were established on April 1, 1984, Southern Bell used January 1, 1983, figures in establishing its composite rates.

⁷ As discussed in paragraph 8, AT&T's product life cycle studies show that public telephone equipment lives are expected to be approximately one-third longer than those of other telephone apparatus. Inasmuch as most of the carriers have proposed rates for public telephone equipment based upon prescribed factors for telephone apparatus, it could be argued that their proposed life estimates for public telephone equipment are to short.

⁸ This account makes up only 1% of Northwestern Bell's depreciable plant investment.

FEDERAL COMMUNICATIONS COMMISSION.—
SCHEDULE OF ANNUAL PERCENTAGES OF DE-
PRECIATION FOR GENERAL TELEPHONE CO.
OF THE SOUTHEAST—Continued

[Effective Apr. 1, 1984]

Jurisdiction	Account No.	Class or subclass of plant	Depreciation rate (percent)
North Carolina	262	Other Communications Equipment	18.0
	235	Public Telephone Equipment	12.8
		Coin Telephone	
		Coinless Telephone	
Tennessee	262	Other Communications Equipment	14.4
	235	Public Telephone Equipment	12.5
		Coin Telephone	
		Coinless Telephone	
	262	Other Communications Equipment	12.2

FEDERAL COMMUNICATIONS COMMISSION.—
SCHEDULE OF ANNUAL PERCENTAGES OF DE-
PRECIATION FOR GENERAL TELEPHONE CO.
OF THE SOUTHEAST—Continued

[Effective Apr. 1, 1984]

Jurisdiction	Account No.	Class or subclass of plant	Depreciation rate (percent)
Virginia	235	Public Telephone Equipment	9.3
		Coin Telephone	
		Coinless Telephone	
West Virginia	262	Other Communications Equipment	15.7
	235	Public Telephone Equipment	12.9
		Coin Telephone	
		Coinless Telephone	
	262	Other Communications Equipment	15.7

FEDERAL COMMUNICATIONS COMMISSION.—
SCHEDULE OF ANNUAL PERCENTAGE OF DE-
PRECIATION FOR HAWAIIAN TELEPHONE CO.

[Effective May 1, 1984]

Account No.	Class or subclass of plant	Depreciation rate (percent)
235	Public Telephone Equipment	13.4
	Coin Operated	
	Coinless	
262	Other Communications Equipment	11.4

FEDERAL COMMUNICATIONS COMMISSION.—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR THE MOUNTAIN STATES TELEPHONE & TELEGRAPH CO.

[Effective Apr. 1, 1984]

Jurisdiction	Account No.	Class or subclass of plant	Depreciation rates (percent)	
			Investment	Net salvage
Arizona	235	Public Telephone Equipment	12.4	-0.7
	262	Other Communications Equipment	13.7	-0.2
	262.1	Station Apparatus		-0.7
Colorado	262.2	PBX and Key System Intrasytems	12.8	-0.7
	235	Public Telephone Equipment	11.8	-0.3
	262	Other Communications Equipment	10.8	-0.1
Montana	262.1	Station Apparatus		-0.4
	262.2	PBX and Key System Intrasytems		-0.3
Wyoming	235	Public Telephone Equipment	10.4	0.2
	262	Other Communications Equipment	14.8	0.1
	262.1	Station Apparatus		-0.4
	262.2	PBX and Key System Intrasytems		0.1
	235	Public Telephone Equipment	10.3	-0.4
	262	Other Communications Equipment	19.0	0.1
	262.1	Station Apparatus		-0.4
	262.2	PBX and Key System Intrasytems		-0.4

FEDERAL COMMUNICATIONS COMMISSION.—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR NEW JERSEY BELL TELEPHONE CO.

[Effective May 1, 1984]

Account No.	Class or subclass of plant	Depreciation rate (percent)	Net salvage rate (percent)
235	Public Telephone Equipment	8.3	-0.7
262	Other Communications Equipment	10.7	0.9

FEDERAL COMMUNICATIONS COMMISSION.—SCHEDULE OF ANNUAL PERCENTAGES OF DEPRECIATION FOR NORTHWESTERN BELL TELEPHONE CO.

[Effective Apr. 1, 1984]

Jurisdiction	Account No.	Class or subclass of plant	Depreciation rates (percent)	
			Investment	Net salvage
Iowa	235	Public Telephone Equipment	12.7	0.4
	262	Other Communications Equipment	15.9	0.8
Minnesota	235	Public Telephone Equipment	12.4	0.3
	262	Other Communications Equipment	12.7	0.7
Nebraska	235	Public Telephone Equipment	11.6	0.3
	262	Other Communications Equipment	14.3	0.4
North Dakota	235	Public Telephone Equipment	10.5	-1.0
	262	Other Communications Equipment	16.0	0.5
South Dakota	235	Public Telephone Equipment	11.7	0.9
	262	Other Communications Equipment	20.2	-0.3

FEDERAL COMMUNICATIONS COMMISSION.—Schedule of Annual Percentages of Depreciation for Pacific Northwest Bell Telephone Co.

[Effective Apr. 1, 1984]

Jurisdiction	Account No.	Class or subclass of plant	Depreciation rates (percent)	
			Investment	Net salvage
Idaho	235	Public Telephone Equipment	14.5	-0.1
	262	Other Communications Equipment	14.2	0.0
Oregon	235	Public Telephone Equipment	14.7	-1.0
	262	Other Communications Equipment	21.6	0.2
Washington	235	Public Telephone Equipment	13.0	-0.2
	262	Other Communications Equipment	18.2	0.4

FEDERAL COMMUNICATIONS COMMISSION.—Schedule of Annual Percentages of Depreciation for Southern Bell Telephone & Telegraph Co.

[Effective Apr. 1, 1984]

Jurisdiction	Account No.	Class or subclass of plant	Depreciation rates (percent)	
			Investment	Net salvage
Florida	235	Public Telephone Equipment	12.4	-0.4
	262	Other Communications Equipment	12.5	-0.2
Georgia	235	Public Telephone Equipment	13.0	0.0
	262	Other Communications Equipment	11.1	0.2
North Carolina	235	Public Telephone Equipment	9.1	0.0
	262	Other Communications Equipment	10.6	0.1
South Carolina	235	Public Telephone Equipment	11.1	-0.3
	262	Other Communications Equipment	11.4	0.0

[FR Doc. 84-33306 Filed 12-21-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

December 18, 1984.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received on or before January 8, 1985.

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., 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 in 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 Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Judith McIntosh, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance

Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829)

Proposal to Approve Under OMB Delegated Authority the Implementation of Two One-Time Surveys

1. Report title: 1985 Survey of Finance Companies

Agency form number: FR 3033p, FR 3033s OMB Docket number: To be assigned

Frequency: one-time

Reporters: finance companies Small businesses are affected.

General description of report: This information collection is voluntary [12 U.S.C. 225a, 263, and 353 et. seq.] and is given confidential treatment [5 U.S.C. 552(b)(4)].

The finance company survey has been conducted every five years to establish timely benchmark data for regularly published series on consumer and business credit and on major assets and liabilities of finance companies.

Board of Governors of the Federal Reserve System, December 18, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-33387 Filed 12-21-84; 8:45 am]

BILLING CODE 6210-01-M

The First Bancrossville, 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 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 January 14, 1985.

A. Federal Reserve Bank of Atlanta
(Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *The First BancCrossville, Inc.*, Crossville, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Crossville, Inc., Crossville, Tennessee.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *SBT Holding Company*, Kansas City, Missouri; to become a bank holding company by acquiring 99 percent of the voting shares of Southwest Ban Corp., Omaha, Nebraska thereby indirectly acquiring Southwest Bank and Trust Company of Omaha, Omaha, Nebraska. Comments on this application must be received not later than January 11, 1985.

C. Federal Reserve Bank of Dallas
(Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *BSJ Bancshares, Inc.*, St. Joseph, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Bank of St. Joseph & Trust Co., St. Joseph, Louisiana.

2. *MC Corp.*, Dallas, Texas; to acquire indirectly through its wholly owned subsidiary MCorp Financial Corporation, Wilmington, Delaware, up to an additional 136,284 shares of nonvoting, Series A, preferred stock of United Bank, N.A., Midland, Texas (increasing to more than 25 percent applicants investment in Bank's total equity), and common stock warrants convertible into not more than 24.9 percent of Bank's common stock. In this

regard, The Equitable Company of Texas, Dallas, Texas, a wholly owned subsidiary of MCorp Financial Corporation, has applied to become a bank holding company by acquiring nonvoting, Series A, preferred stock, and common stock warrants of United Banks, N.A. as listed above.

Board of Governors of the Federal Reserve System, December 18, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-33386 Filed 12-21-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[GSAR Notice No. 5-1]

General Services Administration Acquisition Regulation (GSAR) Subscription

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of GSAR subscription survey.

SUMMARY: The Office of Acquisition Policy, GSA, is considering making the looseleaf edition of the General Services Administration Acquisition Regulation (GSAR) available to the public on a subscription basis. The looseleaf version is currently only available to GSA contracting activities. This survey is being conducted in order to determine whether there is sufficient interest to warrant establishment of a subscription program. If a program is established, the subscription price will be dependent upon the number of subscribers. Each party responding to this notice will be advised, by letter, of GSA's decision regarding this matter.

DATE: Expressions of interest are due, in writing, not later than March 25, 1985.

ADDRESS: If you are interested in subscribing, send your letter, indicating name, address, and number of copies required, to Ms. Carol A. Farrell, Office of GSA Acquisition Policy and Regulations (VP), 18th & F Sts., NW, Room 4027, Washington, DC 20405.

SUPPLEMENTARY INFORMATION: The GSAR is the agency's supplement to the Federal Acquisition Regulation (FAR). The GSAR was published in the March 22, 1984, *Federal Register* as Part III. All subsequent changes to the GSAR have also been published in various editions of the *Federal Register*. In addition, the GSAR will be published annually in the Code of Federal Regulations (48 CFR Chapter 5), which may be purchased through the Government Printing Office.

Dated: December 17, 1984.

Ida Ustad,

Acting Director, Office of GSA Acquisition Policy and Regulations.

[FR Doc. 84-32353 Filed 12-21-84; 8:45 am]

BILLING CODE 6820-61-M

Federal Information Resources Management Regulation (FIRMR); Procedures for Subscribing to the Looseleaf Edition

AGENCY: Office of Information Resources Management, GSA.

ACTION: Notice of procedures for private organizations and other interested parties to subscribe to the looseleaf edition of the FIRMR.

SUMMARY: This notice supplements the *Federal Register* notice (49 FR 45748, November 20, 1984) that provided final notice of procedures for Federal agencies/departments to order the looseleaf edition of the FIRMR. It announces procedures for private sector organizations and other interested parties to subscribe to the looseleaf edition of the FIRMR from the Superintendent of Documents, Government Printing Office.

FOR FURTHER INFORMATION CONTACT: Carolyn A. Thomas, Policy Branch (KMPP), Office of Information Resources Management, telephone (202) 566-0194 or FTS, 566-0194.

SUPPLEMENTARY INFORMATION: (1) The General Services Administration established the Federal Information Resources Management Regulation on April 1, 1984. The FIRMR is located in the Code of Federal Regulations at Title 41 as a new Chapter 201.

(2) The FIRMR combines certain provisions of the Federal Procurement Regulations (FPR) and the Federal Property Management Regulations (FPMR) that concern the acquisition, management, and use of information resources (including automatic data processing (ADP), office automation, records management, and telecommunications) into a single regulation. The complete text of the FIRMR, including the integrated text of former FPR/FPMR provisions and temporary regulations, is scheduled for publication in the *Federal Register* during December 1984. Subscription copies of the looseleaf edition will be available as soon as possible after that time.

(3) The looseleaf edition of the FIRMR offered by subscription consists of about 250 pages of basic text, including the complete codified text and all current temporary regulations and bulletins. The

subscription includes distribution of new temporary regulations, information and guidance bulletins, indices of current bulletins, handbooks, reports, etc., as they are issued.

(4) Private sector companies, associations, businesses, publishers, and other interested parties wishing to subscribe to the looseleaf edition of the FIRM should write or call the Superintendent of Documents, Government Printing Office, Washington, DC 20402, telephone: (202) 783-3238. Cost per subscription is \$66.00 for domestic orders and \$82.50 for orders outside the United States. Orders should reference the title, FIRM, and the cost per subscription. GPO requires advance remittance for those orders not charged to VISA, Mastercard, or GPO charge accounts.

Dated: December 17, 1984.

Francis A. McDonough,

Deputy Assistant Administrator for Federal Information Resources Management.

[FR Doc. 84-33054 Filed 12-21-84; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Medical Radiation Advisory Committee; Request for Nominations for Membership

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for membership on the Medical Radiation Advisory Committee. There is currently one vacancy on the committee and there will be three additional vacancies on June 30, 1985.

DATE: Nominations must be received by January 23, 1985.

ADDRESS: Nominations and curricula vitae must be sent to Kay A. Levin, Center for Devices and Radiological Health (HFZ-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3516.

FOR FURTHER INFORMATION CONTACT: Robert J. Morton, Jr., Center for Devices and Radiological Health (HFZ-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4600.

SUPPLEMENTARY INFORMATION: The function of the Medical Radiation Advisory Committee is to advise the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Commissioner of Food

and Drugs in the formulation of policy and development of a coordinated program relating to the medical application of radiation directed at obtaining the maximum diagnostic information and therapeutic benefits per unit of radiation exposure through optimum utilization of professional and technical resources and radiation related equipment.

The committee meets approximately twice a year and has advised FDA on programs related to the medical and dental use of radiation, diagnostic imaging and therapeutic radiation devices, training and education of medical radiation users, and the development of policy statements on the effective use of medical radiation.

Among its current activities, the committee reviews radiological training and education programs; advises on radiation devices guidelines and standards; and considers efficacy in relation to the selection and character of medical and dental uses of radiation.

The committee consists of 13 members including the chair selected by the Secretary, or a designee, from among authorities in the fields of medicine, dentistry, public health, physics, engineering, and related health sciences who are knowledgeable about the theory, applications, and use of radiation in the healing arts. For the 1985 membership, the Medical Radiation Advisory Committee will have particular need for candidates with knowledge of medical diagnosis and decisionmaking, diagnostic imaging technology, health care delivery, and radiation therapy. Members are invited to serve for overlapping terms of 4 years. There is currently one vacancy on the committee. Effective July 1, 1985, there will be three additional vacancies. Interested persons are invited to submit names of qualified candidates and accompanying curriculum vitae and pertinent information.

In a previous notice published in the *Federal Register* of January 19, 1984 (49 FR 2312), FDA requested nominations of qualified persons to replace members whose terms expired on June 30, 1984. Eligible individuals nominated in response to that notice who were not selected will be reconsidered for the subject vacancies.

FDA has a special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates.

Any interested person may nominate one or more qualified persons for

membership. A complete curriculum vitae of the nominee shall be included. A business address and telephone number here the person can be reached during the day should be included. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflict of interest.

Dated: December 18, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-33340 Filed 12-21-84; 8:45 am]

BILLING CODE 4160-01-M

Request for Nominations for Voting Members on Public Advisory Committees

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for voting members to serve on certain advisory committees in the Center for Drugs and Biologics. Nominations will be accepted for current vacancies and vacancies that will or may occur on the committees during the next 12 months.

FDA has a special interest in ensuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates. Final selection from among qualified candidates for each vacancy will be determined by the expertise required to meet specific agency needs and in a manner to ensure appropriate balance of membership.

DATES: Because scheduled vacancies occur on various dates throughout each year, no cutoff date is established for receipt of nominations.

ADDRESS: All nominations for membership, except for consumer-nominated members, should be sent to Morris Schaeffer (address below).

All nominations for consumer-nominated positions should be sent to Naomi Kulakow (address below).

FOR FURTHER INFORMATION CONTACT:

Morris Schaeffer, Office of Scientific Advisors and Consultants (HFN-31), Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5455;

or

Naomi Kulakow, Office of Consumer Affairs (HFE-40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5006.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations of members for the following 16 advisory committees for vacancies listed below. Individuals should have expertise in the activity of the committee.

1. Anesthetic and Life Support Drugs Advisory Committee: two vacancies occurring June 30, 1985.

2. Anti-Infective Drugs Advisory Committee: three vacancies occurred November 30, 1984.

3. Arthritis Advisory Committee: three vacancies occurring September 30, 1985, including the consumer-nominated member.

4. Cardiovascular and Renal Drugs Advisory Committee: two vacancies occurring June 30, 1985.

5. Dermatologic Drugs Advisory Committee: three vacancies occurring August 31, 1985, including the consumer-nominated member.

6. Endocrinologic and Metabolic Drugs Advisory Committee: one vacancy occurring June 30, 1985.

7. Fertility and Maternal Health Drugs Advisory Committee: two vacancies occurring June 30, 1985.

8. Gastrointestinal Drugs Advisory Committee: one vacancy occurring June 30, 1985.

9. Oncologic Drugs Advisory Committee: three vacancies occurring June 30, 1985.

10. Peripheral and Central Nervous System Drugs Advisory Committee: two vacancies occurring January 31, 1985.

11. Psychopharmacologic Drugs Advisory Committee: three vacancies occurring June 30, 1985, including the consumer-nominated member.

12. Pulmonary-Allergy Drugs Advisory Committee: three vacancies occurring June 30, 1985, including the consumer-nominated member.

13. Radiopharmaceutical Drugs Advisory Committee: two vacancies occurring June 30, 1985, including the consumer-nominated member.

The functions of the 13 committees listed above are to review and evaluate available scientific, technical, and

S-054999 0063(05)(21-DEC-84-15:31:38)

medical data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the area of medical specialties indicated by the title of the committee and to make appropriate recommendations to the Commissioner of Food and Drugs.

14. Drug Abuse Advisory Committee: three vacancies occurring June 30, 1985.

The functions of the drug Abuse Advisory Committee are to: (1) Advise the Commissioner regarding the scientific and medical evaluation of all information gathered by both the Department of Health and Human Services (HHS) and the Department of Justice regarding the safety, efficacy, and abuse potential for drugs or other substances; and (2) recommend actions to be taken by HHS regarding the marketing, investigation, and control of such drugs or other substances.

15. Blood Products Advisory Committee: four vacancies occurring September 30, 1985.

16. Vaccines and Related Biological Products Advisory Committee: Three vacancies occurring January 31, 1985.

The functions of the two committees listed above are to review and evaluate available scientific, technical, and medical data concerning the safety, effectiveness, and appropriate use of blood and products derived from blood and serum and vaccines and other immunological products intended for use in the diagnosis, prevention, or treatment of human diseases, and to make appropriate recommendations to the Commissioner of Food and Drugs.

Criteria for Members

Persons nominated for membership on the committees described above must have adequately diversified research and/or clinical experience appropriate to the work of the committee in such fields as anesthesiology, surgery, infectious diseases, rheumatology, cardiology, dermatology, endocrinology, obstetrics and gynecology, gastroenterology, oncology, neurology, psychiatry, nuclear medicine, internal medicine, epidemiology, statistics, hematology, immunology, blood banking, virology, bacteriology, allergy, pediatrics, microbiology, and biochemistry, or other appropriate areas of expertise.

The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, research, and/or public service relevant to the field of activity of the committee. The term of office is ordinarily 4 years.

Criteria for Consumer-Nominated Members

FDA currently attempts to place on each of the committees described above one voting member who is nominated by consumer organizations. These members are recommended by a consortium of 12 consumer organizations which has the responsibility for screening, interviewing, and recommending consumer-nominated candidates with appropriate scientific credentials. Candidates are sought who are aware of the consumer impact of committee issues, but who also possess enough technical background to understand and contribute to the committee's work. This would involve, for example, an understanding of research design, benefit/risk, and the legal requirements for safety and efficacy of the products under review, and considerations regarding individual products. The agency notes, however, that for some advisory committees, it may require such nominees to meet the same technical qualifications and specialized training required of other expert members of the committee. The term of office for these members is 4 years. Nominations for all committees listed above are invited for consideration for membership as openings become available.

Nomination Procedure

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory committees. Nominations shall specify the committee for which the nominee is recommended. Nominations shall state that the nominee is aware of the nomination, is willing to serve as member of the advisory committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92-463, 86 stat. 770-776 [5 U.S.C. App. I]) and 21 CFR Part 14, relating to advisory committees.

Dated: December 18, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-33344 Filed 12-21-84; 8:45 am]

BILLING CODE 4160-01-M

[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 correcting an error in the notice concerning the hearing on Parafon Forte Tablets. The phone number for the contact person was incorrect. In FR Doc. 84-31490 appearing at page 47336 in the *Federal Register* of December 3, 1984, on page 47336 in the center column, the phone number "301-443-3490" is corrected to read "301-443-3480."

Dated: December 18, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-33342 Filed 12-21-84; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Meetings**AGENCY:** Food and Drug Administration.
ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Endocrinologic and Metabolic Drugs Advisory Committee

Date, time, and place. January 14 and 15, 9 a.m., Lister Hill Auditorium, National Library of Medicine, NIH, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, January 14, 9 a.m. to 10 a.m.; open committee discussion, January 14, 10 a.m. to 5 p.m.; January 15, 9 a.m. to 12 m.; A.T. Gregoire, Center for Drugs and Biologics (HFN-810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1869.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for treatment of endocrine and metabolic 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. On January 14, the committee will discuss drug induced hypogonadism and bone loss and indications for Vasopressin (Pitressin, Synthetic) (NDA 19-286). On January 15, the committee will consider Rocaltrol for the treatment of senile osteoporosis (NDA 18-044).

Drug Abuse Advisory Committee

Date, time and place. January 17 and 18, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, January 17, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to conclusion; open public hearing, January 18, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to conclusion; Frederick J. Abramek, Center for Drugs and Biologics (HFN-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4020.

General function of the committee. The committee advises the Commissioner of Food and Drugs regarding the scientific medical evaluation of all information gathered by the Department of Health and Human Services and the Department of Justice with regard to safety, efficacy, and abuse potential of drugs or other substances, and recommends actions to be taken by the Department of Health and Human Services with regard to marketing, investigation, and control of such drugs or other substances.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The Committee will discuss the following:

1. Midazolam, NDA 18-654: recommendation for control under the Controlled Substances Act.
2. Nalmefene, IND 21.266: recommendation for control under the Controlled Substances Act.
3. LAAM: the possible justifications for the final development for this therapeutic alternate to methadone in the maintenance treatment of narcotic addiction.

Psychopharmacologic Drugs Advisory Committee

Date, time, and place. January 31, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing January 31, 9 a.m.

to 10 a.m.; open committee discussion, 10 a.m. to conclusion; Frederic J. Abramek, Center for Drugs and Biologics (HFN-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4020.

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 practice of psychiatry and related fields.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will be asked to review and endorse the final draft of the proposed uniform labeling on tardive dyskinesia for neuroleptic drugs used in the treatment of psychiatric illness.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and time reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings. This guideline was published in the *Federal Register* of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA's public proceedings, including hearings before a public advisory committee conducted pursuant to Part 14 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or

otherwise record FDA's public administrative proceedings, including the presentation of participants at a public hearing. Accordingly, all interested persons are directed to the guideline, as well as the **Federal Register** notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on public hearings.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing porting of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committee.

Dated: December 18, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-33343 Filed 12-21-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84D-0361]

Effectiveness Evaluation of Topical/Otic Animal Drugs; Availability of Guideline

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the "Guideline For Effectiveness Evaluation of Topical/Otic Animal Drugs" prepared by the Office of

New Animal Drug Evaluation, Center for Veterinary Medicine. The guideline provides guidance concerning the development and evaluation of data to establish effectiveness of topical/otic animal drugs. Interested persons may submit written comments on the guideline at any time.

ADDRESS: The guideline and comments received are available for public examination at, written comments may be submitted to, and requests for single copies may be sent to, the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Bob. G. Griffith, Center for Veterinary Medicine (HFV-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1963.

SUPPLEMENTARY INFORMATION: The Federal Food, Drug, and Cosmetic Act (the act) requires that a new animal drug be the subject of an approved new animal drug application (NADA) before it may be marketed. Section 512(b)(1) of the act (21 U.S.C. 360b(b)(1)) requires that each NADA include full reports of investigations that show that the drug is safe and effective. Section 512(d) of the act describes the criteria that must be met before a new animal drug may be approved, including that it be safe and effective for use as labeled. Section 514.1(b)(8) of the animal drug regulations (21 CFR 514.1(b)(8)) describes the information that is required to be included in an NADA to establish safety and effectiveness.

The "Guideline For Effectiveness Evaluation of Topical/Otic Animal Drugs" describes procedures the agency considers acceptable for NADA sponsors to follow in developing data to establish the effectiveness of topical/otic animal drugs, and states criteria for the evaluation of such data by the agency. The term "topical/otic drug" as used in the guideline means an animal drug for topical application, including administration to the external auditory canal, that is intended for the prevention or treatment of a condition affecting, or that is intended to affect the structure or function of, the integument and/or external auditory canal. The guideline is applicable only to topical/otic products containing any one or a combination of antibacterial, antiinflammatory, and antifungal agents. The guideline outlines critical elements involved in establishing the rationale for a proposed product; defines topical categories; identifies variables affecting effectiveness; discusses the influence of drug release; outlines classes, testing methodology, and uses of animal

models; covers a practical view of assessing inter-species extrapolation and dose determination; and suggests testing procedures for combination preparation.

This notice of availability is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency. A person who follows a guideline is assured that use of its procedures for a study will be acceptable. A person may also choose to use alternative procedures. A person who chooses to depart from a guideline is encouraged to discuss the alternative procedures with the agency prior to initiating studies to prevent expenditure of money and effort for work that may later be determined unacceptable.

The guideline is available for public examination at, and requests for single copies may be sent to, the Dockets Management Branch (HFA-305) (address above).

Interested persons may submit written comments on the guideline at any time to the Dockets Management Branch (HFA-305). Such comments will be considered in determining if revisions of the guideline are required. Respondents should submit two copies (except that individuals may submit single copies) identified with Docket No. 84D-0361. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 18, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-33341 Filed 12-21-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84-0412]

Amprolium for Use in Pheasants; Availability of Data

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of safety, effectiveness, and environmental data to be used in support of a new animal drug application (NADA) for use of amprolium in pheasant feed. The data, contained in Public Master File (PMF) 3887, were compiled under Interregional Research Project No. 4 (IR-4), a national agricultural program, for obtaining clearances for use of agricultural products for minor or special uses.

ADDRESS: Submit NADA's to Document Control Section (HFV-16), Center for Veterinary Medicine, Food and Drug Administration, Rm. 6B-45, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Adriano R. Gabuten, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION:

The use of amprolium in pheasant feed is a new animal drug use under section 201(w) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(w)). As a new animal drug it is subject to section 512 of the act (21 U.S.C. 360b) requiring that its uses be the subject of an approved NADA. Rutgers University, IR-4 Project, Cook College, New Brunswick, NJ 08903, has provided data and information to demonstrate effectiveness and safety to the target animal for use of amprolium in complete feed for prevention of coccidiosis in growing pheasants caused by *Eimeria colchici*, *E. duodenalis*, and *E. phasianis*. The PMF also contains data from a tissue residue study in pheasants; however, it does not contain any additional human food safety data. The Center for Veterinary Medicine has provided an environmental assessment of the proposed use. The data and information are contained in PMF 3887. Sponsors of NADA's or supplemental NADA's may reference without further authorization the PMF to support approval. An NADA or supplemental NADA should include, in addition to a reference to the PMF, drug labeling and other information needed for approval, such as data concerning human food safety; manufacturing methods; facilities and controls; and information addressing the potential environmental impacts of the manufacturing process. Persons desiring more information concerning the PMF or requirements for approval of an NADA may contact the individual named above.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), as summary of safety and effectiveness data and information in this PMF may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Dated: December 18, 1984.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 84-33338 Filed 12-21-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84N-0413]

Ivermectin for Use in Reindeer; Availability of Data

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of safety, effectiveness, and environmental data to be used in support of a new animal drug application (NADA) for use of ivermectin in reindeer. The data, contained in Public Master File (PMF) 3895, were compiled under Interregional Research Project No. 4 (IR-4), a national agricultural program, for obtaining clearances for use of agricultural products for minor or special uses.

ADDRESS: Submit NADA's to Document Control Section (HFV-16), Center for Veterinary Medicine, Food and Drug Administration, Rm. 6B-45, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Adriano R. Gabuten, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: The use of ivermectin in reindeer is a new animal drug use under section 201(w) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(w)). As a new animal drug it is subject to section 512 of the act (21 U.S.C. 360b) requiring that its uses be the subject of an approved NADA. Rutgers University, IR-4 Project, Cook College, New Brunswick, NJ 08903, has provided data and information to demonstrate effectiveness and safety to the target animal for subcutaneous use of ivermectin injection for treatment and control of warbles (*Oedemagena tarandi*) in reindeer. The PMF contains tissue residue data from a study in reindeer; however, it does not contain any additional human food safety data. IR-4 has also provided an environmental assessment of the proposed use. The data and information are contained in PMF 3895. Sponsors of NADA's or supplemental NADA's may reference without further authorization the PMF to support approval. An NADA or supplemental NADA should include, in addition to a reference to the PMF,

drug labeling and other information needed for approval, such as data concerning human food safety; manufacturing methods; facilities and controls; and information addressing the potential environmental impacts of the manufacturing process. Persons desiring more information concerning the PMF or requirements for approval of an NADA may contact the individual named above.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information in this PMF may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Dated: December 18, 1984.

Gerald B. Gest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 84-33339 Filed 12-21-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84M-0395]

3M Company; Premarket Approval of 3M Brand Cochlear Implant System/House Design, Model 7700

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by 3M Company, St. Paul, MN, for premarket approval, under the Medical Device Amendments of 1976, of the 3M Brand Cochlear Implant System/House Design, Model 7700. After reviewing the recommendation of the Ear, Nose, and Throat Devices Panel (formerly the Ear, Nose, and Throat Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel), FDA notified the applicant that FDA approved the application because the applicant had shown the device to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by January 23, 1985.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

David A. Segerson, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: On October 13, 1983, 3M Company, St. Paul, MN 55144, submitted to FDA an application for premarket approval of the 3M Brand Cochlear Implant System/House Design, Model 7700. The device is indicated for restoring a level of auditory sensation via the electrical stimulation of the auditory nerve in adults (age 18 years and older) who have profound sensorineural deafness and who cannot significantly benefit from appropriate amplification by a hearing aid. The Ear, Nose, and Throat Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On November 26, 1984, FDA approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, Center for Devices and Radiological Health.

A summary of the safety and effectiveness data on which FDA based its approval is on file with the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at the Center for Devices and Radiological Health—contact David A. Segerson (HFZ-470), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of

material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the *Federal Register*. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before January 23, 1985, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 18, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-33337 Filed 12-21-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N-0096; DESI 12152]

Drugs for Human Use; Drug Efficacy Study Implementation; Prescription Drug for Cough, Cold, or Allergy; Withdrawal of Approval

Correction

In FR Doc. 84-32313 appearing on page 48387 in the issue of Wednesday, December 12, 1984, make the following correction: In the second column, in the "FOR FURTHER INFORMATION CONTACT" paragraph, "David T. Reed" should read "David T. Read".

BILLING CODE 1505-01-M

Health Care Financing Administration

Privacy Act of 1974; Proposed Amendment to System of Records

AGENCY: Health Care Financing Administration, HHS.

ACTION: Notice of proposed new routine use for an existing system of records.

SUMMARY: The Health Care Financing Administration (HCFA) is amending the system notice for its Medicare Bill File (Statistics) system, #09-70-0005, to add a new routine use. We invite comments on the new routine use.

EFFECTIVE DATES: The proposed new routine use shall take effect without further notice on or before January 23, 1985, unless comments received on or

before that date cause a contrary decision.

ADDRESS: Please address comments to: Richard A. Demeo, HCFA Privacy Officer, Health Care Financing Administration, 2-F-2 East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207. We will make comments received available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Glenn J. Martin, Office of Information Resources Management, G-A-2 Meadows East Building, 6300 Security Boulevard, Baltimore, Maryland 21207, Telephone (301) 594-4883.

SUPPLEMENTARY INFORMATION: The notice for the Medicare Bill File (Statistics) system, #09-70-0005, was most recently published at 47 FR 45696 (1982). This system contains records on bills for services furnished to persons enrolled in the hospital insurance or supplementary medical benefits part of the Medicare program. Also included are demographic data on beneficiaries, diagnosis and surgery data, and provider characteristics. Data in this file are used primarily for statistical and research purposes. The system includes the Medicare Provider Analysis and Review (MEDPAR) file, consisting of data from hospital bills of a 20 percent sample of Medicare beneficiaries discharged from short-stay hospitals. We are proposing to establish a routine use to permit HCFA to disclose much of the information in the MEDPAR file to persons with a legitimate need for data for statistical analyses relating to Medicare payment policies for inpatient hospital services who agree in writing not to make any effort to deduce the identity of beneficiaries, not to disclose raw data except in very limited circumstances, not to link these records to other beneficiary-specific records, not to publish or otherwise disclose data in a form raising unacceptable possibilities that beneficiaries could be identified, and to maintain the security of the data from unauthorized access.

Data in the MEDPAR file were used in developing amounts to be paid under the Medicare Prospective Payment System (PPS) and in calculating the case mix index for hospitals participating in the Medicare program. Individual hospitals, hospital associations, and the representatives of individual hospitals and groups of hospitals have expressed interest in obtaining access to MEDPAR data in order to review or evaluate the effect of Medicare payment policies, including PPS, on their hospital(s). (An individual hospital can already get MEDPAR data for inpatients from that

hospital, but neither an individual hospital nor other interested persons can get data deriving from other hospitals without this routine use.) They have indicated that identifiable data are not needed for these purposes, and that their needs could be met by a modified MEDPAR file stripped of the data elements that might permit identification of beneficiaries with unique characteristics. Such a file has been prepared and would be released to those persons qualifying under the terms of the proposed new routine use. The modified MEDPAR file would not include the following data elements: Health insurance claim number, age (except in intervals), sex, race, Medicare status code, beneficiary State and county of residence and Zip code (except to indicate whether the beneficiary resides in the same State as the provider), date of admission (except to identify the calendar quarter/year), date of discharge (except to identify the calendar quarter/year), and date of surgery (except to identify the number of pre-surgery days). Note that the beneficiary's name is not part of the MEDPAR file.

To comply with the technical requirements of the Privacy Act, we are proposing to establish the routine use below:

(5) To entities with a legitimate need for data for statistical analyses bearing on Medicare payment policies for inpatient hospital services. Information disclosed for this purpose will not include a beneficiary's health insurance claim number, sex, race, or Medicare status code; the beneficiary's age will be identified only by age intervals; the beneficiary's residence will be identified only to the extent of stating whether he or she resides in the same State as the provider; the admission and discharge dates will be identified only by calendar quarter; and the date of surgery will be identified only as the number of days after admission. The entity must agree:

- (a) Not to try to identify individual beneficiaries;
- (b) Not to disclose raw data to any persons except contractors for data processing and storage (and it must agree to require any such contractor not to release any data and not to retain any data after performing the contract);
- (c) Not to link this information to other beneficiary-specific records;
- (d) Not to publish or otherwise disclose data in a form raising unacceptable possibilities that beneficiaries could be identified; and
- (e) To safeguard the confidentiality of the data and to try to prevent unauthorized access to it.

This new routine use is compatible with the purposes for which the information is collected. MEDPAR data were used in determining how hospitals would be paid under the Medicare PPS. Giving hospitals and similarly interested parties access to the data used in making these determinations will help provide assurance that the determinations are accomplishing their intended purposes, and it will make the public discussion of Medicare payment policies a more informed one. Both of these are compatible purposes. This can be accomplished with no reduction in beneficiaries' privacy because we will not release reasonably identifiable data and because recipients will agree in writing to protect the data from attempts to identify beneficiaries and from unauthorized access.

This action does not require a report of altered system under 5 U.S.C. 552a(o). The complete system notice is below.

Dated: December 18, 1984.

Carolyn K. Davis,
Administrator, Health Care Financing
Administration.

09-70-0005

SYSTEM NAME:

Medicare Bill File (Statistics) HHS,
HCFA, BDMS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Systems Operations, OS,
SSA, 6401 Security Boulevard,
Baltimore, Maryland 21235.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons enrolled in hospital insurance or supplemental medical benefits parts of the Medicare program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Bill data; demographic data on the beneficiary, diagnosis and surgery codes on a sampling of the population; provider characteristics.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1875 of the Social Security Act (42 U.S.C. 1395ll).

PURPOSE(S):

To study the operation and effectiveness of the Medicare program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made: (1) To a congressional office from the record of an individual in response to an inquiry

from the congressional office made at the request of that individual.

(2) To the Bureau of Census for use in processing research and statistical data directly related to the administration of Social Security programs.

(3) In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

(4) To an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, or the restoration or maintenance of health if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form.

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use would be accomplished;

c. Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual.

(b) For use in another research project, under these same conditions, and with written authorization of HCFA.

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit or

(d) When required by law;

d. Secures a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions.

(5) *To entities with a legitimate need for data for statistical analyses bearing on Medicare payment policies for inpatient hospital services. Information disclosed for this purpose will not include a beneficiary's health insurance claim number, sex, race, or Medicare status code; the beneficiary's age will be identified only by age intervals; the beneficiary's residence will be identified only to the extent of stating whether he or she resides in the same State as the provider; the admission and discharge dates will be identified only by calendar quarter; and the date of surgery will be identified only as the number of days after admission. The entity must agree:*

(a) *Not to try to identify individual beneficiaries,*

(b) *Not to disclose raw data to any persons except contractors for data processing and storage (and it must agree to require any such contractor not to release any data and not to retain any data after performing the contract),*

(c) *Not to link this information to other beneficiary-specific records,*

(d) *Not to publish or otherwise disclose data in a form raising unacceptable possibilities that beneficiaries could be identified, and*

(e) *To safeguard the confidentiality of the data and to try to prevent unauthorized access to it.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on magnetic tape.

RETRIEVABILITY:

All records are indexed by health insurance claim number and by hospital provider number.

SAFEGUARDS:

For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g., security codes) will be used, limiting access to authorized personnel.

RETENTION AND DISPOSAL:

Records are maintained with identifiers as long as needed for program research.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Bureau of Data Management and Strategy, Room 2424, Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURE:

For purpose of access, write the systems manager, who will require name of system, health insurance claim number and for verification purposes, name (women's maiden name, if applicable), social security number, address, date of birth and sex; and to ascertain whether the individual's record is in the system, utilization and date of utilization under Part A or Part B of Medicare services, home health agency, hospital (inpatient), hospital (outpatient) or skilled nursing facility.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with the Department Regulations (45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

Contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department Regulations (45 CFR 5b.7).)

RECORD SOURCE CATEGORIES:

Medicare enrollment records: Medicare bill records: Medicare provider records for a sample of persons treated as hospital patients (inpatient and outpatient) and skilled-nursing facility patients.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-33315 Filed 12-21-84; 8:45 am]

BILLING CODE 4120-03-M

National Institutes of Health

Consensus Development Conference on Travelers' Diarrhea; Meeting

Notice is hereby given of the NIH Consensus Development Conference on "Travelers' Diarrhea," sponsored by the National Institute of Allergy and Infectious Diseases and the NIH Office of Medical Applications of Research. The conference will be held January 28-30, 1985, in the Masur Auditorium of the Warren Grant Magnuson Clinical Center (Building 10) at the National Institutes of Health, 8600 Rockville Pike, Bethesda, Maryland 20205.

This conference will present a review of recent studies showing that a majority of bouts of diarrhea, acquired as a result of travel to less developed countries, can be prevented by antibiotic prophylaxis. More than one-third of travelers from industrialized nations to developing countries develop diarrhea and associated gastrointestinal ailments. There continues to be debate as to whether the risk of antibiotics is worth the gain; whether all treatment regimens are equally effective; and whether any or all groups of travelers should be advised to take antibiotics to prevent diarrheal illness.

The conference will bring together infectious diseases experts, practicing physicians, epidemiologists, and representatives of the travel industry. Following two days of presentations by medical experts and discussion by the audience, a Consensus Panel will consider the scientific evidence presented. The panel members, including representatives of the medical professions and the lay public, will formulate a draft statement responding to the following key questions:

- What is the epidemiology of travelers' diarrhea and why is it important?
- What causes travelers' diarrhea?
- What prevention measures are effective for travelers' diarrhea?
- What treatment measures are effective for travelers' diarrhea?
- What should be the direction of future research?

On the third day, Consensus Panel Chairman, Sherwood Gorbach, M.D., Professor of Medicine and Microbiology, Tufts University School of Medicine, will read the Consensus Statement before the conference audience and invite comments and questions.

Information on the program may be obtained from Ms. Michelle Dillon, Prospect Associates, 2115 East Jefferson Street, Suite 401, Rockville, Maryland 20852, (301) 468-6555.

Dated: December 17, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-33363 Filed 12-21-84; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the following study sections for January through February 1985, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, for the review, discussion

and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20205, telephone 301-496-7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	January to February 1985 meetings	Time	Location
Behavioral and Neurosciences—1, Mr. Gene Headley, Rm. 455, Tel. 301-496-7795.	Jan. 17-18	8:30	Room 10, Bldg. 31C, Bethesda, MD.
Behavioral and Neurosciences—2, Ms. Janet Cuca, Rm. 455, Tel. 301-496-7795.	Jan. 31	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Behavioral and Neurosciences—3, Ms. Janet Cuca, Rm. 455, Tel. 301-496-7795.	Jan. 14	8:30	Room 8, Bldg. 31C, Bethesda, MD.
Biomedical Sciences—1, Ms. Joan D. Fredericks, Rm. A10, Tel. 301-496-1067.	Jan. 14-15	8:30	Room 4, Bldg. 31A, Bethesda, MD.
Biomedical Sciences—2, Ms. Joan D. Fredericks, Rm. A10, Tel. 301-496-1067.	Jan. 30-Feb. 1	8:30	Room 8, Bldg. 31C, Bethesda, MD.
Biomedical Sciences—3, Dr. Charles Baker Rm. A10, Tel. 301-496-7150.	Jan. 9	8:30	Room 8, Bldg. 31C, Bethesda, MD.
Biomedical Sciences—4, Dr. Charles Baker, Rm. A10, Tel. 301-496-7150.	Jan. 15	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Biomedical Sciences—5, Dr. W. Elbert Wilson, Rm. A25, Tel. 301-496-7286.	Jan. 14-16	8:30	Room 10, Bldg. 31C, Bethesda, MD.
Biomedical Sciences—5, Dr. W. Elbert Wilson, Rm. A25, Tel. 301-496-7286.	Feb. 8	8:30	Holiday Inn, Bethesda, MD.
Clinical Sciences—1, Dr. Lynwood Jones, Jr., Rm. A19, Tel. 301-496-7510.	Jan. 16-18	8:30	Holiday Inn, Georgetown, DC.
Clinical Sciences—2, Dr. Bernice Lipkin, Rm. A19, Tel. 301-496-7477.	Jan. 14-16	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Clinical Sciences—3, Dr. Lynwood Jones, Jr., Rm. A19, Tel. 301-496-7510.	Jan. 10-11	8:30	Holiday Inn, Georgetown, DC.
Clinical Sciences—4, Dr. Bernice Lipkins, Rm. A19, Tel. 301-496-7477.	Jan. 17-18	8:30	Room 7, Bldg. 31C, Bethesda, MD.

[Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393-13.396, 13.837-13.844, 13.846-13.878, 13.892, 13.893, National Institutes of Health, HHS]

Dated: December 10, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-33367 Filed 12-21-84; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Advisory Board Subcommittee on Cancer Information; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Cancer Advisory Board, Subcommittee on Cancer Information, National Cancer Institute, to be held January 3, 1985, 11:00 a.m. to 3:00 p.m., Howard Johnson Ft. Lauderdale Airport Hotel, 1400 N. Federal Highway, Dania, Florida 33004. The entire meeting will be

open to the public to discuss future plans for the implementation of this subcommittee. Attendance by the public will be limited to space available. The National Cancer Advisory Board charter is now in the process of being amended to include the Subcommittee on Cancer Information.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Mr. J. Paul Van Nevel, Executive Secretary, Subcommittee on Cancer Information, National Cancer Institute, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20205 (301/496-6631) will furnish substantive program information.

This notice is being published less than 15 days prior to the meeting because of the difficulty of coordinating the attendance of the members due to their conflicting commitments during the Holidays.

Dated: December 14, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-33365 Filed 12-21-84; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting

Notice is hereby given of the meeting of the National High Blood Pressure Education Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute on January 11, 1985, from 9:00 a.m. to 2:30 p.m., Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

The entire meeting is open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in the National High Blood Pressure Education Program. Attendance by the public will be limited to space available.

For the detailed program information, agenda, list of participants, and meeting summary, contact; Dr. Edward J. Roccella, Coordinator, Health Education Branch, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 4A18, Bethesda, Maryland 20205, (301) 496-9737.

Dated: December 10, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-33364 Filed 12-21-84; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meetings of the National Heart, Lung, and Blood Advisory Council and Its Manpower Subcommittee and Research Subcommittee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, February 14-15, 1985, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland 20205. In addition, the Manpower Subcommittee and the Research Subcommittee of the above Council will meet on February 13, 1985, at 8:00 p.m. in Building 31, Conference Rooms 9 and 10, respectively.

The Council meeting will be open to the public on February 14 from 9:00 a.m. to approximately 2:00 p.m. for discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the Council meeting will be closed to the public from approximately 2:00 p.m. on February 14 to adjournment on February 15 for the review, discussion, and evaluation of individual grant applications. The meetings of the Manpower Subcommittee and the Research Subcommittee of the above Council on February 13 will be closed from 8:00 p.m. to adjournment for the review, discussion, and evaluation of individual grant applications.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Public Inquiries 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 summaries of the meetings and rosters of the Council members.

Dr. Jerome G. Green, Executive Secretary of the Council, Westwood

Building, Room 7A-17, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-7416, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: December 10, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-33362 Filed 12-21-84; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of Blood Diseases and Resources Advisory Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Blood Diseases and Resources Advisory Committee, National Heart, Lung, and Blood Institute, February 25-26, 1985, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. The Committee will meet in Building 31, Conference Room 8, C Wing

The entire meeting will be open to the public from 9:00 AM to 5:00 PM on February 25, and from 8:30 AM to adjournment on February 26, to discuss the status of the Blood Diseases and Resources program needs and opportunities. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiries and 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 summaries of the meeting and rosters of the Committee members.

Dr. Fann Harding, Assistant to the Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Federal Building, Room 5A-08, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-1817, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: December 17, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-33366 Filed 12-21-84; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; Meeting of the National Advisory Child Health and Human Development Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, January 28-29, 1985, in Building 31, Conference Room 10, National Institutes of Health, Bethesda, Maryland, and the meeting of the Subcommittee on Planning on January 28 from 8:30 a.m. to 9:30 a.m. in Building 31, Room 2A03.

The Council meeting will be open to the public on January 28 from 9:30 a.m. until 5:00 p.m. The agenda includes a report by the Acting Director, NICHD, and a presentation by the Human Learning and Behavior Branch, Center for Research for Mothers and Children. The meeting will be open on January 29 immediately following the review of applications if any policy issues are raised which need further discussion. The Subcommittee meeting will be open on January 28 from 8:30 a.m. to 9:30 a.m. to discuss program plans and the agenda for the next Council meeting. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 29, from 9:00 a.m. to completion of the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, council Secretary, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland 20205, Area Code 301, 496-1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.864, Population Research, and 13.865, Research for Mothers and Children, National Institutes of Health)

Dated: December 10, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-33361 Filed 12-21-84; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Dental Research; Meeting of the National Advisory Dental Research Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Dental Research Council, National Institute of Dental Research, on January 28-29, 1985, in Conference Room 6, Building 31C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to recess on January 28 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on January 29 from 9:00 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Susan Woo, Council Secretary for the National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 503, Bethesda, Maryland 20205 (phone 301 496-7723), will furnish roster of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Programs Nos. 13.121—Diseases of the Teeth and Supporting Tissues; Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13.122—Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13.845—Dental Research Institutes; National Institutes of Health)

Dated December 10, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-33360 Filed 12-21-84; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Environmental Health Sciences; Meeting; National Advisory Environmental Health Sciences Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, January 22-23, 1985, at the National Institute of Environmental Health Sciences, Building

101 Conference Room, South Campus, Research Triangle Park, North Carolina.

This meeting will be open to the public on January 22 from 9 a.m. to approximately 12 noon for the report of the Director, NIEHS, and for discussion of the NIEHS budget, program policies and issues, recent legislation, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public January 22, from approximately 1:00 p.m. to adjournment on January 23, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Wilford L. Nusser, Associate Director for Extramural Program, NIEHS P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 541-7723, FTS 629-7723, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.112, Characterization of Environmental Health Hazards; 13.113, Biological Response to Environmental Health Hazards; 13.114, Applied Toxicological Research and Testing; 13.115, Biometry and Risk Estimation; 13.894, Resource and Manpower Development, National Institutes of Health)

Dated: December 10, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-33358 Filed 12-21-84; 8:45 am]

BILLING CODE 4140-01-M

National Institute of General Medical Sciences; Meeting of the National Advisory General Medical Sciences Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, on January 24 and 25, 1985, Building 31, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on January 24, 1985, from 8:30 a.m. to 11:00 a.m. for opening remarks; report of the Director, NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 24 from approximately 11:15 a.m. to 6:00 p.m., and on January 25, 1985, from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20205, Telephone: 301-496-7301 will provide a summary of the meeting and a roster of council members. Dr. Ruth L. Kirschstein, Executive Secretary, NAGMS Council, National Institutes of Health, Westwood Building, Room 926, Bethesda, Maryland 20205, Telephone: 301-496-7891 will provide substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13-821, Physiology and Biomedical Engineering; 13-859, Pharmacology-Toxicology Research; 13-862, Genetics Research; 13-863, Cellular and Molecular Basis of Disease Research; and 13-880, Minority Access to Research Careers [MARCI])

Dated: December 10, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-33359 Filed 12-21-84; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Neurological and Communicative Disorders and Stroke; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the committees of the National Institute of Neurological and Communicative Disorders and Stroke.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463,

for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of meetings rosters of committee members, and other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee: National Advisory Neurological and Communicative Disorders and Stroke Council and Its Planning Subcommittee.

Dates: January 30, 31 and February 1, 1985.
Place: National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20205.

Open: January 30, 1:00 p.m.—3:00 p.m. (Planning Subcommittee); January 31, 9:00 a.m.—3:00 p.m. (Council).

Agenda: To discuss program planning, program accomplishments and special reports.

Closed: January 30, 3:00 p.m.—5:00 p.m. (Planning Subcommittee); January 31, 3:00 p.m.—4:00 p.m. (Council); February 1, 8:30 a.m.—adjournment (Council).

Closure reason: For review of grant applications.

Executive Secretary: John C. Dalton, Ph.D., Director, NINCDS-EAP, National Institutes of Health, Bethesda, Maryland 20205, Telephone: 301/496-9248.

Name of Committee: Neurological Disorders Program Project Review A Committee.

Dates: February 24-26, 1985.

Place: Chateau LeMoyne, 301 Rue Dauphine, New Orleans, Louisiana 70112.

Open: February 24, 8:00 p.m.—8:30 p.m.

Closed: February 24, 8:30 p.m.—recess;

February 25, 8:30 p.m.—recess; February 26, 8:00 p.m.—adjournment.

Closure reason: To review grant applications.

Executive Secretary: Dr. Leon Jack Greenbaum, Jr., Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20205, Telephone: 301/496-9223.

Name of Committee: Neurological Disorders Program Project Review B Committee.

Dates: February 28-March 2, 1985.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20205.

Open: February 28, 10:00-10:20 a.m.

Closed: February 28, 10:30 a.m.—recess; March 1, 8:00 a.m.—recess; March 2, 8:00 a.m.—adjournment.

Closure reason: To review grant applications.

Acting Executive Secretary: Dr. Alfred Bruner, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20205, Telephone: 301/496-9223.

Name of Committee: Communicative Disorders Review Committee.

Dates: February 21 and 22, 1985.

Place: Key Bridge Marriott Hotel, 1401 Lee Highway, Arlington, Virginia 22209.

Open: February 21, 8:30 a.m.—9:30 a.m.

Closed: February 21, 9:30 a.m.—recess;

February 22, 8:00 a.m.—adjournment.

Closure reason: To review grant applications.

Executive Secretary: Dr. Marilyn Semmes, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20205, Telephone: 301/496-9223.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; NO. 13.854, Biological Basis Research)

Dated: December 10, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-33347 Filed 12-21-84; 8:45]

BILLING CODE 4140-01-M

National Institute on Aging; Meeting of National Advisory Council on Aging

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging (NIA), on January 31-February 1, 1985, in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public on Thursday, January 31, from 9:00 a.m. until noon for a status report by the Director, National Institute on Aging, a report on organizational study of the National Institutes of Health, and a report of the ad hoc Committee on Program. It will be open to the public on Friday, February 1, from 9:00 a.m. until adjournment for a report on the NIH Director's Advisory Committee meeting, a presentation on the National Archive of Computerized Data on Aging, and a discussion of the Delegation of Authority to the Director, NIA. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on January 31 from 1:00 p.m. to recess for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Because this meeting is scheduled so far in advance, it is suggested that you contact Mrs. June C. McCann, Council Secretary for the National Institute on

Aging, National Institutes of Health, Building 31, Room 2C05, Bethesda, Maryland, 20205 (301/496-5898), for specific information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Dated: December 10, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-33349 Filed 12-21-84; 8:45 am]

BILLING CODE 4140-01-M

National Library of Medicine; Meetings of the Board of Regents, the Extramural Programs Subcommittee, and the Lister Hill Center Subcommittee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on January 24-25, 1985, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, and the meetings of the Extramural Programs Subcommittee of the Board of Regents and the Lister Hill Center Subcommittee on the preceding day, January 23, 1985, from 1:00 to 2:30 p.m., in the 5th-floor Conference Room, and from 1:00 to 2:30 p.m., in the 7th-floor Conference Room of the Lister Hill Center Building, respectively. The meeting of the Board will be open to the public from 9:00 a.m. to 5:00 p.m. on January 24 and from 9:00 a.m. to 11:30 a.m. on January 25 for administrative reports and program discussions. The entire meeting of the Lister Hill Center Subcommittee will be open to the public for a discussion of goals and objectives of the Lister Hill National Center for Biomedical Communications. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4), 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the entire meeting of the Extramural Programs Subcommittee on January 23 will be closed to the public, and the regular Board meeting on January 25 will be closed from 11:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications

Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, Telephone Number: 301-496-6308, will furnish a summary of the meetings, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Dated: December 10, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-33348 Filed 12-21-84; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14944-A, F-14944-B]

Alaska Native Claims Selection; Tozitna Limited

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance (DIC) under the provisions of sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611 (1976), will be issued to Tozitna, Limited, for approximately 25,022 acres. The lands involved are within Fairbanks Meridian, Alaska:

T. 3 N., R. 20 W.

T. 4 N., R. 20 W.

T. 3 N., R. 21 W.

T. 5 N., R. 21 W.

T. 4 N., R. 23 W.

T. 4 N., R. 24 W.

Upon issuance, the DIC will be published once a week, for four (4) consecutive weeks, in the *Fairbanks Daily News-Miner*. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until January 23, 1985 file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371,

February 21, 1984) shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA
Adjudication.

[FR Doc. 84-33323 Filed 12-21-84; 8:45 am]

BILLING CODE 4310-JA-M

Bureau of Reclamation

[INT-DES 84-68]

Tucson Aqueduct—Phase B, Central Arizona Project; Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a draft environmental impact statement on the Tucson Aqueduct—Phase B, a feature of the Central Arizona Project.

This statement analyzes the environmental consequences of the construction and operation of Phase B of the Tucson Aqueduct and its associated electrical transmission system. The Tucson Aqueduct is an authorized feature of the Central Arizona Project. Phase B of the aqueduct would convey Colorado River water to Indian and non-Indian agricultural, municipal, and industrial users in Pima County, Arizona. Depending on the alternative implemented, the Tucson Aqueduct—Phase B will consist approximately of a 40-mile long aqueduct and six pumping plants, and include transmission facilities to deliver electrical energy to the pumping plants.

The statement identifies three alternatives on the west side of the Tucson Mountains, one on the east side, and the fifth alternative is "no action." The affected environment is described and the impacts of the alternative courses of action are presented. Written comments may be submitted to the Regional Director (address below) by February 16, 1985.

Copies of the statement are available for inspection at the following locations: Director, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Department of the Interior, Washington, DC 20240 (202) 343-4991

Library Branch, Division of Management Support, Engineering and Research Center, Room 450, Building 67, Denver Federal Center, Denver, CO 80225 (303) 234-3019

Office of the Regional Director, Bureau of Reclamation, P.O. Box 427, Boulder City, NV 89005 (702) 293-8411

Arizona Projects Office, Bureau of Reclamation, P.O. Box 9980, Phoenix, AZ 85068 (602) 870-6760

Libraries

Phoenix City Library, 12 East McDowell Road, Phoenix, AZ 85004

Tucson City Library, 200 South 6th Avenue, Tucson, AZ 85701

Single copies of the draft statement may be obtained on request to the Director, Office of Environmental Affairs or the Regional Director at the above addresses. Please refer to the statement number above.

Dated: December 18, 1984.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 84-33287 Filed 12-21-84; 8:45 am]

BILLING CODE 4310-09-M

Tucson Aqueduct—Phase B, Central Arizona Project, AZ; Public Hearing on Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a draft Environmental Impact Statement (EIS) for the Tucson Aqueduct—Phase B, Central Arizona Project. This statement (INT DES 84-68 dated 12/18/84), filed with the Environmental Protection Agency, is available to the public as specified in the Notice of Availability.

The draft EIS analyzes the environmental consequences of the construction and operation of Phase B of the Tucson Aqueduct and its associated electrical transmission system. The Tucson Aqueduct is an authorized feature of the Central Arizona Project. Phase B of the aqueduct would convey Colorado River water to Indian and non-Indian agricultural, municipal, and industrial users in Pima County, Arizona. Depending on the alternative implemented, the Tucson Aqueduct—Phase B will consist approximately of a 40-mile long aqueduct and six pumping plants, and include transmission facilities to deliver electrical energy to the pumping plants.

The statement identifies three alternatives on the west side of the Tucson Mountains, one on the east side, and the fifth alternative is "no action." The affected environment is described, and the impacts of the alternative courses of action are presented. Construction of the feature is scheduled to begin in mid-1986, with delivery of water to the Tucson Metropolitan Area scheduled for 1991.

Public hearings to receive comments on the draft statement will be held in

Marana, Arizona, at 7 p.m. on January 28, 1985, at Marana High School located at the corner of Sandario Road and Emigh Road; and in Tucson, Arizona at 1 p.m. and 7 p.m. on January 20, 1985, in the Tucson Community Center located at 260 South Church Street.

Oral statements at the hearing will be limited to a period of 5 minutes or less. Speakers will not trade their time to obtain a longer oral presentation; however, the presiding officer conducting the hearing may allow any speaker additional time for oral comment after all persons wishing to make comments have been heard.

Requests for scheduled presentations at the hearings will be accepted up to 4 p.m., January 15, 1985. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request, whenever possible. Any scheduled speaker not present when called will lose his or her privilege in the scheduled order, and their name will be recalled at the end of the scheduled speakers. Non-scheduled speakers will be handled on a first-come, first-serve basis following the scheduled presentations.

Organizations and individuals wishing to make presentations should contact the Environmental Division, Bureau of Reclamation, Arizona Project Office, Suite C-1, P.O. Box 9980, Phoenix, Arizona 85068 or telephone (602) 870-6760, and announce their intention to participate. Written comments from those unable to attend the hearings, or from those wishing to supplement their oral presentations, will be accepted for the record until February 1, 1985. Written comments should be addressed to the Environmental Division at the address listed above and should specify that they are to be included in the hearing record.

Dated: December 18, 1984.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 84-33288 Filed 12-21-84; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 290 (Sub-2)]

Approval of Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of approval of rail cost adjustment factor and decision.

SUMMARY: The Commission has decided to approve the cost index filed by the Association of American Railroads (AAR) under the procedures of Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures*. The application of the index provides for a first quarter 1985 Rail Cost Adjustment Factor (RCAF) of 1.048. This RCAF shows a decrease of .005 in railroad input prices when compared with the fourth quarter 1984 RCAF of 1.053. No rate actions are ordered.

EFFECTIVE DATE: January 1, 1985.

FOR FURTHER INFORMATION CONTACT:

Robert C. Hasek, (202) 275-0938.

Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: By decision served April 17, 1981 (46 FR

22594, April 20, 1981), we outlined the procedures for the calculation of the interim mid-quarter index of railroad costs and the methodology for the computation of the RCAF. AAR was required to calculate and submit the mid-quarter index to the Commission no later than 20 days before the end of each quarter.

We have reviewed AAR's calculations of the mid-quarter index for the first quarter of 1985 and find that these calculations comply with the guidelines contained in our decision served April 17, 1981.

The indices and RCAF derived from AAR's calculations are shown on the table that follows.

We find that RCAF for the first quarter 1985 is 1.048. This is a decrease of .005 from the published fourth quarter RCAF. No rate actions are ordered.

INTERIM MID-QUARTER INDEX

Line No.	Category	1982 weights (percent)	1983 weights (percent)	Third quarter 1984 actual	Fourth quarter 1984 forecast	First quarter 1985 forecast
1	Salaries, wages and supplements	48.3	48.5	147.3	146.6	146.9
2	Fuel	11.3	10.3	98.2	97.3	95.7
3	Materials and supplies	10.4	7.2	104.2	106.0	106.8
4	Other expense	30.0	34.0	115.6	117.2	115.3
5	Weighted average:					
	a. 1980 = 100			127.8	128.6	128.0
	b. Linked index ¹			127.2	127.3	126.7
6	Rail Cost Adjustment Factor ² (10/1/82=100)					
	120.9 = 100			*1.052	1.053	1.048

¹ Linking is necessitated by a change to 1982 weights beginning with the fourth quarter 1983 and to 1983 weights beginning with the fourth quarter 1984. The following formula was used for the first quarter 1985 index:

1st Quarter 1985 Index (1983 Weights)/4th Quarter 1984 Index (1983 Weights) × 4th Quarter 1984 Index (Linked Index) = Linked Index (1980 Weights to 1983 Weights)

or

$128.0/128.6 \times 127.3 = 126.7$

² The denominator was rebased to an October 1, 1982 level in accordance with the requirements of the Staggers Rail Act of 1980.

³ For comparative purposes an RCAF for the third quarter 1984 is shown using actual data. The published RCAF is computed using forecasted data. The third quarter 1984 RCAF was calculated using 1982 weights.

This decision will not significantly affect the quality of the human environment or conservation of energy resources. This proceeding will not have a significant adverse impact on a substantial number of small entities because these procedures simplify a formerly complex and burdensome rate increase procedure.

Authority: 49 U.S.C. 10321, 10707a, 5 U.S.C. 553.

Dated: December 18, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley and Strenio.

James H. Bayne,
Secretary.

[FR Doc. 84-33388 Filed 12-21-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration; Upjohn Co.

By Notice dated September 21, 1984, and published in the Federal Register on September 28, 1984, (49 FR 38373), Upjohn Company, 7171 Portage Road, Kalamazoo, Michigan 49001, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methamphetamine (1105)	II
2,5-Dimethoxyamphetamine (7396)	I

No comments or objections have been received. Therefore, pursuant to Section 305 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: December 11, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 84-33345 Filed 12-21-84; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 84-94]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Transport Aircraft. **DATE AND TIME:** January 29, 1985, 8:30 a.m. to 4:45 p.m.; January 30, 1985, 8 a.m. to 4:30 p.m.

ADDRESS: Langley Research Center, Building 1219, (Headquarters Building), Room 225, Hampton, VA.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Winblade, National Aeronautics and Space Administration, Code RJ, Washington, DC 20546 (202/453-2812).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Transport Aircraft has been established to assist the NASA in assessing the adequacy of transport aircraft technology and recommend actions to reduce deficiencies through modification of the planned NASA research and technology program in transport aircraft aerodynamics, active controls, materials, propulsion, avionics, and safety. The Subcommittee, chaired by Mr. Russell Hopps, is comprised of nine members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons

including Subcommittee members and participants).

Type of meeting: Open.

Agenda

January 29, 1985

8:30 a.m.—Chairperson's Opening Remarks.

8:45 a.m.—Executive Secretary's Report.

10:00 a.m.—Review of NASA Activities in Aeronautics.

4:45 p.m.—Adjourn.

January 30, 1985

8:00 a.m.—Continue Review of NASA Activities in Aeronautics.

9:45 a.m.—Federal Aviation Administration Research and Development for the National Airspace System Plan.

10:30 a.m.—Results of Full-Scale Transport Controlled Impact Demonstration Program.

10:50 p.m.—Discussion of Issues and Questions.

12:30 p.m.—Subcommittee Recommendations.

2:00 p.m.—Tour of Facilities.

4:30 p.m.—Adjourn.

Dated: December 17, 1984.

Richard L. Daniels,

Deputy Director, Logistic Management and Information Programs Division, Office of Management.

[FR Doc. 84-33289 Filed 12-21-84; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON AGRICULTURAL TRADE AND EXPORT POLICY

Meeting

The Finance Committee of the National Trade and Export Policy Commission will meet at the American Soybean Association headquarters, 777 Craig Road, Post Office Box 27300, St. Louis, Missouri 63141, on Friday, December 28, 1984, beginning at 10:00 a.m., and lasting until 4:00 p.m.

Issues to be covered include the solicitation of private funds in support of Commission activities.

Kenneth L. Bader,

Chairman.

[FR Doc. 84-33539 Filed 12-21-84; 10:53 am]

BILLING CODE 3410-05-M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Reports, Recommendations and Responses

Reports Issued

Aircraft Accident Report—"Air Canada Flight 965, Lockheed L-1011, C-FTNJ, near Charleston, South Carolina, November 24, 1983" (NTSB/AAR-84/13) (NTIS Order No. PB84-910413).

Aircraft Accident Report—"Scandinavian Airlines System Flight 901, McDonnell Douglas DC-10-30, John F. Kennedy International Airport, Jamaica, New York, February 28, 1984" (NTSB/AAR-84/15) (NTIS Order No. PB84-910415).

Hazardous Materials Accident Spill Maps—Hazardous Material Release From Railroad Tank Cars, near Colonial Heights, Virginia, May 31, 1982 (NTSB-HZM MAP-84-1)

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703-487-4650 and to order subscriptions to reports call 703-487-4630.

Recommendations to

Aviation—Federal Aviation Administration: Nov. 29: A-84-128: Issue instructions to air carrier Principal Maintenance Inspectors responsible for F-27 airplanes to examine underwing emergency exits for interference from adjacent passenger seats, and where interference is found, to direct air carriers to eliminate the interference within a specified time. A-84-129: Issue instructions to air carrier Principal Maintenance Inspectors responsible for F-27 airplanes to require air carriers to install, within a specific time, an FAA-approved means to prevent the hinge pins from coming free of their hinges on the door between the forward cabin and the cargo compartment or to remove that door. A-84-130: Issue instruction to air carrier Principal Operations Inspectors to review the passenger safety information cards of their respective carriers to assure that any depicted bracing position, utilizing the seatback for support, in fact can be used; and to require deletion of this bracing position from the safety information cards on those airplanes that are equipped with seats that have foldover seatbacks. A-84-131: Issue instructions to the air carrier Principal Operations Inspector to require revision of the flight attendant manuals of Pilgrim Airlines to incorporate clear, concise, and unambiguous operating

instructions, and to conform to accepted industry standards, and to require that the training program for crewmembers be consistent with the manuals. *A-84-132*: Issue instructions to aircarrier Principal Operations Inspectors to require that flight attendant training programs and manuals of air carriers address adequately the need to stow galley service items in approved compartments and to include, during their in-service inspections, increased surveillance of the proper pre-flight and pre-arrival stowage of galley service items. *A-84-133*: Establish quality assurance procedures to ensure that air carrier operations and airworthiness inspections adequately address cabin safety issues, such as crew member training and manuals, storage of heavy items inside the cabin, storage of galley service items, and access to emergency exits.

Railroad—National Railroad Passenger Corporation (Amtrak): *Nov. 29: R-84-37*: Review the possible contribution of the on-time incentive program in encouraging contractor railroad operating practices which may cause a degradation of safety, and modify the program as appropriate. *R-84-38*: Regularly review locomotive speed recorder tapes as they are removed from locomotives to detect noncompliance with speed restrictions, and require the contractor railroads to take action to eliminate speeding by traincrews. *R-84-39*: Reroute passenger trains between Joliet and Mazonia, Illinois, onto track where there are fewer railroad/highway grade crossings. *R-84-40*: Correct the identified design deficiencies in the interior features or existing and new passenger cars, which can cause injuries in accidents, including the baggage retention capabilities of overhead luggage racks, inadequately secured seats, and inadequately secured equipment in food service cars. *R-84-41*: Modify the overspeed devices on Amtrak diesel-electric locomotive units so that the devices limit operation to speeds only normally in excess of maximum allowable operating speeds. *R-84-42*: Relocate the battery used in the emergency power system to an area of the car where it is less susceptible to damage in an accident. *R-84-43*: Improve the cooperative program with the Illinois Central Gulf Railroad for monitoring enginecrew performance and enginecrew compliance with operating rules.

Illinois Commerce Commission: *Nov. 29: R-84-44*: In company with the Illinois Central Gulf Railroad (ICG), meet with and solicit participation in the

Operation Lifesaver program from the sheriff of Will County, the police chief of Wilmington, and other county and municipal officials in areas through which the ICG operates.

Illinois Central Gulf Railroad: *Nov. 29: R-84-45*: In company with the Illinois Commerce Commission, meet with and solicit participation in the Operation Lifesaver program from the sheriff of Will County, the police chief of Wilmington, and other county and municipal officials in areas through which the Illinois Central Gulf Railroad operates.

Federal Railroad Administration: *Nov. 29: R-84-46*: Expedite the studies on the interior design of passenger cars, described in the January 1984 Report to Congress, and publish recommended guidelines for securing seats and for luggage retention devices.

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include recommendations number in request. Copies of recent recommendations are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 14 cents per page (\$1 minimum charge).

Recommendation Responses From

Aviation—Secretary of U.S. Department of Transportation: *Dec. 6: A-84-96*: Has asked each of the Department's operating administrations to provide her with all available information on the transportation safety implications of drug use and to suggest research projects that could properly be conducted under Departmental auspices to further our understanding of this problem. Has formed a Departmental working group to address the drug question in depth and to recommend a course of action to deal with it.

Federal Aviation Administration: *Nov. 29: A-84-93*: FAA Civil Aeromedical Institute performs toxicologic analyses on tissues specimens from victims of fatal aircraft accidents using a method that detects a wide variety of chemicals at significant levels. *A-84-94*: Its policy is to rely on Aviation Medical Examiners to counsel pilots as to acceptable and unacceptable medications to be used while flying. An intensified public affairs program on licit and illicit drugs and flying will be considered if a more aggressive posture seems warranted. A publication titled "Medication and Flying: A Pilot's Guide" has been developed by the private sector of aviation medicine and published in cooperation with the Aircraft Owners and Pilots Association. *A-84-95*: Intends to institute followup

research and information dissemination programs, to the extent warranted, to assure that the transportation safety implications of the use of drugs are properly understood. *Nov. 29: A-84-87*: Is investigating the feasibility of a Directed Safety Investigation of Mooney Models M-20 and M-20A and all other wooden airplanes. *A-84-88*: Is reviewing previously issued Airworthiness Directives concerning inspections of certain Mooney airplanes and will consider a new AD which would combine previous requirements and possibly supplement them. *A-84-89*: Believes that rather than requiring certain Mooney airplanes to be sheltered from the environment when parked, design aspects that would protect the airplane from unavoidable high moisture conditions should be emphasized. *A-84-90*: Is planning to develop an Advisory Circular to deal exclusively with maintenance, inspection, and repair of wooden airplanes. *A-84-91*: Issued General Aviation Airworthiness Alert (AC 43-16) to encourage owners/operators of wooden airplanes to understand the nature and characteristics of airplanes constructed of wood and related environmental problems. *A-84-92*: Because of existing information concerning wood inspection procedures does not believe that an additional research and development program to determine nondestructive testing techniques for the inspection of wooden airplanes is justified. *Nov. 27: A-84-69*: Will insure that all air traffic control personnel review the position relief briefing procedures. *A-84-70*: Will change Handbook 7110.65C to emphasize the requirement to indicate forwarding of information including "wrong altitude for direction of flight." *A-84-71*: Air traffic controllers are referred for medical consultation only when a need is indicated as a result of the investigation of the controller's involvement in an operational error of similar incident. *A-84-72*: The beacon-only site at Grand Turk Island and Airport surveillance radar site at Nassau are currently scheduled to be commissioned in March 1985. Current plans call for satellite remoting of the surveillance (beacon-only) data from these two sites to the Miami Air Route Traffic Control Center. *A-84-73*: FAA's Southern Region has identified the requirement for an improved very high frequency/ultra high frequency communications link from remote Caribbean facilities to the Miami ARTCC to be transmitted over satellite channels in its FY-1985 leased service budget request. *A-84-74*: Miami ARTCC

examined its route structure and has extended some oceanic routes, added intersections where needed, and added fix postings for fixes close to sector boundaries with dual sets of strips generated. A-63-35: Issued Notice 3120.78 on Dec. 2, 1983, transmitting Course 05564, Job Stress Management, a mandatory training program to be completed by all Air Traffic Control Specialists. Federal Air Surgeon sent a memorandum on "Warning Signs of Employee Distress" on February 29, 1984, to all regional flight surgeons. A-63-36: The Air Traffic Controller Performance Assessment Program has evolved into three individual programs which provide supervisors and managers standards and measurement criteria to objectively and subjectively evaluate controller performance and to detect and alleviate stress and fatigue among controllers. Nov. 27: A-84-66: Will prepare a Notice of Proposed Rulemaking that will require periodic calibration and incorporation of a redesign of the stall avoidance system (SAS) units in Fairchild Swearingen Models SA 226 and SA 227 airplanes to provide safer operation of airplanes equipped with the SAS system. Fairchild Aircraft Corp. is rewriting the calibration procedure to specify a calibration unit that will simplify and expedite the procedure and improve the calibration of the system. Nov. 30: A-84-98: Advisory Circular 150/5340-18B, Taxiway Guidance Sign System, addresses and recommends that airports certificated for air carrier operations install signs at all runway and taxiway entrances, exits, and intersections that indicate the identity of the runway or taxiway. A-84-99: Standardized graphics for taxiway/runway identification signs are presently provided for in Advisory Circular 150/5340/18B. A-84-100: Title 14 CFR 139.91 requires that each airport operator have a self-inspection program to ensure that prompt and accurate corrective action is taken to eliminate unsafe conditions on the airport. These daily inspection requirements include inspection of the airport lighting system. A-84-101: Airport runway/taxiway signs are standardized by color rather than shape or size. This practice is in accordance with internationally recognized standards. A-84-102: Is preparing an operations bulletin that will direct principal operations inspectors to ensure that all operator training programs have included therein a review of crewmembers' procedures and responsibilities during ground operations in restricted visibility conditions. Also will direct that

principal operations inspectors review the operator's ground operating procedures to ensure that such procedures in no way derogate outside-cockpit vigilance during ground operations in restricted visibility conditions.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page (\$1 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

December 19, 1984.

[FR Doc. 84-33286 Filed 12-21-84; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published November 14, 1984 (49 FR 45083). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the January 1985 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Commission (telephone 202/634-3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

Quality and Quality Assurance in Design and Construction, January 3, 1985, Washington, DC. The Subcommittee will review and discuss the following items: (1) Regulatory Guide 1.28, "Quality Assurance Program Requirements (Design and Construction)," for final approval; (2) the Quality Assurance Program Plan; (3) aspects of the Quality Assurance Branch research program for input to the ACRS Report to Congress; and (4) NRC/IE's Integrated Design Inspection Program and the Integrated Design Verification Program.

Combined Reactor Radiological Effects and Site Evaluation, January 3 and 4, 1985, Washington, DC. The Subcommittees will review (1) proposed amendments to 10 CFR Part 50, § 50.47 and Appendix E: Consideration of earthquakes in the context of emergency preparedness; and (2) proposed amendments to 10 CFR Parts 30, 40, and 70: Emergency preparedness for fuel cycle and other radioactive material licenses.

Advanced Reactors, January 8, 1985, Washington, DC. The Subcommittee will discuss the redirected DOE programs for LMFBR and HTGR development as well as the current status of NRC research programs on advanced reactors.

Class 9 Accidents, January 8, 1985—POSTPONED.

Reactor Operations, January 9, 1985, Washington, DC. The Subcommittee will discuss recent plant operating experience (including McGuire's upper head injection level instrumentation installation error of October 31, 1984 and Catawba's loose breech guide screws in the control rod drive system).

Decay Heat Removal Systems, January 22, 1985, Albuquerque, NM. The Subcommittee will continue the review of the NRR USI A-45 resolution effort. Portions of this meeting will be closed to the public.

Braidwood Station, January 29, 1985, Washington, D.C. The Subcommittee will continue to review the Commonwealth Edison Company's application for an operating license for Braidwood.

Nine Mile Point Unit 2, Date (December/January) and location to be determined. The Subcommittee will begin review of the Niagara Mohawk Power Corporation's application for an operating license for Nine Mile Point Unit 2.

Waste Management, Date to be determined (January/February). Washington, DC. The Subcommittee will review the final DOE High-Level Waste

environmental assessments of each of the nine sites.

Watts Bar, Date to be determined (January/February, tentative), Knoxville, TN. The Subcommittee will discuss major open items and review the status of the modifications to the Model D-3 steam generators, the fire protection program, and resolution of construction and quality assurance deficiencies.

Emergency Core Cooling Systems, Date to be determined (early February), Washington, DC. The Subcommittee will continue the review of Yankee Atomic's request for an exemption to Appendix K to 10 CFR 50.46.

Fire Protection, February 5, 1985, Washington, DC. The Subcommittee will be briefed on the status of Appendix R compliance.

Human Factors, February 5, 1985, Washington, DC. The Subcommittee will discuss NUREG-3737, a method of ascertaining management/organization's contribution to the safety of operating reactors.

Safeguards and Security, February 6, 1985, Washington, DC. The Subcommittee will review design features for protection against sabotage at commercial nuclear power reactors, explore the potential consequences of successful sabotage at nonpower reactors, and hear how the NRC Staff reviews and evaluates licensee's security plans.

Regulatory Policies and Practices, February 6, 1985, Washington, DC. The Subcommittee will review the Commission's proposed Backfitting Rule and the Brookhaven Report on the need for an NTSB-like organization.

Safety Philosophy, Technology, and Criteria, February 6, 1985, Washington, DC. The Subcommittee will review the status of the NRC Staff's evaluation of the trial use of the Commission's proposed Safety Goal Policy.

Combined GESSAR II and Reliability & Probabilistic Assessment, February 14 and 15, 1985, Los Angeles, CA. The Subcommittee will continue their review of GESSAR II for a Final Design Approval applicable to future plants. The focus of this meeting will be on seismic risk.

Class 9 Accidents, February 22, 1985, Washington, DC. The Subcommittee will discuss with the NRC Staff the status of the NRC's severe accident codes.

Seismic Design of Piping, Date to be determined (February, tentative), Washington, DC. The Subcommittee will review draft reports issued by the NRC Piping Review Committee on Dynamic Loads and Load Combinations, and Seismic Design requirements of piping.

Qualification Program for Safety-Related Equipment, Date to be

determined (February/March, tentative), Washington, DC. The Subcommittee will discuss the NRC Staff's resolution of USI A-46, "Seismic Qualification of Equipment in Operating Plants."

ATWS, Date to be determined (late February/early March), Washington, DC. The Subcommittee will review the NRC Staff's activities associated with implementation of the ATWS rule.

Combined External Phenomena, Structural Engineering, and Seismic Design of Piping, March 21, 1985 (tentative), Los Angeles, CA. The Subcommittee will discuss the status of the NRC Staff seismic design margins programs.

Combined II and Reliability & Probabilistic Assessment, March 27, 28, and 29, 1985, Albuquerque, NM. The Subcommittee will continue their review of GESSAR II for a Final Design Approval applicable to future plants. The principal topics to be discussed are plant safeguards and the GESSAR II probabilistic risk assessment.

Air Systems, Date to be determined (March), Washington, DC. The Subcommittee will review the NRC's Supplement to the Control Room Habitability Working Group Report. This Supplement is to discuss the Staff's survey of Near Term Operating License and Operating Reactor control rooms.

Combined Metal Components and Seismic Design of Piping, Date to be determined (March, tentative), Washington, DC. The Subcommittee will review the NRC Piping Review Committee's overall recommendation on piping system concerns.

Emergency Core Cooling Systems, Date to be determined (early spring), Palo Alto, CA. The Subcommittee will continue the review of the joint NRC/B&W Owners Group/EPRI/B&W joint IST Program. A visit to the EPRI Stanford Research Institute facilities supporting this Program is also planned.

River Bend Nuclear Power Plant Units 1 and 2, April 10, 1985, Washington, DC. The Subcommittee will continue the review of the Gulf States Utilities application for an operating license for the River Bend Nuclear Power Plant Units 1 and 2.

Electrical Systems, Date to be determined, Washington, DC. The Subcommittee will discuss the Westinghouse Advanced Pressurized Water Reactor Integrated Control and Protection System.

Palo Verde Nuclear Generating Station, Date to be determined, Maricopa County, AZ. The Subcommittee will review the final reports for various construction deficiencies and the results of the

preoperational testing as requested in ACRS letter dated December 15, 1981.

Electrical Systems, Date to be determined, Washington, DC. The Subcommittee will discuss the recent plant experience with the loss of AC power and the status of NRC actions on USI A-44, "Station Blackout."

Waste Management, Date to be determined, Washington, DC. The Subcommittee will review DOE's Final Mission Plan for Civilian Radioactive Waste Management Program.

Combined Reliability and Probabilistic Assessment and Millstone 3, Date to be determined, location to be determined. The Subcommittee will review the probabilistic assessment for Millstone 3.

ACRS Full Committee Meeting

January 10-12, 1985: Items are tentatively scheduled.

*A. *NRC Quality Assurance Program Requirements*—ACRS review of Regulatory Guide 1.28, "Quality Assurance Program Requirements (Design and Construction)."

*B. *Severe Environmental Events*—ACRS review of proposed revision of 10 CFR 50.47, Emergency Plans and Appendix E, Emergency Planning and Preparedness for Production and Utilization Facilities.

*C. *NRC Safety Research Program and Budget*—Preparation of ACRS annual report to the U.S. Congress regarding the proposed NRC safety research program and budget for FY 1986-87.

*D. *Backfitting Requirements*—ACRS review of proposed NRC rule 10 CFR 50.109, Backfitting.

*E. *Recent Events at Operating Reactors*—Briefing of ACRS regarding recent events and incidents at nuclear power plants.

*F. *Chilled Water Systems*—Discuss proposed design, construction and operation of chilled water systems in nuclear power of plants.

*G. *Fire Protection*—Briefing and ACRS comments as appropriate regarding the report of the NRC Fire Protection Task Force Report.

*H. *NRC Operations*—Briefing of ACRS members regarding activities of the NRC Office of Nuclear Materials Safety and Safeguards.

*I. *Inspection of Vendors*—Briefing regarding NRC vendor inspection program.

*J. *Meeting with NRC Commissioners (tentative)*—Meeting with NRC Commissioners to discuss ACRS comments and recommendations regarding the safety and regulation of nuclear facilities.

*K. Anticipated ACRS Activities—
The members will discuss anticipated ACRS Subcommittee activity and proposed future activities of the full Committee.

February 7-9, 1985—Agenda to be announced.

March 7-9, 1985—Agenda to be announced.

Dated: December 19, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

FR Doc. 84-33382 Filed 12-21-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Panel for the Decontamination of Three Mile Island, Unit 2; Meeting

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island Unit 2 (TMI-2) will be meeting on January 10, 1985, from 7:00 p.m. to 10:00 p.m. at the Holiday Inn, 23 South Second Street, Harrisburg, Pennsylvania 17101. The meeting will be open to the public.

At this meeting the Panel will be provided with a cleanup status report by the licensee, General Public Utilities Nuclear Corporation. Topics to be covered by the licensee include the status of the polar crane, the results of a recent exploration of the reactor building basement by a remotely operated survey vehicle, the status of the reactor plenum removal effort, and the industry voluntary funding initiative. The Panel will also conduct an agenda planning session for the coming calendar year. The Panel will provide an opportunity for public comment on issues related to the decontamination of TMI-2.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301/492-7466.

Dated: December 19, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

FR Doc. 84-33381 Filed 12-21-84; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Positions Placed or Revoked

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 December 3, 1984 (49 FR 47344). Individual authorities established or revoked under Schedules A, B, or C between November 1, 1984 and November 30, 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 exceptions are established:

Department of Defense

Not to exceed 10 positions at grades GS-10/15 in the Defense Communications Agency to staff and support the Crisis Management Center at the White House. Effective November 19, 1984.

Department of Health and Human Services

Not to exceed 30 positions at grades GS-11/13 associated with the postdoctoral training program for interdisciplinary toxicologists in the National Institute of Environmental Health Sciences, National Institutes of Health, Research Triangle Park, North Carolina. Employment under this authority may not exceed 3 years. Effective November 19, 1984.

Schedule B

No Schedule B exceptions were established or revoked during the month of November.

Schedule C

The following exceptions are established:

Department of Agriculture

One Confidential Assistant to the Executive Assistant to the Secretary. Effective November 7, 1984.

One Confidential Assistant to the Manager, Federal Crop Insurance Corporation. Effective November 19, 1984.

Department of Commerce

One Confidential Assistant to the Assistant Secretary for Economic Development, Economic Development Administration. Effective November 1, 1984.

One Confidential Assistant to the Deputy Assistant Secretary for Administration. Effective November 2, 1984.

One Special Assistant to the Director, Minority Business Development Agency. Effective November 13, 1984.

One Confidential Assistant to the Assistant Secretary for Tourism Marketing. Effective November 19, 1984.

One Confidential Assistant to the Director, Policy and Planning, National Oceanic and Atmospheric Administration. Effective November 28, 1984.

Department of Defense

One Private Secretary to the Assistant Secretary for Defense (Reserve Affairs). Effective November 21, 1984.

Department of Education

One Confidential Assistant to the Under Secretary. Effective November 14, 1984.

One Special Assistant to the Under Secretary. Effective November 19, 1984.

Department of Energy

One Staff Assistant (Confidential) to the Deputy General Counsel for Legislation and Regulations. Effective November 19, 1984.

Department of Health and Human Services

One Confidential Assistant to the Executive Assistant to the Secretary. Effective November 30, 1984.

Department of Housing and Urban Development

One Special Assistant to the Assistant Secretary for Community Planning and Development. Effective November 19, 1984.

Department of the Interior

One Special Assistant to the Assistant Secretary, Territorial and International Affairs. Effective November 13, 1984.

One Special Assistant to the Solicitor. Effective November 27, 1984.

Department of Justice

One Staff Assistant to the Assistant Secretary for Employment and Training. Effective November 15, 1984.

One Attorney Advisor (General) to the Assistant Attorney General, Land and Natural Resources Division. Effective November 21, 1984.

Department of Labor

One Staff Assistant to the Administrator, Pension and Welfare Benefit Program. Effective November 27, 1984.

Department of State

One Staff Assistant to the Secretary for Legislative and Intergovernmental Affairs. Effective November 21, 1984.

Department of Transportation

One Staff Assistant to the Deputy Secretary. Effective November 7, 1984.

One Special Assistant to the Assistant Secretary for Governmental Affairs. Effective November 7, 1984.

One Special Assistant to the Assistant Secretary for Public Affairs. Effective November 9, 1984.

One Confidential Secretary to the Deputy Secretary. Effective November 9, 1984.

One Staff Assistant to the Deputy Secretary. Effective November 9, 1984.

One Special Assistant to the Director, Office of Public and Consumer Affairs, National Highway Traffic Safety Administration. Effective November 14, 1984.

Department of Treasury

One Public Affairs Specialist to the Treasurer. Effective November 8, 1984.

One Special Assistant to the Assistant Secretary for Policy Planning and Communications. Effective November 19, 1984.

One Public Affairs Specialist to the Assistant Secretary for Policy Planning and Communications. Effective November 19, 1984.

Commodity Futures Trading Commission

One Administration Assistant to a Commissioner. Effective November 26, 1984.

Environmental Protection Agency

One Staff Assistant to the Deputy Assistant Administrator for Administration and Resources Management. Effective November 5, 1984.

Equal Employment Opportunity Commission

One Special Assistant to a Commissioner. Effective November 19, 1984.

Interstate Commerce Commission

One Staff Assistant (Economics) to a Commissioner. Effective November 30, 1984.

Occupational Safety and Health Review Commission

One Special Assistant to the Chairman. Effective November 27, 1984.

Office of Personnel Management

One Special Assistant to the Associate Director for Administration. Effective November 23, 1984.

Small Business Administration

One Special Assistant to the Administrator. Effective November 28, 1984.

United States Information Agency

One Staff Assistant to the Special Assistant (Private Sector Programs) to the Director of Public Liaison. Effective November 1, 1984.

One Secretary (Typing) to the Associate Director for Management. Effective November 21, 1984.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 84-33390 Filed 12-21-84; 8:45 am]

BILLING CODE 6325-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 09/09/0353]

Equis Fund; Application for License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1984)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et. seq.*), and the Rules and Regulations promulgated thereunder.

Applicant: Equis Fund

Address: Three Embarcadero Center, Suite 2560 San Francisco, California 94111

The proposed General Partners and Limited Partners own 10 or more percent of the Applicant's Partnership Capital as follows:

Name and address	Position	Ownership (percent)
Equis Management Company, Three Embarcadero Center, Suite 2560, San Francisco, CA 94111.	Managing General partner.	4.76

Name and address	Position	Ownership (percent)
Robert G. Perring, ¹ 1 North Pointa Circle, Belvedere, CA 94920.	General partner.	4.76
Bank of Stockton, P.O. Box 1110, Stockton, CA 95201.	Limited partner.	25.00
Rock Island Company, 2100 First National Bank Building, Saint Paul, Minnesota 55101.	Limited partner.	12.50

¹ Sole Shareholder of Perring Corporation, Corporate Partner of Equis Management Company, Individual general partner of Equis Management Company.

The Applicant, a California limited partnership will begin operations with \$1,575,000 of private capital and conduct its activities principally in the State of California.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in the San Francisco, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 17, 1984.

Robert G. Lineberry,
Deputy Associate Administrator for Investment.

[FR Doc. 84-33391 Filed 12-21-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2175]**Alaska; Declaration of Disaster Loan Area**

That part of southeast Alaska south of Parallel 60 North bounded on the west by the 140th Meridian and on the east by Canada, constitutes a disaster area as a result of severe winds and wind driven high tides which occurred November 22, 1984. Eligible persons, firms, and organizations may file applications for loans for physical damage until close of business on February 18, 1985, and for economic injury until the close of business on

September 19, 1985, at the address listed below:

Disaster Area 4 Office Small Business Administration 77 Cadillac Drive, Suite 158 Sacramento, California 95825

or other locally announced locations.

Interest rates are:

	Per- cent
Homeowners with credit available elsewhere.....	8.000
Homeowners without credit available elsewhere.....	4.000
Businesses with credit available elsewhere.....	8.000
Businesses without credit available elsewhere.....	4.000
Businesses (EIDL) without credit available elsewhere.....	4.000
Other (non-profit organizations including charitable and religious organizations).....	11.125

The number assigned to this disaster is 217511 for physical damage and for economic injury the number is 623800.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Date: December 19, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-33394 Filed 12-21-84; 8:45 am]

BILLING CODE 8025-01-M

Virginia; Region III Advisory Council; Meeting

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Richmond, Virginia, will hold a public meeting at 1:00 p.m. Thursday, January 10, 1985 through noon, on Friday, January 11, 1985, at the Marriott Hotel, Richmond, Virginia, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Catherine Szucs, District Director, U.S. Small Business Administration, P.O. Box 10126, Richmond, Virginia 23240, telephone number (804) 771-2741.

Dated: December 14, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-33393 Filed 12-21-84; 8:45 am]

BILLING CODE 8025-01-M

Texas; Region VI Advisory Council; Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of El Paso Texas, will hold a public meeting at 9:00 a.m. thru 12 noon on Tuesday, January 15, 1985, at the SBA District Office, 10737 Gateway West,

Suite 320, El Paso, Texas 79935, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Henry Zuniga, District Director, U.S. Small Business Administration, 10737 Gateway Boulevard West, Suite 320, El Paso, Texas 79935. Telephone number (915) 541-7586.

Dated: December 14, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils

[FR Doc. 84-33392 Filed 12-21-84; am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

Foreign Policy Interests; Mozambique; Determination

Pursuant to section 512 of the Foreign Assistance and Related Programs Appropriations Act, 1985, as enacted in section 101 of the Joint Resolution making continuing appropriations for the fiscal year 1985 (Pub. L. 98-473), and Executive Order 12163, as amended, I hereby determine that the furnishing of assistance directly to Mozambique would further the foreign policy interests of the United States.

This determination shall be reported to the Congress immediately and published in the *Federal Register*.

Dated: December 3, 1984.

George P. Shultz,

Secretary of State.

[FR Doc. 84-33311 Filed 12-21-84; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD84-094]

Lower Mississippi River Waterway Safety Advisory Committee; Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. APP I) notice is hereby given of a meeting of the Auxiliary Waterway Navigation Subcommittee for the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Thursday, January 10, 1985 in the Board Room of the New Orleans Board of Trade Building, New Orleans, LA. The meeting is scheduled to begin at 8:45 a.m. and end at 1:00 p.m.

The agenda for the meeting consists of the following items:

1. Call to Order
2. Chairman's Message
3. Review Coast Guard response to LMRWSAC recommendations
4. Pursue and review latest technology for Vessel Tracking Systems
5. Review existing aids to navigation on the Lower Mississippi River
6. Discussion
7. Announcements
8. Adjournment

This subcommittee has been established to provide consultation and advice to the U.S. Coast Guard via the Lower Mississippi River Waterway Safety Advisory Committee on all areas of maritime safety affecting the Lower Mississippi River and Vessel Traffic Service Auxiliary Waterways.

Attendance is open to the public with advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but not later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Lower Mississippi River Waterway Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide their name, address, and, if applicable, the organization they are representing. Any member of the public may present a written statement to the advisory committee at any time.

Additional information may be obtained from Commander, R.A. Brunell, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eight Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA, 70130, telephone number (504) 589-6901.

Dated: December 13, 1984.

T.T. Matteson,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard District, Acting.

[FR Doc. 84-33370 Filed 12-21-84; 8:45 am]

BILLING CODE 4910-14-M

[CGD84-093]

Lower Mississippi River Waterway Safety Advisory Committee; Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. APP I) notice is hereby given of a meeting of the River Navigation Subcommittee for the Lower

Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Tuesday, January 8, 1985 in the Board Room of the New Orleans Board of Trade Building, New Orleans, LA. The meeting is scheduled to begin at 9:30 a.m. and end at 1:00 p.m.

The agenda for the meeting consists of the following items:

1. Call to Order
2. Chairman's Message
3. Barge Navigation Safety Procedures on the Lower Mississippi River
4. Announcements
5. Adjournment

This subcommittee has been established to provide consultation and advice to the U.S. Coast Guard via the Lower Mississippi River Waterway Safety Advisory Committee on all areas of maritime safety affecting the Lower Mississippi River and Vessel Traffic Service Auxiliary Waterways.

Attendance is open to the public with advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but not later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Lower Mississippi River Waterway Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide their name, address, and, if applicable, the organization they are representing. Any member of the public may present a written statement to the advisory committee at any time.

Additional information may be obtained from Commander, R.A. Brunell, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eight Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA, 70130, telephone number (504) 589-6901.

Dated: December 13, 1984

T.T. Matteson,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard District, Acting.

[FR Doc. 84-33368 Filed 12-21-84; 8:45 am]

BILLING CODE 4910-14-M

[CGD 84-095]

Lower Mississippi River Waterway Safety Advisory Committee; Subcommittee Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App I) notice is hereby given of the sixth meeting of the

Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Tuesday, January 15, 1985 in the 29th Floor boardroom of the International Trade Mart Building, 2 Canal Street, New Orleans, LA. The meeting is scheduled to begin at 9 a.m. and end at 4 p.m.

The agenda for the meeting consists of the following items:

1. Call to Order
2. Minutes of the October 17, 1984 Meeting
3. Chairman's Message
4. Subcommittee Reports
5. Presentations
 - A. Coast Guard Presentation on Siting
 - B. Coast Guard Presentation on Aids to Navigation
 - C. Presentation by Mr. Frank Stegbauer, Southern Towing Company, proposing measures to prevent vessel casualties on the Lower Mississippi River
6. Discussion
7. New Business
8. Adjournment

The purpose of this committee is to provide a public forum which will furnish to the U.S. Coast Guard consultation, local expertise, and advice on a wide range of matters regarding all facets of navigation safety.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Lower Mississippi River Waterway Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide their name, address, and, if applicable, the organization they are representing. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander R. A. BRUNELL, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, Telephone number (504) 589-6901.

Dated: December 13, 1984.

T. T. Matteson,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard District, Acting.

[FR Doc. 84-33369 Filed 12-21-84; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Flight Service Station at Cotulla, TX; Closure

Notice is hereby given that on November 1, 1984, the Flight Service Station at Cotulla, Texas, was closed. Services to the general aviation public at Cotulla are now provided by the Flight Service Station in San Antonio, Texas. This information will be reflected in the FAA Organizational Statement the next time it is reissued. (Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354).

Issued in Fort Worth, Texas, on October 23, 1984.

F.E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84-33298 Filed 12-21-84; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 142—Air Traffic Control Radar Beacon System/Mode S (ATCRBS/Mode S) Airborne Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 142 on Air Traffic Control Radar Beacon System/Mode S (ATCRBS/Mode S) Airborne Equipment to be held on January 29-31, 1985, in the Director's Conference Room, Main Building, Federal Aviation Administration Technical Center, Atlantic City Airport, Atlantic City, N.J., commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of the Fourteenth Meeting Held on September 11-12, 1984; (3) Consideration of Proposals for Additional Changes to RTCA Document DO-181, "Minimum Operational Performance Standards for Air Traffic Control Radar Beacon System/Mode Select (ATCRBS/Mode S) Airborne Equipment" Dated March 1983; (4) Briefing and Demonstrations on Federal Aviation Administration Mode S Data Link Activities; (5) Review the Direction of Committee Activities for Mode S Data Link Applications; (6) Assignment of Tasks; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain

information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on December 17, 1984.

Karl F. Bierach,

Designated Officer.

[FR Doc. 84-33294 Filed 12-21-84; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 155—User Requirements for Future Communications, Navigation and Surveillance Systems, Including Space Technology Applications; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 155 on User Requirements for Future Communications, Navigation and Surveillance Systems, Including Space Technology Applications to be held on January 17-18, 1985 in the Third Floor Auditorium, Federal Aviation Administration Building, 800 Independence Avenue, S.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Opening Remarks; (2) Review of the Operational Working Group Interim Report; (3) Report on Technologies Available to Meet Operational Requirements; (4) Review of Transition and Economic Considerations; (5) Report on the International Civil Aviation Organization (ICAO) Future Air Navigation System (FANS) Activities; (6) Report on the Status of National Airspace System Plan Implementation; (7) Projection of Radio Frequency Spectrum Needs to Meet Operational Requirements; and (8) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a

written statement to the committee at any time.

Issued in Washington, D.C., on December 17, 1984.

Karl F. Bierach,

Designated Officer.

[FR Doc. 84-33295 Filed 12-21-84; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 156—Potential Interference to Aircraft Electronic Equipment From Devices Carried Aboard; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 156 on Potential Interference to Aircraft Electronic Equipment From Devices Carried Aboard to be held on January 23-24, 1985, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Fourth Meeting Held on September 17-18, 1984; (3) Review of Task Assignments from Previous Meeting; (4) Review of Manufacturer Reports on Determination of Signal Levels Necessary to Cause Interference to Airborne Communications and Navigation Equipment; (5) Review Status of FAA Proposed Rule Making Regarding the use of Personal Computers and Electronic Games by Passengers; (6) Discuss Format and Content of the Committee Report; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on December 17, 1984.

Karl F. Bierach,

Designated Officer.

[FR Doc. 84-33296 Filed 12-21-84; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Executive Committee to be held on January 25, 1985, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Opening Remarks; (2) Approval of Minutes of Meeting Held on November 13, 1984; (3) Chairman's Report on RTCA Administration and Activities; (4) Special Committee Activities Report for November and December 1984; (5) Report of the Fiscal and Management Sub-Committee; (6) Mid-Year Review of the RTCA Fiscal Year 1985 Budget; (7) Consideration of Proposals to Establish New Special Committees; (8) Approval of Change 1 to RTCA Document DO-185 "Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance System (TCAS) Airborne Equipment" Dated September 1983; (9) Approval of Change 1 to RTCA Document DO-173 "Minimum Operational Performance Standards for Airborne Weather and Ground Mapping Pulsed Radars" Dated November 1980; and (10) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, N.W., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on December 17, 1984.

Karl F. Bierach,

Designated Officer.

[FR Doc. 84-33297 Filed 12-21-84; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-84-25]

Petition for Exemption; Summary of Petitions Received Dispositions of Petitions Issued**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions

previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion of omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before, January 14, 1985.**ADDRESS:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. _____ 800 Independence Avenue, SW., Washington, D.C. 20591.**FOR FURTHER INFORMATION CONTACT:**

The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on December 18, 1984.

John H. Cassady,*Assistant Chief Counsel, Regulations and Enforcement Division.*

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
24340	Sabena	14 CFR 91.303.....	To allow petitioner to operate one Stage 1 Boeing 707 aircraft in noncompliance with the operating noise levels for three round trip flights to Chicago O'Hare during January 1985.
24338	Air Transport International	14 CFR 91.303.....	To allow petitioner to operate two Stage 1 DC-8-33 aircraft in noncompliance with the operating noise limits until they are replaced by hush kitted DC-8-62 aircraft.
24350	Varig, S.A.	14 CFR 91.303.....	To allow petitioner to operate Stage 1 Boeing 707 aircraft to New York, Los Angeles and Anchorage until June 30, 1985, in noncompliance with the operating noise limits.
24370	Hawaiian Airlines.....	14 CFR 91.303.....	To allow petitioner to operate two Stage 1 DC-8 aircraft in noncompliance with the operating noise limits between Vancouver and Honolulu, Salt Lake City, Las Vegas and San Francisco until hush kits are installed.
24368	Minerve.....	14 CFR 91.303.....	To allow petitioner to operate cargo charter flights using a Stage 1 DC-8-62F in noncompliance with the operating noise limits until hush kits are installed.
24383	National Airlines, Inc.....	14 CFR 91.303.....	To allow petitioner to operate three Stage 1 DC-8-63 aircraft from Tinker Air Force Base, Philadelphia, and New York until hush kits are installed.
24356	Trans Global Airlines Inc.	14 CFR 91.303.....	To allow petitioner to operate four Stage 1 DC-8-55 aircraft in noncompliance with the operating noise limits.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
24302	Al-Anwar Trading & Contracting Est	14 CFR 91.307.....	To allow operation in the United States, under a service to small communities exemption, of specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than Jan. 1, 1988: 1 BAC 1-11. Granted Nov. 27, 1984.
24301	Tenneco Inc.....	14 CFR 91.307.....	To allow operation in the United States, under a service to small communities exemption, of specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than Jan. 1, 1988: 3 BAC 1-11. Granted Nov. 29, 1984.
24288	Caribbean Air Cargo Co., Ltd.....	14 CFR 91.303.....	To allow petitioner to operate two Stage 1 Boeing 707 aircraft to Miami and New York until "hush kits" are installed. Partial grant for Miami Nov. 30, 1984.
23975	ATASCO U.S.A., Inc., and Atlasco Leasing, Inc	14 CFR 91.303.....	To permit continued operation in the U.S. of ten DC-8-63 aircraft as Stage 1 aircraft until these aircraft can be modified to meet Stage 2 noise levels during 1985. Denied Nov. 29, 1984.
23653	University of North Dakota (UND).....	14 CFR part 141 Appendix A, C, D, F, & H.....	To permit aviation students of UND to graduate from the appropriate courses when they have been trained to a specific performance level rather than the minimum flight time requirements. Partial grant Dec. 6, 1984.
24241	Amway Corp.....	14 CFR 91.307.....	To amend exemption No. 4132a to add 1 aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than Jan. 1, 1988: 2 BAC 1-11; N523AC, N524AC; Granted Oct. 12, 1984.
24015	Iberia Airlines.....	14 CFR 91.303.....	To allow petitioner to operate DC-8 aircraft until March 15, 1985, in noncompliance with the operating noise limits. Denied Nov. 28, 1984.
24176	Age of Enlightenment Aviation, Inc.....	14 CFR 91.303.....	To allow petitioner to operate one stage 1 Boeing 707 in noncompliance with the operating noise limits. Denied Nov. 29, 1984.

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
24031	Korean Air Lines Co., Ltd.	14 CFR 91.303	To allow petitioner, until Jan. 1, 1985, to make one technical stop per week at Anchorage, Alaska with a Boeing 707 aircraft that does not comply with the operating noise limits. Denied Dec. 5, 1984.
23965	Air New Zealand Ltd.	14 CFR 91.303	To extend the Jan. 1, 1985 termination of the noise level compliance date contained in part 91, subpart E. Denied Oct. 12, 1984.
24187	Florida department of law enforcement	14 CFR 91.85(b), 91.73(a), 91.79(c), 91.85(b) & 91.109(a).	To permit petitioner to conduct law enforcement air support. Partial grant Oct. 9, 1984.
24271	Leaseexpress Air, Inc.	14 CFR 91.303	To allow petitioner to operate one stage 1 Boeing 707 aircraft from Los Angeles International Airport in noncompliance with the operating noise limits. Denied Dec. 6, 1984.
24234	Aerolineas Nicaraguenses S.A.	14 CFR 91.303	To allow petitioner to operate one stage 1 Boeing 720 aircraft in noncompliance with the operating noise limits to Miami airport until Jan. 1, 1987. Denied Dec. 5, 1984.
24249	Aloha Airlines, Inc.	14 CFR 91.303	To allow petitioner to operate one stage 1 Boeing 737 in noncompliance with the operating noise rules until "hush kits" are installed. Denied Dec. 10, 1984.
24345	Varig, S.A.	14 CFR 91.303	To exempt petitioner from the Jan. 1, 1985, noise level compliance date contained in part 91, subpart E. Partial grant for Miami Dec. 7, 1984.
18324	American Airlines	14 CFR 43.3 and 121.709	To extend the Nov. 30, 1984, termination date of exemption 2678 as amended, to allow inflight restowal of passenger oxygen masks by qualified flight engineers. Granted Nov. 30, 1984.
19475	FlightSafety International	14 CFR 61.157(e)(1)	To extend and amend Exemption 2854b permit the inflight requirements of appendix A or part 61 of the FAR to be accomplished in an approved simulator, to the extent necessary to permit petitioner to use instructors or check airmen who have not been employed by petitioner for at least 1 year in the capacity of an instructor, check airman, pilot in command, or second in command of an airplane of the same group in which they are instructing or checking and without its instructors or check airmen participating in an approved line flying program or approved line observation program. Granted Oct. 31, 1984.

Note.—The disposition of the Flight Safety International petition was incorrectly published as a grant (49 FR 46862 Nov. 28, 1984). It should have been shown as a partial grant issued for the sole purpose of extending the existing exemption while the FAA considers the requested amendment.

[FR Doc. 84-33290 Filed 12-21-84; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

[FRA Docket No. RSSI-84-3; Notice No. 2]

Special Safety Inquiry; Rail-Highway Grade Crossing Safety

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Special Safety Inquiry.

SUMMARY: FRA has initiated a Special Safety Inquiry to obtain information from the public to assist in evaluating possible future courses of action to enhance public safety at railroad-highway grade crossings. This information will be used by FRA in assessing the need for additional regulatory or other initiatives to reduce the number of fatalities and serious injuries that result from rail-highway grade crossing accidents.

DATES:

(1) A two-day public hearing will begin at 10:00 a.m. on January 23, 1985.

(2) Prepared statements to be made at the hearing should be submitted to the Docket Clerk at least seven days before the hearing date.

(3) Persons desiring to participate in the hearing should notify the Docket Clerk at least seven days before the hearing.

(4) Persons desiring to submit written comments for inclusion in the safety inquiry docket should submit them by January 31, 1985.

ADDRESSES:

(1) Hearing location Room 2230 of the Nassif Building located at 400 Seventh Street, SW., Washington, D.C.

(2) Docket Clerk, Office of Chief Counsel (RCC-30), Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone 202-426-8285.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: Joseph W. Walsh, Associate Administration for Safety, Federal Railroad Administration, Washington, D.C. 20590. Telephone 202-426-0895.

Principal Attorney: Lawrence I. Wagner, Office of Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590. Telephone 202-426-8836.

SUPPLEMENTARY INFORMATION: Since the early days of railroading the hazards presented by rail-highway grade crossing have posed a major public safety issue. From its inception in 1966 FRA has been involved in the continuing efforts of the Federal government to address this issue. The problem of providing adequate protection for both

highway and railroad users involves the jurisdictional responsibilities of both FRA and the Federal Highway Administration (FHWA). FRA had a particular interest in the problem because rail-highway grade crossing accidents continue to constitute the largest single cause of injuries and fatalities that result from railroad operations.

Accident data for 1983 indicate that 7,161 accidents occurred at rail-highway grade crossings, resulting in 575 fatalities, a 5.3 percent decline from the previous year.

FRA had its first hearing in this proceeding on July 16, 1984, in Saint Paul, Minnesota (announced in a *Federal Register* notice published June 18, 1984 (49 FR 24968)). That hearing produced some worthwhile suggestions for enhancing public safety at rail-highway grade crossings and limited information about the reliability of active warning devices. To obtain additional information, FRA will hold a two-day hearing beginning at 10:00 a.m. on January 23, 1985. During the first day, FRA will hear general comments on grade crossing safety, and on the second day, January 24, 1985, FRA will focus on the use and reliability of active warning devices.

Public Participation Requested

FRA encourages all interested persons to participate in this Special Safety Inquiry. Persons desiring to participate in this proceeding may do so by submitting written comments for inclusion in the docket for this inquiry and by participating in the public hearing that will be held on January 23 and 24, 1985 in Washington, D.C.

Persons desiring to participate in the hearing should notify the Docket Clerk at least seven days before the hearing and indicate the amount of time they will need to present their views. Prepared statements also should be submitted to the Docket Clerk at least seven days before the hearing date.

Issued in Washington, D.C. on December 19, 1984.

Louis S. Thompson,

Acting Deputy Administrator.

[FR Doc. 84-33396 Filed 12-21-84; 8:45 am]

BILLING CODE 4910-06-M

Monday
December 24, 1984

PART II

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New
Stationary Sources; Reference Methods;
Addition of Certain Calibration
Procedures Contained in APTD-0576 and
APTD-0581; Final Rule

ENVIRONMENTAL PROTECTION
AGENCY

40 CFR Part 60

[AD-FRL 2714-3]

Standards of Performance for New Stationary Sources; Appendix A—Reference Methods; Revisions to Method 5 to Add Certain Calibration Procedures Contained in APTD-0576 and APTD-0581**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: The purpose of this action is to promulgate revisions to Method 5 of Appendix A of 40 CFR Part 60 to add certain sampling equipment calibration procedures that are contained in Air Pollution Technical Documents APTD-0576 and APTD-0581. The calibration procedures are already required by Method 5; however, they are not currently described in the text of Method 5. Since it has been determined that APTD-0576 and APTD-0581 are not suitable for incorporation by reference, we are now revising Method 5 to include all of the necessary calibration procedures.

DATES: Effective December 24, 1984.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this rule is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia February 22, 1985. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket.* A docket, number A-83-15, containing materials considered by EPA in development of the promulgated rulemaking, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE-131), West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: William Grimley or Roger Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-2237.

SUPPLEMENTARY INFORMATION: In the Freedom of Information Act, 5 U.S.C. 552, Congress authorized incorporation of materials into regulations by

reference in an effort to reduce the volume of material published in the **Federal Register** and Code of Federal Regulations. Incorporation by reference allows Federal agencies to comply with the requirement to publish regulations in the **Federal Register** simply by referring to material already published elsewhere, rather than reprinting such material in the published regulations. The legal effect of incorporation by reference is that the material is treated as if it were published in the **Federal Register**. This material, like any other properly issued regulation, has the force and effect of law.

In this action, EPA is removing certain documents from incorporation by reference in Method 5, as it has been determined that they are not Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2237.

Instrumental test methods for oxygen or carbon dioxide, sulfur dioxide, and nitrogen oxides have been employed by local agencies and private consultants to gather emission data at fossil-fuel-fired combustion processes. EPA has reviewed these methods and such supporting information that is available, and in this action is proposing to include these methods in Appendix A of 40 CFR Part 60. EPA is also proposing to add these methods to Subparts D and Da of Part 60.

Miscellaneous

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on small entities because there will not be any additional testing required, or any changes in the presently specified test methods.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic Minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by Reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators, Fiberglass Insulation, Synthetic fibers, Lime.

This rulemaking is issued under the authority of Sections 111, 114, and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7414, and 7601(a)].

Dated: December 5, 1984.

William D. Ruckelshaus,
Administrator.

PART 60—[AMENDED]

40 CFR Part 60 is amended as follows:

Appendix A—[Amended]

1. In Appendix A, Test Methods 3A, 6C, and 7E are added as follows:

* * * * *

Method 3A—Determination of Oxygen and Carbon Dioxide Concentrations in Emissions From Stationary Sources*(Instrumental Analyzer Procedure)***1. Applicability and Principle.**

1.1 Applicability. This method is applicable to the determination of oxygen (O₂) and carbon dioxide (CO₂) concentrations in emissions from stationary sources only when specified within the regulations.

1.2 Principle. A sample is continuously extracted from the effluent stream; a portion of the sample stream is conveyed to an instrumental analyzer(s) for determination of O₂ and CO₂ concentration(s). Performance specifications and test procedures are provided to ensure reliable data.

2. Range and Sensitivity.

Same as Method 6C, Sections 2.1 and 2.2.

3. Definitions.

3.1 Measurement System. The total equipment required for the determination of the O₂ or CO₂ concentration. The measurement system consists of the same major subsystems as defined in Method 6C, Sections 3.1.1, 3.1.2, and 3.1.3.

3.2 Span, Calibration Gas, Analyzer Calibration Error, Sampling System Bias, Zero Drift, Calibration Drift, Response Time, and Calibration Curve. Same as Method 6C, Sections 3.2 through 3.8, and 3.10.

3.3 Interference Response. The output response of the measurement system to a component in the sample gas, other than the gas component being measured.

4. Measurement System Performance Specifications.

Same as Method 6C, Sections 4.1 through 4.4.

5. Apparatus and Reagents.

5.1 Measurement System. Use any measurement system for O_2 or CO_2 that meets the specifications of this method. A schematic of an acceptable measurement system is shown in Figure 6C-1 of Method 6C. The essential components of the measurement system are described below:

5.1.1 Sample Probe. A leak-free probe of sufficient length to traverse the sample points.

5.1.2 Sample Line. Tubing to transport the sample gas from the probe to the moisture removal system.

5.1.3 Calibration Valve Assembly, Moisture Removal System, Particulate Filter, Sample Pump, Sample Flow Rate Control, Sample Gas Manifold, and Data Recorder. Same as Method 6C, Sections 5.1.3 through 5.1.8, and 5.1.10.

5.1.4 Gas Analyzer. An analyzer to determine continuously the O_2 or CO_2 concentration in the sample gas stream. The analyzer must meet the applicable performance specifications of Section 4. A means of controlling the analyzer flow rate and a device for determining proper sample flow rate (e.g., precision rotameter, pressure gauge downstream of all flow controls, etc.) must be provided at the analyzer.

5.2 Calibration Gases. The calibration gases for O_2 analyzers shall be O_2 in N_2 . The calibration gases for CO_2 analyzers shall be CO_2 in N_2 or CO_2 in air. Use four calibration gases as specified in Method 6C, Sections 5.3.1 through 5.3.4. For O_2 monitors that cannot analyze zero gas, a calibration gas concentration equivalent to less than 10 percent of the span may be used in place of zero gas.

6. Measurement System Performance Test Procedures.

Perform the following procedures before measurement of emissions (Section 7).

6.1 Calibration Concentration Verification. Same as Method 6C, Section 6.1, except if calibration gas analysis is required, use Method 3 and change the acceptance criteria for agreement among Method 3 results to 5 percent (or 0.2 percent by volume, whichever is greater).

6.2 Interference Response. Conduct an interference response test of the analyzer prior to its initial use in the field. Thereafter, recheck the measurement system if changes are made in the instrumentation that could alter the interference response (e.g., changes in the gas detector). Conduct the interference response in accordance with Section 5.4 of Method 20.

6.3 Measurement System Preparation, Analyzer Calibration Error, Response Time, and Sampling System Bias Check. Same as Method 6C, Sections 6.2 through 6.5.

7. Emission Test Procedure.

7.1 Selection of Sampling Site and Sampling Points. Select a measurement site and sampling points using the same criteria that are applicable to tests performed using Method 3.

7.2 Sample Collection. Position the sampling probe at the first measurement

point, and begin sampling at the same rate as used during the response time test. Maintain constant rate sampling (i.e., ± 10 percent) during the entire run. The sampling time per run shall be the same as for tests conducted using Method 3 plus twice the average system response time. For each run, use only those measurements obtained after twice the response time of the measurement system has elapsed to determine the average effluent concentration.

7.3 Zero and Calibration Drift Test. Same as Method 6C, Section 7.4.

8. Quality Control Procedures.

The following quality control procedures are recommended when the results of this method are used for an emission rate correction factor or excess air determination. The tester should select one of the following options for validating measurement results:

8.1 If both O_2 and CO_2 are measured using Method 3A, the procedures described in Section 4.4 of Method 3 should be followed to validate the O_2 and CO_2 measurement results.

8.2 If only O_2 is measured using Method 3A, measurements of the sample stream CO_2 concentration should be obtained at the sample by-pass vent discharge using an Orsat or Fyrite analyzer, or equivalent. Duplicate samples should be obtained concurrent with at least one run. Average the duplicate Orsat or Fyrite analysis results for each run. Use the average CO_2 values for comparison with the O_2 measurements in accordance with the procedures described in Section 4.4 of Method 3.

8.3 If only CO_2 is measured using Method 3A, concurrent measurements of the sample stream O_2 concentration should be obtained using an Orsat or Fyrite analyzer as described in Section 8.2. For each run, differences greater than 0.5 percent between the Method 3A results and the average of the duplicate Fyrite analysis should be investigated.

9. Emission Calculation.

Same as Method 6C, Section 8, except that all concentrations must be expressed as percent by volume rather than ppm.

10. Bibliography.

Same as in Bibliography of Method 6C.

Method 6C.—Determination of Sulfur Dioxide Emissions From Stationary Sources

(Instrumental Analyzer Procedure)

1. Applicability and Principle.

1.1 Applicability. This method is applicable to the determination of sulfur dioxide (SO_2) concentrations in controlled and uncontrolled emissions from stationary sources only when specified within the regulations.

1.2 Principle. A sample is continuously extracted from the effluent stream; a portion of the sample stream is conveyed to an instrumental analyzer for determination of SO_2 gas concentration. Performance specifications and test procedures are provided to ensure reliable data.

2. Range and Sensitivity.

2.1 Analytical Range. The analytical range is determined by the instrumental design. For this method, a portion of the

analytical range is selected by choosing the span of the monitoring system. The span of the monitoring system shall be selected such that the mean gas concentration of each run is between 20 and 90 percent of the span. If at any time during a run the measured gas concentration exceeds the span, the run shall be considered invalid.

2.2 Sensitivity. The minimum detectable limit depends on the analytical range, span, and signal to noise ratio of the measurement system. For a well designed system, the minimum detectable limit should be less than 2 percent of the span. Measurement system components, including the data recorder, shall be selected such that the method can resolve a change in stack gas concentration of ± 0.5 percent of the span.

3. Definitions.

3.1 Measurement System. The total equipment required for the determination of gas concentration. The measurement system consists of the following major subsystems:

3.1.1 Sample Interface. That portion of a system used for one or more of the following: sample acquisition, sample transport, sample conditioning, or protection of the analyzers from the effects of the stack effluent.

3.1.2 Gas Analyzer. That portion of the system that senses the gas to be measured and generates an output proportional to its concentration.

3.1.3 Data Recorder. A strip chart recorder, analog computer, or digital recorder for recording measurement data from the analyzer output.

3.2 Span. The upper limit of the gas concentration measurement range displayed on the data recorder.

3.3 Calibration Gas. A known concentration of a gas in an appropriate diluent gas.

3.4 Analyzer Calibration Error. The difference between the gas concentration exhibited by the gas analyzer and the known concentration of the calibration gas when the calibration gas is introduced directly to the analyzer.

3.5 Sampling System Bias. The difference between the gas concentrations exhibited by the measurement system when a known concentration gas is introduced at the outlet of the sampling probe and when the same gas is introduced directly to the analyzer.

3.6 Zero Drift. The difference in the measurement system output reading from the initial calibration response at the zero concentration level after a stated period of operation during which no unscheduled maintenance, repair, or adjustment took place.

3.7 Calibration Drift. The difference in the measurement system output reading from the initial calibration response at a mid-range calibration value after a stated period of operation during which no unscheduled maintenance, repair, or adjustment took place.

3.8 Response Time. The amount of time required for the measurement system to display 95 percent of a step change in gas concentration on the data recorder.

3.9 Interference Check. A method for detecting analytical interferences and excessive biases through direct comparison

of gas concentrations provided by the measurement system and by a modified Method 6 procedure. For this check, the modified Method 6 samples are acquired at the sample by-pass discharge vent.

3.10 Calibration Curve. A graph or other systematic method of establishing the relationship between the analyzer response and the actual gas concentration introduced to the analyzer.

4. Measurement System Performance Specifications.

4.1 Analyzer Calibration Error. Less than ± 2 percent of the span for the zero and low-, mid-, and high-range calibration gases.

4.2 Sampling System Bias. Less than ± 3 percent of the span for the zero and mid-range calibration gases.

4.3 Zero Drift. Less than ± 2 percent of the span over the period of each run.

4.4 Calibration Drift. Less than ± 2 percent of the span over the period of each run.

4.5 Interference Check. Less than ± 7 percent of the modified Method 6 result for each run.

5. Apparatus and Reagents.

5.1 Measurement System. Use any measurement system for SO_2 that meets the specifications of this method. A schematic of an acceptable measurement system is shown in Figure 6C-1. The essential components of the measurement system are described below:

5.1.1 Sample Probe. Glass, stainless steel, or equivalent, of sufficient length to traverse the sample points. The sampling probe shall be heated to prevent condensation.

5.1.2 Sample Line. Heated (sufficient to prevent condensation) stainless steel or Teflon tubing to transport the sample gas to the moisture removal system.

5.1.3 Calibration Valve Assembly. A three-way valve assembly, or equivalent, for blocking the sample gas flow and introducing calibration gases to the measurement system at the outlet of the sampling probe when in the calibration mode.

5.1.4 Moisture Removal System. A refrigerator-type condenser or other device (e.g., permeation dryer) designed to remove condensate continuously from the sample gas while maintaining minimal contact between the condensate and the sample gas. The moisture removal system is not necessary for analyzers that can measure gas concentrations on a wet basis; for these analyzers, (a) heat the sample line and all interface components up to the inlet of the analyzer sufficiently to prevent condensation, and (b) determine the moisture content and correct the measured gas concentrations to a dry basis using appropriate methods, subject to the approval of the Administrator.

5.1.5 Particulate Filter. An in-stack or heated, out-of-stack glass fiber filter or borosilicate glass wool plug. Additional filters at the inlet or outlet of the moisture removal system and inlet of the analyzer may be used to prevent accumulation of particulate material in the measurement system and extend the useful life of the components.

5.1.6 Sample Pump. A leak-free pump to pull the sample gas through the system at a flow rate sufficient to minimize the response

time of the measurement system. The pump may be constructed of any material that is nonreactive to the gas being sampled.

5.1.7 Sample Flow Rate Control. A sample flow rate control valve and rotameter, or equivalent, to maintain a constant sampling rate within 10 percent.

5.1.8 Sample Gas Manifold. A sample gas manifold to divert a portion of the sample gas stream to the analyzer and the remainder to the by-pass discharge vent. The sample gas manifold should also include provisions for introducing calibration gases directly to the analyzer. The manifold may be constructed of any material that is nonreactive to the gas being sampled.

5.1.9 Gas Analyzer. An analyzer to determine continuously the SO_2 concentration in the sample gas stream. The analyzer must meet the applicable performance specifications of Section 4. A means of controlling the analyzer flow rate and a device for determining proper sample flow rate (e.g., precision rotameter, pressure gauge downstream of all flow controls, etc.) must be provided at the analyzer.

5.1.10 Data Recorder. A strip chart recorder, analog computer, or digital recorder for recording measurement data.

5.2 Method 6 Apparatus and Reagents. The apparatus and reagents described in Method 6 and shown by the schematic of the sampling train in Figure 6C-2 are used to conduct the interference check.

5.3 SO_2 Calibration Gases. The calibration gases for the gas analyzer shall be SO_2 in N_2 or SO_2 in air. Use four calibration gases as specified below:

5.3.1 High-Range Gas. Concentration equivalent to 80 to 90 percent of the span.

5.3.2 Mid-Range Gas. Concentration equivalent to 50 to 60 percent of the span.

5.3.3 Low-Range Gas. Concentration equivalent to 20 to 30 percent of the span.

5.3.4 Zero Gas. Concentration of less than 0.25 percent of the span. Purified ambient air may be used for the zero gas by passing air through a charcoal filter or through one or more impingers containing a solution of 3 percent H_2O_2 .

6. Measurement System Performance Test Procedures.

Perform the following procedures before measurement of emissions (Section 7).

6.1 Calibration Gas Concentration Verification. There are two alternatives for establishing the concentrations of calibration gases.

6.1.1 Alternative Number 1. Use calibration gases that are analyzed following the Environmental Protection Agency Traceability Protocol Number 1 (see Citation 1 in Bibliography). Obtain a certification from the gas manufacturer that Protocol Number 1 was followed.

6.1.2 Alternative Number 2. Use calibration gases not prepared according to Protocol Number 1. If this alternative is chosen, obtain gas mixtures with a manufacturer's tolerance not to exceed ± 2 percent of the tag value. Within 6 months before the emission test, analyze each of the calibration gases in triplicate using Method 6. Citation 2 in Bibliography describes procedures and techniques that may be used for this analysis. Record the results on a data

sheet (example is shown in Figure 6C-3). For the low-, mid-, or high-range gases, each of the individual SO_2 analytical results must be within 5 percent (or 5 ppm, whichever is greater) of the triplicate set average; otherwise, discard the entire set and repeat the triplicate analyses. If the average of the triplicate analyses is within 5 percent of the calibration gas manufacturer's tag value, use the tag value; otherwise, conduct at least three additional analyses until the results of six individual runs (the three original plus three additional) agree within 5 percent (or 5 ppm, whichever is greater) of the average. Then use this average for the cylinder value.

6.2 Measurement System Preparation. Assemble the measurement system following the manufacturer's written instructions in preparing and preconditioning the gas analyzer and, as applicable, the other system components. Introduce any combination of calibration gases, and make all necessary adjustments to calibrate the analyzer and the data recorder. Adjust system components to achieve correct sampling rates.

6.3 Analyzer Calibration Error. Conduct the analyzer calibration error check by introducing calibration gases to the measurement system at any point upstream of the gas analyzer as follows:

6.3.1 After the measurement system has been prepared for use, introduce the zero and low-, mid-, and high-range gases to the analyzer. During this check, make no adjustments to the system except those necessary to achieve the correct calibration gas flow rate at the analyzer. Record the analyzer responses to each calibration gas on a form similar to Figure 6C-4. **NOTE.**—A calibration curve established prior to the analyzer calibration error check may be used to convert the analyzer response to the equivalent gas concentration introduced to the analyzer. However, the same correction procedure must be used for all effluent and calibration measurements obtained during the test.

6.3.2 The analyzer calibration error check shall be considered invalid if the gas concentration displayed by the analyzer exceeds ± 2 percent of the span for the zero or low-, mid-, or high-range calibration gases. If an invalid calibration is exhibited, take corrective action and repeat the analyzer calibration error check until acceptable performance is achieved.

6.4 Response Time. Determine response time by first positioning the sampling probe to obtain effluent samples at the measurement location, and adjusting the measurement system to achieve the proper sampling rate. Introduce zero gas into the system at the calibration valve until the analyzer response is stable; then switch to monitor the stack effluent until a stable reading can be obtained. A stable value is equivalent to a change of less than 1 percent of span for 30 seconds or less than 5 percent of the measured average concentration for 2 minutes. Record the upscale response time. Next, introduce high-range calibration gas into the system. Once the system has stabilized at the high-range concentration, switch to monitor the stack effluent, and wait until a stable value is reached. Record the

downscale response time. Repeat the procedure three times. Record the response time data on a form similar to Figure 6C-5, average the three measurements of the upscale and downscale response times, and report the greater time as the "response time" for the measurement system.

6.5 Sampling System Bias Check. Perform the sampling system bias check by introducing calibration gases at the calibration valve installed at the outlet of the sampling probe as follows:

6.5.1 Introduce the mid-range calibration gas, and record the gas concentration displayed by the analyzer on a form similar to Figure 6C-6. Then introduce zero gas, and record the gas concentration displayed by the analyzer. During the sampling system bias check, operate the system at the normal sampling rate, and make no adjustments to the measurement system other than those necessary to achieve proper calibration gas flow rates at the analyzer. Introduce both the zero and mid-range gases for a period not less than twice the response time.

6.5.2 The sampling system bias check shall be considered invalid if the difference between the gas concentration displayed by the measurement system for the analyzer calibration error check and for the sampling system bias check exceeds ± 3 percent of the span for either the zero or mid-range calibration gases. If an invalid calibration is exhibited, take corrective action, and repeat the sampling system bias check until acceptable performance is achieved. If adjustment to the analyzer is required, first repeat the analyzer calibration error check, then repeat the sampling system bias check.

7. Emission Test Procedure.

7.1 Selection of Sampling Site and Sampling Points. Select a measurement site and sampling points using the same criteria that are applicable to Method 6.

7.2 Interference Check Preparation. Conduct an interference check for at least three runs per test.

Assemble the modified Method 6 train (flow control valve, two midjet impingers containing 3 percent H_2O_2 , and dry gas meter) as shown in Figure 6C-2. Install the sampling train to obtain a sample at the measurement system sample by-pass discharge vent. Record the initial dry gas meter reading.

This check may be omitted, subject to the approval of the Administrator, provided that: (a) information is submitted prior to the test demonstrating that measurement results for the gas analyzer used for the test cannot be

biased low because of the presence of interferences within the sample stream, and (b) no adjustment to the test data is made to account for interferences that may create a high bias in the measurement results.

7.3 Sample Collection. Position the sampling probe at the first measurement point, and begin sampling at the same rate as used during the response time test. Maintain constant rate sampling (i.e., ± 10 percent) during the entire run. The sampling time per run shall be the same as for Method 6 plus twice the average system response time. For each run, use only those measurements obtained after twice the response time of the measurement system has elapsed to determine the average effluent concentration. Concurrent with the initiation of the sampling period, open the flow control valve on the modified Method 6 train, and adjust the flow to 1 liter per minute (± 10 percent). (Note.—If a pump is not used in the modified Method 6 train, caution should be exercised in adjusting the flow rate since overpressurization of the impingers may cause leakage in the impinger train, resulting in positively biased results).

7.4 Zero and Calibration Drift Test.

Immediately following each run, or if adjustments are necessary for the measurement system during the run, repeat the sampling system bias check procedure described in Section 6.5. (Make no adjustments to the measurement system until after the drift checks are completed.) Record the analyzer's responses on a form similar to Figure 6C-6.

7.4.1 If either the zero or mid-range calibration value exceeds the sampling system bias specification, then the run is considered invalid. Repeat both the analyzer calibration error check procedure (Section 6.3) and the sampling system bias check procedure (Section 6.5) before repeating the run.

7.4.2 If both the zero and mid-range calibration values are within the sampling system bias specification, then the average of the initial and final bias check values shall be used to calculate the gas concentration for the run. If the zero or mid-range drift value exceeds the drift limits, repeat both the analyzer calibration error check procedure (Section 6.3) and the sampling system bias check procedure (Section 6.5) before conducting additional runs.

7.5 Interference Check. After completing the run, record the final dry gas meter reading, meter temperature, and barometric

pressure. Recover and analyze the contents of the midjet impingers, and determine the SO_2 gas concentration using the procedures of Method 6. (It is not necessary to analyze EPA performance audit samples for Method 6.) Determine the average gas concentration exhibited by the analyzer for the run. If the gas concentrations provided by the analyzer and the modified Method 6 differ by more than 7 percent of the modified Method 6 result, the run shall be considered invalid.

8. Emission Calculation.

The average gas effluent concentration is determined from the average gas concentration displayed by the gas analyzer and is adjusted for the zero and mid-range sampling system bias checks as determined in accordance with Section 7.4. Calculate the effluent gas concentration using Equation 6C-1.

$$C_{\text{gas}} = (\bar{C} - C_0) \frac{C_m}{C_m - C_0} \quad \text{Eq. 6C-1}$$

Where:

C_{gas} = Effluent gas concentration, ppm by volume (dry basis).

$\bar{C}$ = Average gas concentration indicated by gas analyzer, ppm (dry basis).

C_0 = Average of initial and final system calibration bias check responses for the zero gas, ppm.

C_m = Average of initial and final system calibration bias check responses for the mid-range gas, ppm.

9. Bibliography.

1. Traceability Protocol for Establishing True Concentrations of Gases Used for Calibrations and Audits for Continuous Source Emission Monitors: Protocol Number 1. U.S. Environmental Protection Agency, Quality Assurance Division, Research Triangle Park, N.C. June 1978.

2. Westlin, Peter R. and John W. Brown. Methods for Collecting and Analyzing Gas Cylinder Samples. U.S. Environmental Protection Agency, Emission Measurement Branch, Research Triangle Park, N.C. July 1978. Source Evaluation Society Newsletter 3(3) :5-15, September 1978.

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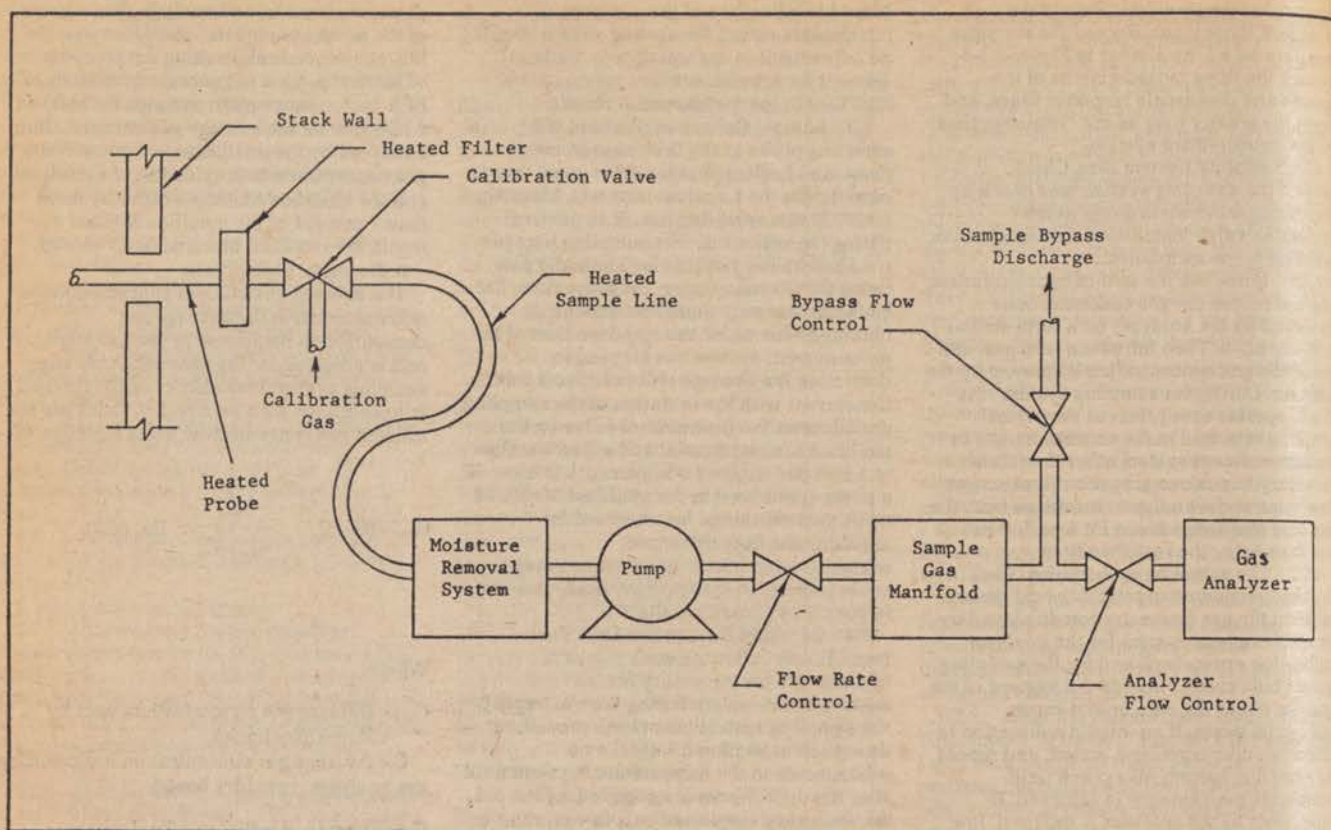


Figure 6C-1. Measurement system schematic.

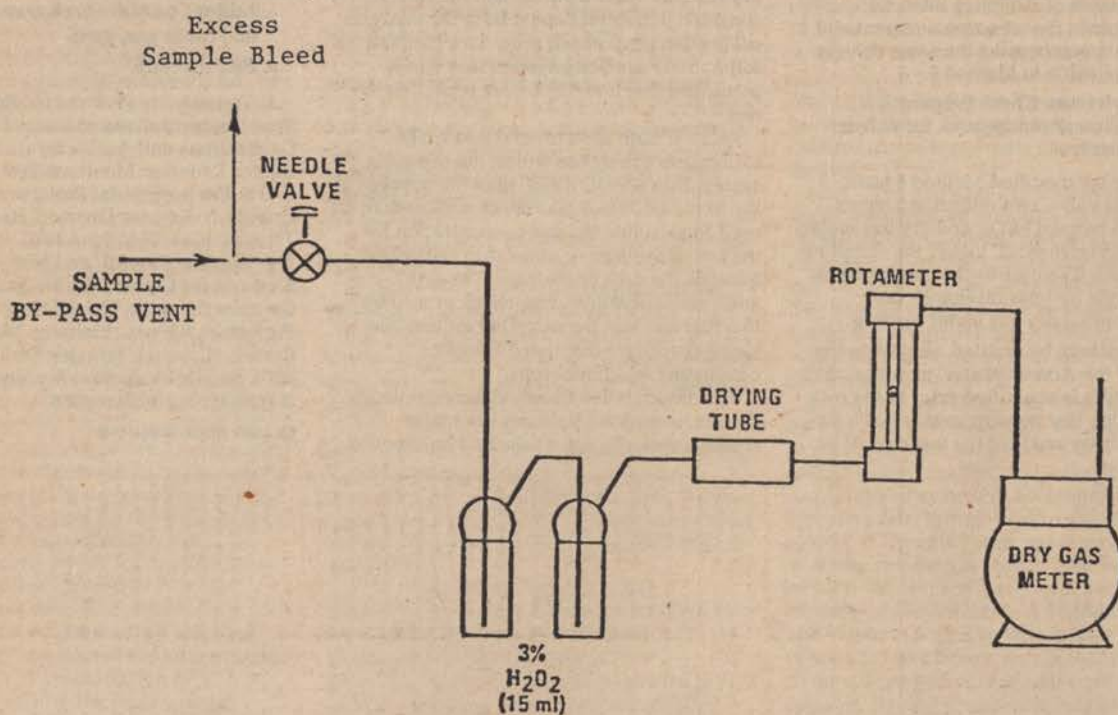


Figure 6C-2. Interference check sampling train.

Source identification: _____
 Test personnel: _____
 Date: _____
 Analyzer calibration data for sampling runs: _____
 Span: _____

Sample run	Gas concentration (indicate units)		
	Low level ^a	Mid-level ^b	High level ^c
1			
2			
3			
Average			
Maximum % deviation			

- a Average must be 20 to 30 percent of span.
 b Average must be 50 to 60 percent of span.
 c Average must be 80 to 90 percent of span.

Figure 6C-3. Analysis of calibration gases.

Cylinder value	Analyzer calibration response (indicate units)	Absolute difference	Difference (% of span)
Zero gas			
Low range			
Mid-range			
High range			

Figure 6C-4. Analyzer calibration data.

Source identification: _____
 Test personnel: _____
 Date: _____ Run number: _____
 Span: _____

	Initial Values		Final Values	
	Analyzer calibration response	System calibration response (% of span)	System calibration response	System cal. bias (% of span)
Zero gas				
Mid-range				

System Calibration Bias = $\frac{\text{System Cal. Response} - \text{Analyzer Cal. Response}}{\text{Span}} \times 100$

Drift = $\frac{\text{Final System Cal. Response} - \text{Initial System Cal. Response}}{\text{Span}} \times 100$

Figure 6C-6. System calibration bias and drift data.

* * * * *

Date of test	_____	SN	_____
Analyzer type	_____	(indicate units)	_____
Span gas concentration	_____	(indicate units)	_____
Analyzer span setting	_____		_____
Upscale	1 _____ seconds		
	2 _____ seconds		
	3 _____ seconds		
Average upscale response	_____ seconds		
Downscale	1 _____ seconds		
	2 _____ seconds		
	3 _____ seconds		
Average downscale response	_____ seconds		
System response time = slower average time =	_____ seconds		

Figure 6C-5. Response time.

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Method 7E—Determination of Nitrogen Oxides Emissions From Stationary Sources*(Instrumental Analyzer Procedure)***1. Applicability and Principle.**

1.1 **Applicability.** This method is applicable to the determination of nitrogen oxides (NO_x) concentrations in emissions from stationary sources only when specified within the regulations.

1.2 **Principle.** A sample is continuously extracted from the effluent stream; a portion of the sample stream is conveyed to an instrumental chemiluminescent analyzer for determination of NO_x concentration. Performance specifications and test procedures are provided to ensure reliable data.

2. Range and Sensitivity.

Same as Method 6C, Sections 2.1 and 2.2.

3. Definitions.

3.1 **Measurement System.** The total equipment required for the determination of NO_x concentration. The measurement system consists of the following major subsystems.

3.1.1 **Sample Interface, Gas Analyzer, and Data Recorder.** Same as Method 6C, Sections 3.1.1, 3.1.2, and 3.1.3.

3.1.2 **NO_2 to NO Converter.** A device that converts the nitrogen dioxide (NO_2) in the sample gas to nitrogen oxide (NO).

3.2 **Span, Calibration Gas, Analyzer Calibration Error, Sampling System Bias, Zero Drift, Calibration Drift, and Response Time.** Same as Method 6C, Sections 3.2 through 3.8.

3.2 **Interference Response.** The output response of the measurement system to a component in the sample gas, other than the gas component being measured.

4. Measurement System Performance Specifications.

Same as Method 6C, Sections 4.1. through 4.4.

5. Apparatus and Reagents.

5.1 **Measurement System.** Use any measurement system for NO_x that meets the specifications of this method. A schematic of an acceptable measurement system is shown in Figure 6C-1 of Method 6C. The essential components of the measurement system are described below:

5.1.1 **Sample Probe, Sample Line, Calibration Valve Assembly, Moisture Removal System, Particulate Filter, Sample Pump, Sample Flow Rate Control, Sample Gas Manifold, and Data Recorder.** Same as Method 6C, Sections 5.1.1 through 5.1.8, and 5.1.10.

5.1.2 **NO_2 to NO Converter.** That portion of the system that converts the nitrogen dioxide (NO_2) in the sample gas to nitrogen oxide (NO). A NO_2 to NO converter is not necessary if the NO_2 portion of the exhaust gas is less than 5 percent of the total NO_x concentration.

5.1.3 **NO_x Analyzer.** An analyzer based on the principles of chemiluminescence to determine continuously the NO_x concentration in the sample gas stream. The analyzer must meet the applicable performance specifications of Section 4. A means of controlling the analyzer flow rate

and a device for determining proper sample flow rate (e.g., precision rotameter, pressure gauge downstream of all flow controls, etc.) must be provided at the analyzer.

5.2 **NO_x Calibration Gases.** The calibration gases for the NO_x analyzer shall be NO in N_2 . Use four calibration gases as specified in Method 6C, Sections 5.3.1 through 5.3.4. Ambient air may be used for the zero gas.

6. Measurement System Performance Test Procedures.

Perform the following procedures before measurement of emissions (Section 7).

6.1 **Calibration Gas Concentration Verification.** Same as Method 6C, Section 6.1, except if calibration gas analysis is required, use Method 7, and change all 5 percent performance values to 10 percent (or 10 ppm, whichever is greater).

6.2 **Interference Response.** Conduct an interference response test of the analyzer prior to its initial use in the field. Thereafter, recheck the measurement system if changes are made in the instrumentation that could alter the interference response (e.g., changes in the gas detector). Conduct the interference response in accordance with Section 5.4. of Method 20.

6.3 **Measurement System Preparation, Analyzer Calibration Error, Response Time, and Sample System Bias Check.** Same as Method 6C, Sections 6.2 through 6.5.

6.4 **NO_2 to NO Conversion Efficiency.** If the NO_2 concentration within the sample stream is greater than 5 percent of the NO_x concentration, conduct an NO_2 to NO conversion efficiency test in accordance with Section 5.6 of Method 20.

7. Emission Test Procedure.

7.1 **Selection of Sampling Site and Sampling Points.** Select a measurement site and sampling points using the same criteria that are applicable to tests performed using Method 7.

7.2 **Sample Collection.** Position the sampling probe at the first measurement point, and begin sampling at the same rate as used during the response time test. Maintain constant rate sampling (i.e., ± 10 percent) during entire run. The sampling time per run shall be the same as the total time required to perform a run using Method 7 plus twice the average system response time. For each run, use only those measurements obtained after twice the response time of the measurement system has elapsed to determine the average effluent concentration.

7.3 **Zero and Calibration Draft Test.** Same as Method 6C, Section 7.4.

8. Emission Calculation.

Same as Method 6C, Section 8.

9. Bibliography.

Same as in Bibliography of Method 6C.

2. In Subpart D, § 60.45 is amended by revising paragraph (c)(1) as follows:

§ 60.45 Emission and fuel monitoring.

(c) ***

(1) Methods 6 or 6C and 7, 7A, 7C, 7D, or 7E, as applicable, shall be used for conducting performance evaluations of

sulfur dioxide and nitrogen oxides continuous monitoring systems.

3. In Subpart D, § 60.46 is amended by revising paragraph (a)(2), (a)(4), (a)(5), (f)(2), (f)(3), and (f)(3)(i) as follows:

§ 60.46 Test methods and procedures.

(a) ***

(2) Method 3 or 3A for gas analysis to be used when applying Methods 5, 6 or 6C, and 7, 7A, 7C, 7D, or 7E.

(3) ***

(4) Method 6 or 6C for concentration of SO_2 . Method 6A may be used whenever Methods 6 or 6C and 3 or 3A data are used to determine the SO_2 emission rate in ng/J , and

(5) Method 7, 7A, 7C, 7D, or 7E for concentration of NO_x .

(f) ***

(2) C = pollutant concentration, ng/dscm ($1\text{b}/\text{dscf}$) determined by Method 5, 6, 6C, 7, 7A, 7C, 7D, or 7E.

(3) Percent O_2 = Oxygen content by volume (expressed as percent), dry basis. Percent oxygen shall be determined by using the integrated or grab sampling and analysis procedures of Method 3 as applicable, or by using Method 3C. Oxygen samples shall be obtained as follows:

(i) For determination of sulfur dioxide by Method 6 or 6C and nitrogen oxides emissions by Method 7, 7A, 7C, 7D, or 7E, the oxygen sample shall be obtained simultaneously at the same point in the duct. For Method 7 or 7A, the oxygen sample shall be obtained using the grab sampling and analysis procedures of Method 3, or by using Method 3C.

4. In Subpart D, § 60.46 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 60.46 Test methods and procedures.

(c) For Methods 6 or 6C, and 7, 7A, 7C, 7D, or 7E, the sampling site shall be the same as that selected for Method 5.

5. In Subpart Da, § 60.47a is amended by revising the first two sentences of paragraph (h)(1), the first sentence of paragraph (h)(4), and all of paragraph (h)(5)(i)(1) to read as follows:

§ 60.47a Emission monitoring.

(h) ***

(1) Methods 3 or 3A, 6 or 6C, and 7, 7A, 7C, 7D, or 7E, as applicable, are used. Method 6B may be used whenever Methods 6 or 6C and 3 or 3A data are

required to determine the SO₂ emission rate in ng/l.

* * * * *

(4) For Method 3, the oxygen or carbon dioxide sample is to be taken for each hour when continuous SO₂ and NO_x data are taken or when Methods 6 or 6C and 7, 7A, 7C, 7D, or 7E are required.

* * * * *

(5) * * *

(i) * * *

(7) Method 6, 6C, 7, 7A, 7C, 7D, or 7E, as applicable, is used for conducting performance evaluations of sulfur dioxide and nitrogen oxides continuous monitoring systems.

* * * * *

6. In Subpart Da, § 60.48a is amended by revising paragraph (a)(1) as follows:

§ 60.48a Compliance determination procedures and methods.

(a) * * *

(1) Method 3 or 3A is used for gas analysis when applying Method 5 or Method 17.

* * * * *

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Register

Federal

Monday
December 24, 1984

Part III

Department of Transportation

Coast Guard

46 CFR Parts 169, 170, 171, and 173
Sailing School Vessel Regulations; Notice
of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

46 CFR Parts 169, 170, 171, and 173

(CGD 83-005)

Sailing School Vessel Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing a new set of inspection regulations for sailing school vessels, as mandated by the Sailing School Vessel Act of 1982, Pub. L. 97-322. Current Coast Guard regulations do not consider the special characteristics, operating methods, and service of these vessels. This proposal would establish minimum inspection standards necessary for the safe operation of sailing school vessels. Previously uninspected vessels that qualify under these standards may be able to carry more persons than previously allowed.

DATES: Comments must be received on or before February 22, 1985.

ADDRESSES: Comments should be submitted to Commandant (G-CMC), (CGD 83-005), U.S. Coast Guard Headquarters, Washington, D.C. 20593. The comments and draft evaluation are available for examination and copying at the Marine Safety Council (G-CMC), Room 2110, 2100 Second St., SW., Washington, D.C. Normal working hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant John Astley (202-426-4431).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 83-005), the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt of the comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received, and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal drafters of this notice are: Lt John Astley, Office of Merchant Marine Safety, and Lcdr William B. Short, Office of General Counsel.

Discussion

Prior to October 15, 1982 privately owned sailing school vessels were considered under U.S. law to be passenger carrying vessels. The vast majority of these vessels are of wooden construction and admeasure less than 500 gross tons. They are owned and/or operated by nonprofit, tax exempt, educational institutions for the purpose of training individuals in maritime related areas.

The majority of sailing vessels do not operate as inspected vessels because they can not meet existing standards. Those that are inspected are governed by one of three sets of inspection regulations: Subchapter "T" (Title 46 Code of Federal Regulations Parts 175-187, Small Passenger Vessels) for those less than 100 gross tons; Subchapter "H" (46 CFR 70-89, Passenger Vessels) for those greater than 100 gross tons; and Subchapter "U" (46 CFR 188-196, Oceanographic Research Vessels) for those greater than 300 gross tons and involved exclusively in oceanographic research. These regulations are not suited to the particular characteristics and operating conditions of sail training vessels.

Congress passed the Sailing School Vessel Act of 1982 (Pub. L. 97-322) which modified existing law by:

(a) Providing a definition of a sailing school vessel and a definition of a passenger with respect to these vessels;

(b) Requiring the Coast Guard, after consultation with representatives of the private sector having experience in the operation of these vessels, to prescribe inspection regulations for sailing school vessels;

(c) Requiring that the regulations reflect the specialized nature of sailing school vessel operations and the character, design and construction of these vessels;

(d) Including requirements for notice to sailing school students and instructors regarding the specialized nature of sailing school vessels and applicable safety regulations;

(e) Providing that sailing school students and instructors are not considered to be seamen for the purposes of maritime law doctrines of maintenance and cure or warranty of seaworthiness;

(f) Requiring each owner or charterer of a sailing school vessel to maintain evidence of financial responsibility to

meet any liability incurred for death or injury to sailing school students or instructors on voyages aboard the vessel in an amount not less than \$50,000 for each student or instructor;

(g) Providing that manning requirements take into account the participation of sailing school students and instructions in their operation of sailing school vessels; and

(h) Adding and defining a new personnel qualification entitled "able seaman-sail."

Considering the mandate and intent of the Sailing School Vessel Act of 1982, existing regulations are inadequate. There exists a need to establish regulations which consider the unique characteristics, operating methods, and service of these vessels.

In an effort to obtain information about sailing school vessels and their operation the Coast Guard sent letters in the fall of 1982 to all known interested parties informing them of the regulatory project and requesting their input. Also information gathering meetings were held with the major supporter of the Act, the American Sail Training Association. The proposed regulations reflect the suggestions and experiences of these naval architects, designers, and operators of sailing school vessels.

The proposed regulations establish the minimum inspection standards necessary for the safe operation of these vessels. In developing the regulations very effort was made to adopt and modify existing domestic regulations. Existing regulations have been modified to reflect the varying sizes, special characteristics, operating methods, and service of sailing school vessels. The result is a body of regulations sufficiently different from other inspection subchapters that it warrants placing them in their own section. Accordingly, the proposed regulations are placed in Title 46 Code of Federal Regulations Part 169 and are entitled "Sailing School Vessels."

The regulations apply to each foreign and domestic vessel of less than 500 gross tons that is principally propelled by sail, carries 6 or more individuals who are sailing school students or instructors, and is owned or demise chartered, and operated by a non-profit, tax-exempt organization or a State or political subdivision of a State for the purpose of training individuals in maritime related areas. To be considered a sailing school vessel, a vessel must satisfy the specific provisions of the definition for a sailing school vessel. A vessel must be carrying at least 6 sailing school students or instructors, and the vessel must be

operating exclusively for the purpose of sailing instruction. This does not prohibit a vessel from operating for other purposes, but a vessel is deemed a sailing school vessel only during the time it is operated solely for sailing instruction. At all other times a vessel will be subject to the inspection laws and regulations governing the type of operation in which it is engaged. For these reasons the Coast Guard is proposing to limit the qualifying organizations to those that have a primary educational purpose.

The term "sailing instruction" covers a wide array of topics. The intent is to provide for a complete range of maritime study while emphasizing the "hands on" experience in the practical operation of the vessel. Individuals requesting certification of their vessel under these regulations must provide evidence of a bona fide sailing school instruction program to the Coast Guard. It is not intended that frivolous, cursory, or unprofessional programs will qualify as sailing school instruction.

An important aspect of the Sailing School Vessel Act of 1982 and these regulations is the role of sailing school students and instructors. For the purpose of the proposed regulations, these individuals are no longer considered passengers but as persons who participate in the handling and operation of the vessel. However, they are not considered "seamen" as defined by maritime law. The effect of this is to exclude sailing school students and instructors from the special protections granted to seamen by U.S. law.

To ensure that students and instructors are protected, each owner or charterer of a sailing school vessel must maintain evidence of financial responsibility to meet any liability incurred for death or injury to sailing school students or instructors on voyages aboard the vessel, in an amount not less than \$50,000 for each student or instructor. When seeking certification the owner or charterer will be required to present to the Coast Guard an affidavit attesting to the fact that he or she has the required financial resources to meet any liability.

Since, under domestic law, sailing school vessels are not considered passenger or cargo vessels and students and instructors are not passengers, the Coast Guard position is that the standards of the International Convention for Safety of Life at Sea (SOLAS) are not applicable. This decision is based on the Act and its legislative history, however our interpretation is not binding on foreign nations. Persons operating sailing school vessels on international voyages may

encounter foreign officials who require that they have SOLAS certificates. In order to meet this possibility, vessel owners may request that their vessel be inspected under the applicable SOLAS regulations as well as the proposed rules.

The proposed regulations also apply to foreign vessels which call at U.S. ports and embark U.S. citizens. While operating in U.S. waters, a foreign vessel must have either a sailing school vessel certificate of inspection or the appropriate SOLAS certificates. A foreign vessel's certificate of inspection as a sailing school vessel would only be valid while the vessel operates in U.S. waters.

The regulations also require that all promotional literature or advertisements offering passage on board a sailing school vessel contain information detailing the specialized nature of sailing school vessels, the role and responsibility of a sailing school student or instructor, and that sailing school vessels are not required to meet the same high level of safety demanded by domestic regulation or SOLAS for a passenger vessel. This notification is necessary to ensure that students are aware of the unique characteristics and operations of a sailing school vessel. Student and instructor awareness of the environment in which they are entering is critical. To stress this point the Coast Guard is contemplating adding a requirement that each student, instructor and guest of legal standing sign a notification form acknowledging that he or she fully understands the specialized nature of the vessel and the applicable safety requirements. A legal guardian would be required to sign for a minor. Comments on this issue are specifically requested and the requirement may be included in the final rule.

Another area that is still being studied is the need for minimum age and physical qualifications for sailing school students. The Coast Guard's concern is predicated on the role of a student in the operation of the vessel and the fact that students are in a learning environment with minimum supervision. With this in mind the Coast Guard is contemplating adding a requirement that sailing school students must be at least 12 years of age and physically capable of withstanding the rigors of the program in which he or she is enrolled. Comments on this issue are specifically requested and the requirement may be included in the final rule.

The proposed regulations provide differing standards depending on vessel size, number of persons carried, date of initial certification, and operating route. The regulations recognize that small

vessels on limited routes need not meet requirements that are as stringent as those applied to large vessels on extended ocean voyages. Smaller, limited route vessels adhere to requirements similar to those for small passenger carrying vessels while the larger sail vessels are required to satisfy lifesaving, firefighting and operating standards similar to those for passenger vessels.

The proposed regulations in Part 169 cover all but two areas of sailing school vessel construction, arrangement, equipment, and operation. Stability and subdivision requirements are contained in Subchapter S, 46 CFR, parts 170 through 174. Editorial changes have been made to Parts 170 and 171 to include sailing school vessels. A change has been made to § 171.057 to correct an oversight in the original printing of Subchapter S. This change was made to allow the incorporation of standards for sailing school vessels of catamaran hull form. New stability and subdivision standards have been added to Part 173 of this chapter. Paragraphs 173.053 through 173.063, inclusive, have been added to cover the unique characteristics of sailing school vessels.

In preparing this notice, consideration was given to an alternate set of stability standards proposed by representatives of industry. The subdivision standards proposed by the industry group are being proposed for existing vessels. This will allow them to be certificated as sailing school vessels with only minor modifications. The Coast Guard is proposing stricter damage stability and subdivision standards, similar to those for small passenger vessels, for new sailing school vessels. These standards incorporate the recommendations of the industry group regarding limits of vessel size and number of persons carried above which damage stability and subdivision calculations are required.

For the purpose of these regulations an existing vessel is a sail vessel which applies to the Coast Guard for initial inspection for certification as a sailing school vessel prior to 1 September 1985 and whose initial inspection for certification is completed prior to 1 January 1986. Each sailing vessel requesting certification as a sailing school vessel after 1 September 1985 will be considered a new vessel.

The intact stability standards are based on those contained in 46 CFR Subchapter S for sailing passenger vessels, modified to reflect the special purpose of this type of vessel. The intact stability standards submitted by the industry group contained several concepts which were either included in

the proposal or which merit further consideration. One of the changes was an increase in the angle T in the weather criteria. A second change was to reduce the stability numeral for the steady heel to deck edge criteria. This change recognized the need for sailing school vessels to carry sail to be able to maneuver safely in light airs. This criterion would be based on an 18 knot wind which is a reduction from the 29 knot wind required for sailing passenger vessels.

Industry recommendations for a dynamic balance for severe weather criteria and for reduced stability numerals used in the dynamic balance to downflooding and dynamic balance to knockdown criteria are not included in this proposal. The Coast Guard will consider these criteria in more depth if supporting documentation for the study used to develop these criteria is provided and the study is further expanded to include a broader scope of sailing vessels. Any additional proposals will also be evaluated for inclusion in the sailing school vessel regulations.

The regulations addressing licensing and manning can be found in Title 46 Code of Federal Regulations Parts 10, 12, and 157 respectively. Policy guidance for manning is found in the Coast Guard's Marine Safety Manual (M.S.M.) Volume III. Guidance for the manning of sailing school vessels will be published in that manual as follows:

Sailing school vessels must operate only with properly licensed and certificated individuals, as required by the statutes and regulations. Instructors and students holding the prerequisite licenses and certification may fill required positions in the crew. The licensed and documented personnel provide a base of experience to fulfill leadership roles during emergencies and to otherwise assure the vessel's safe handling.

In determining the manning needed to safely operate the vessel, the Officer in Charge, Marine Inspection (OCMI) shall take into consideration the vessel's route and specific characteristics. These characteristics include the number of masts, type of sails and number of

persons needed for evolutions. Vessels equipped with more than one mast must carry a seaman (able seaman (AB) or deckhand as appropriate) for each mast and an additional AB for each square rigged mast. The maximum number of people needed in the deck crew to safely operate the vessel will be figured on the above formula or that required by watchkeeping requirements, whichever is greater. On vessels 100 gross tons and above, except those navigating exclusively on rivers and lakes (except the Great Lakes), the unlicensed crew must be certified and at least 65% must be ABs. If propelling machinery is installed aboard seagoing sailing school vessels of 300 gross tons or more, a licensed engineer must be carried. On ocean or coastwise vessels of 100 gross tons or more, the three watch standard applies. On radar equipped vessels over 300 gross tons, the master and mates must have radar endorsements.

Examples of what is envisioned for the various sizes of vessels are as follows:

MANNING EXAMPLES

Gross tonnage	Protected waters	Partially protected and exposed waters
Less than 100 GT (single mast fore and after rig).....	(a) 1-operator, 1-deckhand*..... (b) 2-operators, 2-deckhands.....	(a) 1-ocean operator, 1-deckhand*..... (b) 2-ocean operators, 2-deckhands.....
100 GT to less than 200 GT (two masted fore and after rig).....	(a) 1-master, 2-AB's*..... (b) 1-master, 1-mate, 2-AB's.....	1-master, 2-mates, 2-AB's, 1-O.S. (1 mate for vessels on voyages less than 24 hours). 1-master, 2-mates, 2-AB's, 1-O.S. (mates counted toward total deck force required).
200 GT to less than 300 GT (two masted, one with a square sail).....	1-master, 1-mate, 2-AB's (mate counted toward total deck force required).	1-master, 2-mates, 3-AB's, 1-engineer.
300 GT to 500 GT (three masted fore and aft with engine).....	1-master, 1-mate, 5-AB's (mate counted toward total deck force required).	1-master, 2-mates, 4-AB's (mates counted toward total deck force required).

* (a) Operating less than 12 hours. (b) Operating in excess of 12 hours.

Paperwork Reduction Act

This proposed rulemaking contains information collection requirements in the following sections: 169.111, 169.115, 169.201, 169.205, 169.211, 169.213, 169.215, 169.217, 169.218, 169.219, 169.233, 169.235, 169.305, 169.509, 169.625, 169.665, 169.675, 169.807, 169.813, 169.831, 169.839, 169.841, and 169.857. They have been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980 (44 USC 3501 et. seq.). Persons desiring to comment on these information collection requirements should submit their comments to: Office of Regulatory Policy, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, Attn: Desk Officer, U.S. Coast Guard. Persons submitting comments to OMB are also required to submit a copy of their comments to the United States Coast Guard as indicated under "ADDRESSES".

Draft Evaluation and Economic Certification

These proposed regulations are considered to be non-major under Executive Order 12291 and not significant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). A draft regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected or copied at Room 2110, 2100 Second St., SW., Washington, D.C. from 7:30 a.m. to 4:00 p.m. Copies may also be obtained by contacting the person listed in the "FOR FURTHER INFORMATION CONTACT" paragraph.

Although a Draft Regulatory Evaluation has been prepared and placed in the public docket established for this proposal, the economic impact of this proposal can only be stated as a rough estimate at this time. The Coast Guard does not have specific information on how many vessels will seek certification as sailing school

vessels, although it is believed that as many as 100 vessels may request inspection.

The economic impact on industry is nonsignificant. As explained in the draft evaluation, the proposed regulations afford vessel owners an alternative to the regulations that presently govern their operations. The owner has the option of operating under existing regulations or the new sailing school vessel regulations. The proposal does not require vessel owners or operators to have their vessels inspected under these regulations; there would be no incentive to do so unless the vessel owner viewed them as either less costly or more lenient. Previously uninspected vessels may be able to carry more persons than previously allowed. Therefore the proposed regulations are in essence voluntary and no new costs will be imposed on the public.

It is expected that the owners of sailing school vessels will seek

inspection under the proposed regulations as they are more ideally suited to their operations. To the extent that the regulations are written specifically for sailing school vessels, the proposed regulations provide a cost savings to the affected vessel operators. They permit the use of vessels currently not operating as inspected vessels. Many large wooden vessels, having histories of safe operation, which previously could not operate as inspected vessels because of their construction, may now be able to engage in these operations.

Since the impact of this proposal 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.

The Coast Guard has assessed the environmental effects of this proposal and found no foreseeable significant impact on the environment.

Lists of Subjects

46 CFR Part 169

Marine safety, Sailing school vessels, Administrative practice and procedure.

46 CFR Part 170

Marine safety, Subdivision, Stability, Vessels, Tank vessels, Cargo vessels, Nuclear vessels, Passenger vessels, Oceanographic vessels, Sailing vessels, Nautical schools, Tugboats, Towboats, Mobile offshore drilling units, Barges, Grain, Oil and gas exploration, Hazardous material transportation, Gases, and Natural gases.

46 CFR Part 171

Marine safety, Subdivision, Stability, Vessels, Passenger vessels, Sailing vessels, Barges.

46 CFR Part 173

Marine safety, Subdivision, Stability, Vessels, Cargo vessels, Oceanographic vessels, Nautical vessels, Tugboats, Towboats, Barges.

For the reasons set out in the preamble, the Coast Guard proposes to amend Title 46, Code of Federal Regulations as follows:

1. By adding Part 169 to Subchapter R, "Nautical Schools" to read as follows:

PART 169—SAILING SCHOOL VESSELS

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169.331	Guards in hazardous locations

Subpart 169.400—Watertight Integrity, Subdivision, and Stability

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Subpart 169.500—Lifesaving and Firefighting Equipment

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Authority: 46 U.S.C. 3306, 49 CFR 1.46(b).

Subpart 169.100—General Provisions**§ 169.101 Purpose.**

The regulations in this part set forth uniform requirements which are suited to the particular characteristics and specialized operations of sailing school vessels as defined in Title 46, United States Code section 2101(30).

§ 169.103 Applicability.

(a) This subchapter applies to each foreign and domestic vessel operating as a sailing school vessel except as follows:

(1) A vessel of a foreign nation signatory to the International Convention for the Safety of Life at Sea and which has on board a current valid Safety Certificate; and

(2) A vessel of a foreign nation having inspection laws approximating those of the United States together with reciprocal arrangements with the United States and which has on board a current valid certificate of inspection issued by its government.

(b) This subchapter does not apply to—

(1) Any vessel operating exclusively on inland waters which are not navigable waters of the United States; or

(2) Any vessel while laid up, dismantled, and out of service; or

(3) Any vessel with title vested in the United States and which is used for public purposes except vessels of the U.S. Maritime Administration.

(4) Any vessel carrying one or more passengers.

(c) A vessel which engages in trade or commerce or carries one or more passengers, cannot operate under a certificate of inspection as a sailing school vessel, but must meet the rules and regulations governing the service in which it is engaged.

§ 169.107 Definitions.

(a) "Approved" means accepted by the Commandant unless otherwise stated.

(b) "Coast Guard District Commander" means an officer of the Coast Guard designated by the Commandant to command all Coast Guard activities within a district.

(c) "Commandant" means the Commandant of the Coast Guard or an authorized representative of the Commandant.

(d) "Exposed Waters" means waters more than 37 kilometers (20 nautical miles) from the mouth of a harbor of safe refuge, or other waters the Officer in Charge, Marine Inspection determines

to present special hazards due to weather or other circumstances.

(e) "Guest" means an individual on board a sailing school vessel who is not a member of the ship's company and has not contributed any consideration, either directly or indirectly, for carriage on the vessel. Guests are not considered passengers for the purpose of these regulations.

(f) "Headquarters" means the Office of the Commandant, United States Coast Guard, Washington, DC 20593.

(g) "Instructor" means any person who is aboard a sailing school vessel for the purpose of providing sailing instruction and is not an officer, operator, or member of the crew required by regulation to be aboard the vessel, and has not paid any consideration, either directly or indirectly for his or her carriage on the vessel.

(h) "Length" means the mean length. It is the mean or average between length on deck (LOD) and length between perpendiculars (LBP). "Length on deck" (LOD) means the length between the forward-most and after-most points on the weather deck, excluding sheer. "Length between perpendiculars" (LBP) means the horizontal distance between the perpendiculars taken at the forward-most and after-most points on a vessel's waterline corresponding to the deepest operating draft.

(i) "Marine Inspector" means any person from the civilian or military branch of the Coast Guard assigned by the Officer in Charge, Marine Inspection or any other person designated by the Coast Guard to perform duties with respect to the inspection, enforcement, and administration of vessel safety and navigation laws and regulations.

(j) "Master" means the senior licensed individual having command of the vessel.

(k) "Officer in Charge, Marine Inspection (OCMI)" means any person from the civilian or military branch of the Coast Guard District Commander, is in charge of the inspection zone in which the vessel is located for the performance of duties with respect to the inspections, enforcement, and administration of vessel safety and navigation laws and regulations.

(l) "Partially Protected Waters" means—

(1) Waters within 37 kilometers (20 nautical miles) of a harbor of safe refuge, unless determined by the OCMI to be exposed waters; and

(2) Those portions of rivers, harbors, lakes, etc. which the OCMI determines not to be sheltered.

(m) "Passenger" means every person carried on board a vessel other than—

(1) the owner or his representative;

(2) the master and bona fide members of the crew who are engaged in the business of the vessel and paid for their services;

(3) any employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a bareboat charter;

(4) any employee of the bareboat charterer of the vessel engaged in the business of the bareboat charterer;

(5) any guest on board a vessel which is being used exclusively for pleasure purposes or any guest on board a sailing school vessel who has not contributed any consideration, directly or indirectly for his or her carriage; or

(6) any sailing school instructor or sailing school student.

(n) "Protected Waters" means sheltered waters presenting no special hazards such as most rivers, harbors, lakes, etc.

(o) "Qualified Organization" means an educational organization, State, or political subdivision of a State that owns or demise charters, and operates a sailing school vessel for the purpose of providing sailing instruction. The educational organization must satisfy the requirements of section 501(c)(3) of the Internal Revenue Code of 1954 and must be exempt from tax under section 501(a) of such Code, as now or hereafter amended.

(p) "Recognized Classification Society" means the American Bureau of Shipping or other classification society recognized by the Commandant.

(q) "Rules of the Road" means the statutory and regulatory rules governing navigation of vessels.

(r) "Sailing Instruction" means teaching, research, and practical experience in operating vessels propelled primarily by sail, and may include any subject related to that operation and the sea, including seamanship, navigation, oceanography, other nautical and marine sciences, and maritime history and literature.

(s) "Sailing School Student" means any person who is aboard a sailing school vessel for the purpose of receiving sailing instruction.

(t) "Sailing School Vessel" means a vessel of less than 500 gross tons, carrying six or more individuals who are sailing school students or sailing school instructors, principally equipped for propulsion by sail even if the vessel has an auxiliary means of propulsion, and owned or demise chartered and operated by an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code as now or hereafter amended or by any

State or political subdivision thereof, during such times as the vessel is operated by such organization, State or political subdivision exclusively for the purposes of sailing instruction.

(u) "Ship's Company" means the officers and crew of a sailing school vessel, sailing school students, and sailing school instructors.

(v) "Watertight" means designed and constructed to withstand a static head of water without any leakage, except that "watertight equipment" means enclosed equipment constructed so that a stream of water from a hose (not less than 1 inch in diameter) under head of about 35 feet from a distance of about 10 feet, and for a period of 5 minutes, can be played on the apparatus without leakage.

(w) "Weathertight" means that water will not penetrate into the unit in any sea condition, except that "weathertight equipment" means equipment constructed or protected so that exposure to a beating rain will not result in the entrance of water.

§ 169.109 Equivalents.

(a) Substitutes for a fitting, appliance, apparatus, or equipment, may be accepted by the Commandant if the substituted item is as effective and consistent with the requirements and minimum safety standards specified in this subchapter.

§ 169.111 Administrative procedures.

(a) Upon receipt of a written application for inspection, the Officer in Charge, Marine Inspection assigns a marine inspector to inspect the vessel at a mutually agreed upon time and place.

(b) The owner or a representative shall be present during the inspection.

(c) If during the inspection, the vessel or its equipment is found not to conform to the requirements of law or the regulations in this subchapter, the marine inspector lists all requirements which have not been met and presents the list to the owner or a representative.

(d) In any case where the owner of a vessel or his representative desires further clarification of, or reconsideration of any requirement placed against his vessel, he may discuss the matter with the Officer in Charge, Marine Inspection.

§ 169.113 Appeals.

Whenever any person directly interested in or affected by any decision or action of any Officer in Charge, Marine Inspection, feels aggrieved by such decision or action, he may appeal to the Coast Guard District Commander having jurisdiction, and to the

Commandant under the provisions of § 2.01-70 of this title.

§ 169.115 Incorporation by reference.

(a) In this subchapter portions or the entire text of certain industrial standards and specifications are referred to as the governing requirements for materials, equipment, tests, or procedures to be followed. These standards and specification requirements specifically referred to in this subchapter are the governing requirements for the subject matters covered unless specifically limited, modified, or replaced by other regulations in this subchapter.

(b) These materials are incorporated by reference into this part with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Materials Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table is found the date of the edition approved, citations to the particular sections of this part where the material is incorporated, addresses where the material is available, and the date of the approval by the Director of the Federal Register. To enforce any edition other than the one listed in the table, notice of change must be published in the *Federal Register* and the material must be made available. All approved material is on file at the Office of the Federal Register, Washington, D.C. 20408 and at the U.S. Coast Guard, Merchant Vessel Inspection Division, Washington, D.C. 20593.

(c) The materials approved for incorporation by reference in this part are:

- (1) American Boat and Yacht Council, P.O. Box 806—190 Ketchum Ave., Amityville, NY 11701
 - P-1—"Safe Installation of Exhaust Systems for Propulsion and Auxiliary Machinery,"
 - H-24.9 (g) and (h)—"Fuel Strainers and Fuel Filters"
 - H-25—"Design and Construction of Ventilation Systems on Boats Using Gasoline"
 - A-1—"Marine LPG—Liquefied Petroleum Gas Systems"
 - A-3—"Recommended Practices and Standards Covering Galley Stoves"
- (2) American Bureau of Shipping, 65 Broadway, New York, NY 10006
 - "Rules for Building and Classing Steel Vessels"
- (3) Institute of Electrical and Electronic Engineers (Formerly American Institute of Electrical Engineers), 345 East 47th Street, New York, NY 10017
 - 45—"Recommended Practice for Electrical Installations on Shipboard"
- (4) Inter-Governmental Maritime Organization, IMO Sales, New York

Nautical Instrument and Service Corp., 140 W. Broadway, New York, NY 11013
 "International Convention for the Safety of Life at Sea" (SOLAS)

- (5) National Bureau of Standards, C/O Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402
 - Special Pub. 440 (SD Cat. No. C13.10:490), "Color: Universal Language and Dictionary of Names", 1976
- (6) National Fire Protection Association, Batterymarch Park, Quincy, MA 02269
 - 306—"Control of Gas Hazards on Vessels"
 - 70—"National Electrical Code"
- (7) Naval Publications and Forms Center, Customer Service Code 1052, 5801 Tabor Ave., Philadelphia, PA 19120
 - Federal Specification ZZ-H-451, "Hose, Fire, Woven-Jacketed Rubber or Cambric-Lined, with Couplings, F"
- (8) Offshore Racing Council, 19 St. James's Place, London, England, SW1A 1NN.
 - "Offshore Racing Council Special Regulations Governing Minimum Equipment and Accommodation Standards", January 1982
- (9) Underwriters Laboratories, 333 Pfingsten Road, Northbrook, IL 60062
 - UL 19-78—"Woven Jacketed, Rubber Lined Fire Hose"
 - UL 197-82—"Commercial Electric Cooking Appliances"
 - UL 595-79—"Marine Type Electric Lighting Fixtures"
 - UL 1114-79—"Marine Use Flexible Fuel Line Hose"

§ 169.117 OMB Control numbers. [Reserved]

§ 169.119 Vessel status.

For the purpose of 46 App. USC 291 and 46 App. USC 883 a sailing school vessel is not deemed a merchant vessel or a vessel engaged in trade or commerce.

§ 169.121 Loadlines.

Sailing school vessels must meet the applicable loadline regulations contained in Subchapter E (Load Lines) of this chapter.

Subpart 169.200—Inspection and Certification

Certificate of Inspection

§ 169.201 When required.

(a) No sailing school vessel shall be operated without a valid Certificate of Inspection, Form CG-3753.

(b) Except as noted in this subpart, every sailing school vessel inspected and certificated under the provisions of this subchapter must, during the tenure of the certificate, be in full compliance with the terms of the certificate when carrying six or more individuals who are sailing school students or sailing school instructors.

(c) Any sailing school vessel certificated under the provisions of this

subchapter when carrying passengers, cargo, etc., is subject to the laws, rules, and regulations governing the type of operation in which it engages.

(d) If necessary to prevent delay of the vessel, a temporary Certificate of Inspection, Form CG-854, is issued pending the issuance and delivery of the regular Certificate of Inspection, Form CG-3753. The temporary certificate is carried in the same manner as the regular certificate and is considered the same as the regular certificate of inspection which it represents.

§ 169.203 Description.

The certificate of inspection issued to a vessel describes the vessel, the route which it may travel, the minimum manning requirements, the major lifesaving equipment carried, the minimum fire extinguishing equipment and life preservers required to be carried, the maximum number of sailing school students and instructors and the maximum number of persons which may be carried, the name of the owner and operator, and such conditions of operations as may be determined by the Officer in Charge, Marine Inspection.

§ 169.205 How to obtain or renew.

(a) A qualified organization attempting to obtain or renew a certificate of inspection for a vessel must submit to the Coast Guard Officer in Charge, Marine Inspection located in or nearest the port at which the inspection is to be made, the following—

(1) An application for inspection on Form CG-3752; and

(2) An affidavit certifying that the owner or charterer has financial resources to meet any liability incurred for death or injury to sailing school students or sailing school instructors on voyages aboard the vessel, in an amount not less than \$50,000 for each student or instructor; and

(3) Evidence that the vessel has been designated as a sailing school vessel or an application for designation, as set forth in § 169.218; and

(4) A copy of the Internal Revenue Service designation as a nonprofit, tax exempt, organization under sections 501(a) and 501(c)(3) of the Internal Revenue Code.

(b) The application for initial inspection of a vessel being newly constructed or converted must be submitted prior to the start of such construction or conversion.

(c) The construction, arrangement and equipment of all vessels must be acceptable to the cognizant Officer in Charge, Marine Inspection, as a prerequisite of the issuance of the initial

certificate of inspection. Acceptance will be based on the information, specifications, drawings and calculations available to the Officer in Charge, Marine Inspection, and on the successful completion of an initial inspection for certification.

(d) Certificates of inspection will be renewed by the issuance of new certificates of inspection.

(e) The condition of the vessel and its equipment must be acceptable to the cognizant Officer in Charge, Marine Inspection, as a prerequisite of the certificate of inspection renewal. Acceptance will be based on the condition of the vessel as found at the inspection for certification.

§ 169.207 Period of validity.

(a) Certificates of inspection are issued for a period of two years.

(b) Certificates of inspection may be revoked, or suspended and withdrawn by the Officer in Charge, Marine Inspection, at any time for noncompliance with the provisions of this subchapter or requirements established thereunder.

§ 169.209 Routes permitted.

(a) The area of operation for each vessel is designated by the Officer in Charge, Marine Inspection and recorded on its Certificate of Inspection. Each area of operation is described on the Certificate of Inspection under the major headings "exposed waters," "partially protected waters," or "protected waters," as applicable. Further limitations imposed or extensions granted are described by reference to bodies of waters, geographical points, distance from geographical points, distances from land, depths of channel, seasonal limitations, etc.

(b) Operation of vessels on routes of lesser severity than those specifically described or designated on the Certificate of Inspection are permitted, unless expressly prohibited on the Certificate of Inspection. The general order of severity is: exposed, partially protected, and protected waters.

§ 169.211 Permit to proceed for repair.

(a) The Officer in Charge, Marine Inspection, may issue a permit to proceed to another port for repair, Form CG-948, to a vessel if in his judgment it can be done with safety even if the Certificate of Inspection of the vessel has expired or is about to expire.

(b) The permit is issued only upon the written application of the master, owner, or agent of the vessel.

(c) The permit states upon its face the conditions under which it is issued and that guests may not be carried when

operating under the permit. The permit must be carried in a manner similar to that described in § 169.217(a) for a certificate of inspection.

§ 169.213 Permit to carry excursion party.

(a) A vessel may be permitted to engage in a temporary excursion operation with a greater number of persons and/or on a more extended route than permitted by its certificate of inspection when in the opinion of the Officer in Charge, Marine Inspection, the operation can be undertaken with safety. A "Permit To Carry Excursion Party" Form CG-949, is a prerequisite of such an operation.

(b) Any Officer in Charge, Marine Inspection, having jurisdiction may issue a permit to carry an excursion party upon the written application of the operator, owner or agent of the vessel.

(c) The OCMI may require an inspection prior to the issuance of a permit to carry an excursion party.

(d) The permit states upon its face the conditions under which it is issued, the number of persons the vessel may carry, the crew required, any additional lifesaving or safety equipment required, the route for which the permit is granted, and the dates on which the permit is valid.

(e) The permit must be carried with the certificate of inspection. Any vessel operating under a permit to carry an excursion party must be in full compliance with the terms of its certificate of inspection as supplemented by the permit.

§ 169.215 Certificate of Inspection amendment.

(a) A certificate amending a valid certificate of inspection may be issued at any time by any Officer in Charge, Marine Inspection. A certificate of inspection amendment is part of the certificate that it amends, and must be carried with the certificate of inspection. The "Certificate of Inspection Amendment," Form CG-858, may be issued to authorize and record a change in the character of a vessel or in its route, equipment, ownership, operator, etc., from that specified in the current certificate of inspection.

(b) A request for a certificate of inspection amendment must be made to the Officer in Charge, Marine Inspection, by the master, operator, owner, or agent of the vessel at any time there is a change in the character of a vessel or in its route, equipment, ownership, operation etc., as specified in its current certificate of inspection.

(c) The OCMI may require an inspection prior to the issuance of a certificate of inspection amendment.

§ 169.217 Posting.

The certificate of inspection must be framed under glass or other suitable transparent material and posted in a conspicuous place on the vessel except on open boats where the certificate may be retained in a watertight container, which is secured to the vessel.

Letter of Designation

§ 169.218 Procedures for designating sailing school vessels.

(a) Upon written request by a qualified institution, a determination is made by the OCMI whether the vessel may be designated as a sailing school vessel.

(b) The request should contain sufficient information to allow the OCMI to make this determination. At a minimum the following items must be submitted:

(1) A detailed description of the vessel, including its identification number, owner, and charterer.

(2) A specific operating plan stating precisely the intended use of the vessel, and the intended course of instruction for sailing school students.

(3) Any additional information as requested by the Officer in Charge, Marine Inspection.

(c) If a designation is granted it is indicated on the certificate of inspection and remains valid for the duration of the certificate, provided all operating conditions remain unchanged.

(d) In the event of a change, the institution must advise the OCMI who issued the designation. After reviewing the pertinent information concerning the change, the OCMI shall determine if the vessel is eligible to retain its designation as a sailing school vessel.

§ 169.219 Renewal of letter of designation.

At least 60 days prior to the expiration date of the certificate of inspection, a request for renewal must be submitted in the same manner as described in § 169.218. If the request for renewal is submitted to the OCMI who made the initial determination and all operating conditions remain unchanged, the information need not be resubmitted.

Inspection for Certification

§ 169.220 General.

(a) An inspection is required before the issuance of a certificate of inspection.

(b) An inspection for certification is not made until after receipt of the information required in § 169.205(a) of this subchapter.

§ 169.221 Initial inspection for certification.

(a) The initial inspection includes an inspection of the hull structure, yards, masts, spars, rigging, sails, machinery, and equipment, including unfired pressure vessels.

(b) The initial inspection of a vessel being newly constructed or converted normally consists of a series of inspections during the construction or conversion.

(c) The inspection ensures that the vessel and its equipment comply with the regulations in this subchapter to the extent they are applicable to the vessel being inspected, and are in accordance with approved plans. The inspection also ensures that the materials, workmanship and condition of all parts of the vessel and its machinery and equipment are in all respects satisfactory for the service intended, and that the vessel is in possession of a valid certificate issued by the Federal Communications Commission, if required.

(d) Before construction is started, the owner, operator, or builder must develop plans indicating the proposed arrangement and construction of the vessel. The list of plans to be developed and the required disposition of these plans are set forth in section 169.305.

§ 169.222 Scope of inspection for certification.

Items normally included in an Inspection for Certification are:

- (a) Structure
- (b) Watertight integrity
- (c) Pressure vessels and appurtenances
- (d) Piping
- (e) Auxiliary machinery
- (f) Steering apparatus
- (g) Electrical installations
- (h) Lifesaving appliances
- (i) Navigation equipment
- (j) Fire detecting and extinguishing systems
- (k) Pollution prevention equipment
- (l) Sanitary conditions
- (m) Fire hazards
- (n) Verification of valid certificates issued by the Federal Communications Commission
- (o) Lights and signals required by navigation rules
- (p) Bilge and ballast systems
- (q) Rigging, yards, masts, spars, and sails

§ 169.223 Subsequent inspection for certification.

An inspection for renewal of a certificate of inspection includes an inspection of the structure, machinery, yards, spars, masts, rigging, sails, and equipment. The inspection ensures that

the vessel is in satisfactory condition, fit for the service intended and complies with the applicable regulations in this subchapter.

Reinspection**§ 169.225 When required.**

At least one reinspection shall be made on each sailing school vessel holding a valid certificate of inspection. The inspection, when possible, will be made between the tenth and fourteenth month of the period for which the certificate is valid. The owner, operator, or master must contact the OCMI to arrange for this inspection.

§ 169.227 Scope.

The scope of the reinspection is the same as the inspection for certification.

Drydocking or Hauling Out**§ 169.229 When required.**

(a) Unless otherwise authorized by the Commandant, each vessel must be drydocked or hauled out for examination at intervals not to exceed—

- (1) 24 months if it is operated in salt water.
- (2) 72 months if it operates exclusively in fresh water.

§ 169.231 Scope of drydock examination.

(a) The examination includes the underwater hull and appendages, propellers, shafting, stern bearings, rudders, through-hull fittings, sea valves and strainers, and is of sufficient scope to determine that these items are in a satisfactory condition for the service intended.

(b) The marine inspector may require any part or all of the propeller shafting to be drawn for examination of the shafting and stern bearing.

(c) Sea chests, sea valves, and sea strainers must be opened for internal examination.

§ 169.233 Notice.

The owner or operator shall notify the OCMI when the vessel is to be placed on a drydock.

Repairs and Alterations**§ 169.235 Permission required.**

(a) Repairs or alterations to the hull, machinery, or equipment which affect the safety of the vessel may not be made without the knowledge and approval of the Officer in Charge, Marine Inspection.

(b) Drawings, sketches or written specifications describing the alterations in detail must be submitted to the OCMI. Proposed alterations must be approved by the Officer in Charge, Marine Inspection, before work is started.

(c) Drawings are not required for repairs or replacements in kind.

§ 169.236 Inspection and testing required.

(a) The provisions of NFPA 306, "Control of Gas Hazards on Vessels," are used as a guide in conducting the inspections and issuing certificates required by this section.

(b) Until an inspection has been made to determine that the operations can be undertaken safely, no alterations, repairs, or other operations involving riveting, welding, burning, or other fire-producing actions may be made—

(1) Within or on the boundaries of fuel tanks; or

(2) to pipelines, heating coils, pumps, fittings, or other appurtenances connected to fuel tanks.

(c) Inspections must be conducted as follows:

(1) In ports or places in the United States or its territories and possessions, the inspection must be made by a marine chemist certificated by the National Fire Protection Association; however, if the services of such certified marine chemist are not reasonably available, the Officer in Charge, Marine Inspection, upon the recommendation of the vessel owner and his contractor or their representative, may authorize a person to inspect the particular vessel. If the inspection indicates that the operations can be undertaken with safety, a certificate setting forth this fact in writing must be issued by the certified marine chemist or the authorized person before the work is started. The certificate must include any requirements necessary to reasonably maintain safe conditions in the spaces certified throughout the operation, including any precautions necessary to eliminate or minimize hazards that may be present from protective coatings or residues from cargoes.

(2) When not in a port or place in the United States or its territories and possessions, and when a marine chemist or a person authorized by the Officer in Charge, Marine Inspection, is not reasonably available, the senior officer present shall conduct the inspection and enter the results of the inspection in the vessel's logbook.

(d) It is the responsibility of the senior officer present to secure copies of certificates issued by the certified marine chemist or a person authorized by the Officer in Charge, Marine Inspection. It is the responsibility of the senior officer present, insofar as the persons under his control are concerned, to maintain a safe condition on the vessel by full observance of all

requirements listed by the marine chemist in the certificate.

Inspections

§ 169.237 Inspection standards.

Vessels are inspected for compliance with the standards required by this subchapter. Items not covered by standards in this subchapter must be in accordance with good marine practice and acceptable to the Officer in Charge, Marine Inspection.

§ 169.239 Hull.

At each inspection for certification, the vessel must be afloat and ready for the following tests and inspections of the hull structure and its appurtenances:

(a) All accessible parts of the exterior and interior of the hull, the watertight bulkheads, and weather deck are examined. Where the internals of the vessel are completely concealed, sections of the lining or ceiling may be removed or the parts otherwise probed or exposed so that the inspector may be satisfied as to the condition of the hull structure.

(b) All watertight closures in the hull, decks and bulkheads are examined and operated.

(c) The condition of the superstructure, masts, and similar arrangements constructed on the hull is checked. All spars, standing rigging, running rigging, blocks, fittings, and sails, including storm sails are inspected.

(d) All railings and bulwarks and their attachment to the hull structure are inspected. Special attention is paid to ensure that guards or rails are provided in all dangerous places.

(e) All weathertight closures above the weather deck are inspected. The provisions for drainage of sea water from the exposed decks are checked.

§ 169.241 Machinery.

(a) At each initial and subsequent inspection for certification the Coast Guard examines and tests the following items to the extent necessary to determine that they are in proper operating condition and fit for the service for which they are intended:

(1) *Engine starting system.* Alternate methods of starting are checked.

(2) *Engine control mechanisms.* Mechanisms are operationally tested and visually examined.

(3) *Auxiliary machinery.* All machinery essential to the routine operation of the vessel is checked.

(4) *Fuel systems.* Tanks, tank vents and other appurtenances, piping and pipe fittings are examined. The fuel systems for the auxiliary propulsion engines and all other fuel systems

installed are checked. All valves in the fuel lines are tested by operating locally and at remote operating positions.

(5) *Sea valves and bulkhead closure valves.* All overboard discharge and intake valves are checked.

(6) *Bilge and drainage systems.* The means provided for pumping bilges are operationally tested. All suction strainers are examined.

(b) During all inspections special attention is paid to ensure that no fire hazards exist and that guards or protective devices are provided in all hazardous places.

§ 169.243 Electrical.

At each inspection for certification the following items are examined and tested to the extent necessary to determine that they are in proper operating condition, safe electrical condition, and fit for the service for which they are intended:

(a) *Electrical cable.* All cable is examined as far as practicable without undue disturbance of the cable or electrical apparatus.

(b) *Overload or circuit protective devices.* Circuit breakers are tested by manual operation and fuses examined visually. The ratings of fuses are checked to determine suitability for the service intended.

(c) *Rotating machinery.* Rotating electrical machinery essential to the routine operation of the vessel is examined.

(d) *Generators, etc.* All generators, motors, lighting fixtures and circuit interrupting devices located in spaces or areas which may contain flammable vapors are checked.

(e) *Storage batteries.* Batteries are checked for condition and security of stowage.

(f) *Fire detection and alarm system.* Electrical apparatus, which operates as part of or in conjunction with a fire detection or alarm system installed on board the vessel, is operationally tested. The test is applied, in a manner to simulate, as closely as practicable, the actual operation in case of fire.

§ 169.245 Lifesaving equipment.

(a) At each inspection for certification the following tests and inspections of lifesaving equipment are conducted:

(1) All air tank buoyant units of all lifesaving appliances are tested for airtightness.

(2) Each lifeboat is lowered to near the water and loaded with its allowed capacity, evenly distributed throughout the length. The total weight used is at least equal to the allowed capacity of the lifeboat considering persons to weigh 75 kg (165 pounds) each. The

lifeboat is then lowered into the water until it is afloat and released from the falls.

(3) Each personal flotation device is examined to determine its serviceability. If found to be satisfactory, it is stamped "Passed," together with the date and the port. If found to be unsatisfactory, the personal flotation device must be removed from the vessel's equipment and repaired. If it is beyond repair it must be destroyed in the presence of the Coast Guard inspector.

(4) Each lifeboat winch electrical control apparatus is opened and inspected.

(5) Where gravity davits are installed, it must be demonstrated that the lifeboat can be swung out and lowered from any stopped position by merely releasing the brake on the lifeboat winch. The use of force to start the davits or the lifeboat winch in not permitted.

(6) Inflatable liferaft containers are examined for defects and the inspector verifies that the inflatable liferafts and hydraulic releases, if installed, have been serviced at an approved facility in accordance with the provisions of Subparts 160.051 and 160.062, respectively, of this chapter.

(7) All other items of lifesaving equipment are examined to determine that they are in suitable condition.

§ 169.247 Firefighting equipment.

(a) At each inspection for certification and at such other times as considered necessary all fire-extinguishing equipment is inspected to ensure it is in suitable condition. Tests may be necessary to determine the condition of the equipment. The inspector verifies that the tests and inspections required in Tables 169.247 (a)(1) and (a)(2) of this subchapter have been conducted by a qualified servicing facility at least once every twelve months.

(1) Hand portable fire extinguishers and semi-portable fire extinguishing systems are examined for excessive corrosion and general condition.

(2) All parts of the fixed fire-extinguishing systems are examined for excessive corrosion and general condition.

(3) Piping, controls, valves, and alarms on all fire-extinguishing systems are checked to be certain the system is in operating condition.

(4) The fire main system is operated and the pressure checked at the most remote and highest outlets.

(5) Each firehose is subjected to a test pressure equivalent to its maximum service pressure.

PORTABLE EXTINGUISHERS TABLE
169.247(a)(1)

Type unit	Test
Foam.....	Discharge. Clean hose and inside of extinguisher thoroughly. Recharge.
Carbon dioxide.....	Weigh cylinders. Recharge if weight loss exceeds 10 percent of weight of charge. Inspect hose and nozzle to be sure they are clear.
Dry chemical (cartridge-operated type).	Examine pressure cartridge and replace if end is punctured or if cartridge is otherwise determined to have leaked or to be in unsuitable condition. Inspect hose and nozzle to see they are clear. Insert charged cartridge. Be sure dry chemical is free-flowing (not caked) and chamber contains full charge.
Dry chemical (stored pressure type).	See that pressure gage is in operating range. If not, or if seal is broken, weigh or otherwise determine that full charge of dry chemical is in extinguisher. Recharge if pressure is low or if dry chemical is needed.
HALON 1211 or HALON 1301.	See that pressure gage, if provided, is in operating range. Recharge if pressure is low. Weigh cylinder. Recharge if weight loss exceeds 10% of weight of charge. Inspect hose and nozzle to ensure they are clear.

FIXED SYSTEMS TABLE 169.247(a)(2)

Type system	Test
Carbon dioxide or HALON 1301.	Weigh cylinders. Recharge if weight loss exceeds 10 percent of weight of charge.

§ 169.249 Pressure vessels.

(a) Pressure vessels must meet the requirements of Part 54 of this chapter. The inspection procedures for pressure vessels are contained in Subpart 61.10 of this chapter.

§ 169.251 Steering apparatus.

At each inspection for certification the steering apparatus is inspected and operationally tested to determine that its condition is satisfactory and that it is fit for the service intended.

§ 169.253 Miscellaneous systems and equipment.

(a) At each inspection for certification all items in the ship's outfit, such as ground tackle, navigation lights, compass, etc., which are required to be carried by the regulations in this subchapter are examined and tested as necessary to determine that they are fit for the service intended.

(b) Approved work vests, where carried, are inspected as provided in § 169.556.

§ 169.255 Sanitary inspection.

At each inspection for certification and reinspection quarters, toilet and washing spaces, galleys, serving pantries, lockers, etc., are examined to determine that they are serviceable and in a sanitary condition.

§ 169.257 Unsafe practices.

(a) At each inspection for certification, reinspection, and at every other vessel inspection all observed unsafe practices and hazardous situations must be corrected.

(b) At each inspection for certification and at every other vessel inspection the bilges and other spaces are examined to see that there is no accumulation of oil or other matter which might create a fire hazard.

§ 169.259 Limitations of inspections.

The OCMI may require that a vessel and its equipment meet any test or inspection deemed necessary to determine that they are suitable for the service in which they are to be employed.

Subpart 169.300—Construction and Arrangement

Plans

§ 169.305 Plans required.

(a) Except as provided in paragraphs (b) and (c) of this section the owner or builder shall, before the start of construction or before the initial inspection of the vessel, submit to the Officer in Charge, Marine Inspection of the inspection zone where the vessel is to be inspected, at least one copy of each of the following plans:

- (1) Midship section.
- (2) Outboard profile.
- (3) Inboard profile.
- (4) Arrangement of decks.
- (5) Lifesaving equipment installation and arrangement.
- (6) Machinery installation.
- (7) Electrical installation.
- (8) Fire control plan.
- (9) Fuel tanks.
- (10) Piping systems.
- (11) Hull penetrations and shell connections.

(12) Lines and offsets, curves of form, and capacities of the tanks including size and location on vessel.

(13) Sail plan and rigging plan.

(b) For vessels less than 65 in length, the owner may submit specifications, sketches, photographs, line drawings or written descriptions in lieu of any of the required drawings provided the required information is adequately detailed and acceptable to the Officer in Charge, Marine Inspection.

(c) The Officer in Charge, Marine Inspection, may waive submission of all of the plans called for by paragraph (a) of this section if the design and construction of the vessel are essentially similar to a vessel which has a proven record of safe operation in similar service upon similar waters.

§ 169.307 Plans for sister vessels.

(a) Plans are not required for any vessel which is a sister ship to a vessel, provided that—

- (1) The approved plans for the original vessel are already on file at any Marine Inspection Office;
- (2) The owner of the plans authorizes their use for the new construction;
- (3) The regulations have not changed since the original plan approval; and
- (4) There are no major modifications to any of the systems used.

Hull Structure

§ 169.309 Structural standards.

(a) Compliance with the standards established by a recognized classification society will be considered satisfactory evidence of the structural adequacy of a vessel.

(b) When scantlings differ from established standards and it can be demonstrated that a craft approximating the same size, power and displacement has been built to the proposed scantlings and has been in satisfactory service, insofar as structural adequacy is concerned, for a period of at least 5 years, the proposed scantling may be approved. A detailed structural analysis may be required.

(c) Special consideration will be given to the structural requirements of vessels not contemplated by the standards of a recognized classification society and to the use of materials not specially included in these standards.

§ 169.311 Fire protection.

(a) The general construction of the vessel must be designed to minimize fire hazards. Each vessel which carries more than 100 persons or has overnight accommodations for more than 49 persons must meet the requirements of Subpart 72.05 of this chapter. Each vessel which is certificated to carry 100 persons or less or has overnight accommodations for less than 50 persons must meet the requirements of § 169.323.

(b) A fire detector, listed by a recognized testing laboratory, must be installed in each unmanned engine space.

(c) smoke detectors, listed by a recognized testing laboratory, must be

installed in each berthing compartment, sail locker, and public area.

(d) Internal combustion engine exhausts, boiler and galley uptakes, and similar sources of ignition must be kept clear of and suitably insulated from any woodwork or other combustible matter.

(e) Lamp, paint, oil lockers and similar compartments must be constructed of metal or wholly lined with metal.

§ 169.313 Means of escape.

(a) Except as provided by paragraph (f) of this section, there must be at least two means of escape from all areas generally accessible to persons onboard. At least one means of escape must be independent of watertight doors and lead directly to the open deck. Windows and windshields of sufficient size and proper accessibility may be used as one avenue of escape.

(b) The two means of escape must be as widely separated as practical to minimize the possibility of one incident blocking both escapes.

(c) Except as provided by paragraph (d) of this section, a vertical ladder and deck scuttle may not be designated as one of the means of escape.

(d) A vertical ladder and deck scuttle may be used as a second means of escape if—

(1) The primary means of escape is an enclosed stairtower or stairway;

(2) The installation of two stairways is impracticable;

(3) The scuttle is located where it can not be interfered with; and

(4) The scuttle is fitted with a quick-acting release and a hold-back to hold the scuttle in an open position.

(e) The required means of escape must not have locking devices.

(f) Where the length of the compartment is less than 12 feet, one vertical means of escape is acceptable provided that—

(1) There is no source of fire in the space, such as a galley stove, heater, etc., and the vertical escape is remote from the engine or fuel tank space, and

(2) The arrangement is such that the installation of two means of escape does not materially improve the safety of the vessel or those on board.

(g) Dead end corridors or the equivalent, more than 40 feet in length are prohibited.

(h) Each means of escape must be of adequate size to accommodate rapid evacuation.

(i) Each vertical ladder must have rungs that are:

(1) at least 16 inches in length;

(2) not more than 12 inches apart, uniform for the length of the ladder;

(3) at least 7 inches from the nearest permanent object in back of the ladder; and

(4) except when unavoidable obstructions are encountered, there must be at least 4½ inches clearance above each rung.

§ 169.315 Ventilation (other than machinery spaces).

(a) All enclosed spaces within the vessel must be properly ventilated. A means must be provided to close off all vents and ventilators.

(b) All living spaces must be vented in a manner suitable for the purpose of the space. Spaces must be ventilated by a mechanical system unless it can be shown that a natural system will provide adequate ventilation in all ordinary weather conditions.

(c) The minimum capacity of a natural system is determined by the ratio V/A where V is the total area of the vents in square inches and A is the product in square feet of the length of the compartment times its maximum width. A ratio of less than 1.0 is unacceptable.

Living Spaces

§ 169.317 Accommodations.

(a) quarters must have sufficient fresh air, light and heat. Quarters must not be located forward of the collision bulkhead or farther forward in the vessel than a vertical plane located at 5 percent of the vessel's loadline length abaft the forward side of the stem. The space must not be located totally below the deepest load waterline.

(b) bulkheads separating accommodations from machinery spaces, paint lockers, storerooms, washrooms, and toilet facilities are to be odorproof.

(c) All quarters are to be properly drained, odorproof and protected from heat and noise.

(d) Each person on board must have a separate berth which is of sufficient size and generally clear of all pipes, ventilation ducts and other installations.

(e) Each bunk, when installed, must be constructed of wood, fiberglass or metal and fitted with a mattress covered with material which has been treated to give it fire resistant properties and which will provide the mattress with a reasonably smooth surface. There must be a minimum vertical distance between bunks of 30 inches.

(f) A means of access must be provided for each berthing arrangement where the upper berth is more than 60 inches above the deck.

(g) The construction and arrangement must allow free and unobstructed access to each berth. Each berth must be immediately adjacent to an aisle leading

to a means of escape from the living area.

(h) Properly arranged hammocks may be used as berths.

(i) On vessels measuring 100 gross tons or more—

(1) each place appropriated to the crew of the vessel must have a space of at least 120 cubic feet and at least 16 square feet, measured on the deck of that place, for each crew member lodged on the vessel; and

(2) each crew member must have a berth and not more than one berth shall be placed one above another.

§ 169.319 Washrooms and toilets.

(a) Sailing school vessels must have one toilet and one washbasin for every 10 persons. Each toilet and washbasin must have adequate plumbing.

(b) Each washroom and toilet room must properly drain and the scupper to the washroom must be of sufficient size and situated in the lowest part of the space.

(c) Each sailing school vessel must meet the applicable requirements of Title 33, Code of Federal Regulations, Part 159.

§ 169.320 Hospital space.

(a) Each vessel carrying twelve or more persons on a voyage of more than three days must have a hospital space, which is separated from other spaces. Single or double occupancy sleeping spaces may be designated for use as hospital space if immediately available for medical use.

(b) The hospital space must have one bunk for every 12 persons permitted to be carried or portion thereof, who are not berthed in a single occupancy rooms, but the number of bunks need not exceed six.

§ 169.321 Motion picture projectors and film.

(a) Motion picture projectors may use only acetate or slowburning films. Nitrocellulose film is prohibited.

§ 169.323 Furniture and furnishings.

(a) Each sailing school vessel certificated to carry 100 persons or less or having overnight accommodations for less than 50 persons must meet the following requirements:

(1) Free-standing furniture must be constructed of noncombustible material. Upholstery and padding used in furniture must be of fire resistant materials.

(2) Draperies must be fabricated of fire resistant fabrics.

(3) Rugs and carpets must be of wool or other material having equivalent fire resistant qualities.

(4) Trash receptacles must be constructed of non-combustible materials with solid sides and bottoms and have solid noncombustible covers.

Rails and Guards

§ 169.327 Deck rails.

(a) All rails or lifelines must be at least 30 inches high and permanently supported by stanchions at intervals of not more than 7 feet. Stanchions must be through bolted or welded to the deck.

(b) Rails or lifelines must consist of evenly spaced courses. The spacing between courses must not be greater than 12 inches. The opening below the lowest course must not be more than 9 inches. Lower rail courses are not required where all or part of the space below the upper rail is fitted with a bulwark, chain link fencing, wire mesh, or an equivalent.

(c) Small vessels of the open type and vessels of unusual construction must have rails or equivalent protection as considered necessary by the Officer in Charge, Marine Inspection.

§ 169.329 Storm rails.

(a) Suitable storm rails or hand grabs must be installed where necessary in all passageways, at deckhouse sides, and at ladders and hatches where persons might have normal access.

§ 169.331 Guards in hazardous locations.

(a) Each exposed hazard, such as gears or machinery, must be properly protected with covers, guards, or rails.

Subpart 169.400—Watertight Integrity, Subdivision, and Stability

§ 169.401 Applicability.

Each vessel must meet the applicable requirements in Subchapter S, Parts 170–174, of this chapter.

Subpart 169.500—Lifesaving and Firefighting Equipment

Lifesaving Equipment

§ 169.505 Equipment installed but not required.

Each item of lifesaving equipment installed on board a vessel must be of an approved type.

§ 169.507 Responsibility of master.

The master or operator shall ensure that the lifeboats, liferafts, davits, falls, personal flotation devices, and other lifesaving appliances are at all times ready for use, and that all equipment required by the regulations in this subchapter is provided, maintained, serviced, and replaced as indicated.

§ 169.509 Approval for repairs and alterations.

No extensive repairs or alterations, except in an emergency, may be made to any item of lifesaving equipment without advance notice to the Officer in Charge, Marine Inspection. Repairs and alterations must be made to the original standard of construction and tested in the manner specified in this subpart and applicable requirements in Subchapter Q of this chapter. Emergency repairs or alterations must be reported as soon as practicable to the nearest Officer in Charge, Marine Inspection.

Primary Lifesaving Equipment

§ 169.513 Types of primary equipment.

(a) *Lifeboats*—Each lifeboat must be of a type approved under Subpart 160.035 of this chapter. Installation and arrangement of each lifeboat including davits and winches must meet the requirements of Part 94 of this chapter.

(b) *Inflatable Liferafts*. (1) Each inflatable liferaft must be of a type approved under Subpart 160.051 of this subchapter.

(2) The inflatable liferaft and liferaft container must show on or near their respective nameplates, marking approved by the Coast Guard that contains—

(i) An approval number consisting of "160.051/" followed by a number that is greater than 49 followed by a revision number (e.g. 160.051/50/1); or

(ii) An approval number consisting of "160.051" followed by a number that is smaller than 50 that is followed by a revision number (e.g. 160.051/48/1); the words "MOD TEMP," and the date that an inspector found that the liferaft met § 160.051–5(c)(4) of this chapter.

(3) Each inflatable liferaft must be marked "Ocean Service," except that inflatable liferafts on vessels operating on protected waters or partially protected waters may be marked "Limited Service."

(c) *Liferafts*. Each liferaft must be of a type approved under Subpart 160.027 of this subchapter.

§ 169.515 Number required.

(a) Each vessel must have sufficient lifeboats or inflatable liferafts to accommodate all persons on board.

(b) Except as provided in this section, each vessel must have additional inflatable liferafts to accommodate 25% of the persons on board or the number of persons accommodated in the largest lifeboat or liferafts, whichever is the greater.

(c) Vessels operating exclusively on protected waters may carry liferafts of a combined capacity to accommodate all persons on board in lieu of the

lifeboats and inflatable liferafts required in paragraph (a) of this section.

(d) Open boats are exempt from carrying lifeboats, liferafts, and liferafts.

§ 169.517 Rescue boat.

All vessels certificated for exposed or partially protected waters service must have a suitable motor rescue boat, except when a motor lifeboat is provided or when, in the opinion of the Officer in Charge, Marine Inspection, the vessel is of such design and operating characteristics that the vessel itself provides a satisfactory man overboard rescue platform.

§ 169.519 Availability.

(a) Each lifeboat, inflatable liferaft, and liferaft must be kept in good working order and be readily available.

(b) The decks on which lifeboats, liferafts, and liferafts are carried must be kept clear of obstructions which could interfere with the immediate boarding and launching of the lifesaving appliances.

§ 169.521 Stowage.

(a) *General*. Each lifeboat, inflatable liferaft, and liferaft must be stowed so that—

(1) It is capable of being launched within 10 minutes or, in the case of vessels having one compartment subdivision, 30 minutes;

(2) It does not impede the launching or handling of other lifesaving appliances;

(3) It does not impede the marshalling of persons at the embarkation stations, or their embarkation; and

(4) It is capable of being put in the water safely and rapidly even under unfavorable conditions of list and trim.

(b) *Liferaft stowage*. Each liferaft must be stowed to meet the following requirements:

(1) Each liferaft must be attached to a separate set of davits.

(2) Liferafts must not be stowed in the bow of the vessel nor so far aft as to be endangered by the propellers or overhang of the stern.

(3) Liferafts must be stowed so that is not necessary to lift them in order to swing out the davits.

(4) Means must be provided for bringing the liferafts against the ship's side and holding them there so that persons may safely embark, unless the liferafts are arranged for boarding at the stowage position.

(5) Liferafts must be fitted with skates or other suitable means to facilitate launching against an adverse list of up to 15 degrees. However, skates may be dispensed with if, in the opinion

of the Commandant, the arrangements ensure that the lifeboats can be satisfactorily launched without them.

(6) Means must be provided outside the machinery space to prevent the discharge of water into the lifeboats while they are being lowered.

(c) *Inflatable liferaft stowage.*

Inflatable liferafts must be stowed so that they will float free in the event of the vessel sinking. Stowage and launching arrangements must be to the satisfaction of the Officer in Charge, Marine Inspection.

(d) *Life float stowage.* Each life float must be stowed to meet the requirements of this paragraph.

(1) Each life float must be secured to the vessel by a painter and a float-free link that is—

(i) Certified to meet Subpart 160.073 of this chapter;

(ii) Of proper strength for the size of the life float as indicated on its identification tag; and

(iii) Secured to the painter at one end and secured to the vessel on the other end.

(2) The means by which the float-free link is attached to the vessel must—

(i) Have a breaking strength of at least the breaking strength of the painter.

(ii) If synthetic, be of a dark color or of a material certified to be resistant to deterioration from ultraviolet light; and

(iii) If metal, be corrosion resistant.

(3) If the life float does not have a painter attachment fitting, a means for attaching the painter must be provided by a wire or line that—

(i) Encircles the body of the device;

(ii) Will not slip off;

(iii) Has a breaking strength that is at least the breaking strength of the painter; and

(iv) If synthetic, is of a dark color or is of a material certified to be resistant to deterioration from ultraviolet light.

(4) The float-free link described in paragraphs (d)(1) and (d)(2) of this section is not required if the vessel operates solely in waters that have a depth less than the length of the painter.

(5) If the vessel carries more than one life float, the life floats may be grouped and each group secured by a single painter, provided that—

(i) The combined weight of each group of life floats does not exceed 400 pounds;

(ii) Each life float is individually attached to the painter by a line that meets paragraphs (d)(2) and (d)(3) of this section and which is long enough so that each can float without contacting any other life float in the group; and

(iii) The strength of the float-free link and the strength of the painter under paragraphs (d)(1)(ii) and (d)(2) of this

section is determined by the combined capacity of the group of life floats.

(6) Each life float, as stowed, must be capable of easy launching. Life floats weighing over 400 pounds must not require lifting before launching.

(7) Life floats must be secured to the vessel only by a painter and lashings that can be easily released or by hydraulic releases. They must not be stowed in more than four tiers. When stowed in tiers, the separate units must be kept apart by spacers.

(8) There must be means to prevent shifting.

(e) *Hydraulic Releases.* Each hydraulic release used in the installation of any inflatable liferaft or life float must meet Subpart 160.062 of this chapter.

§ 169.523 Markings.

Primary lifesaving equipment must be marked with its allowed personnel capacity, and with the name of the vessel in letters and figures at least 2 inches high.

Equipment for Primary Lifesaving Apparatus

§ 169.525 General.

(a) Equipment for primary lifesaving apparatus must be Coast Guard approved and kept in good condition.

(b) Lifeboats, inflatable liferafts and lifefloats must be fully equipped before the vessel is navigated and throughout the voyage.

(c) No person may stow in any lifeboat, inflatable liferaft, or lifefloat any article not required by this subpart unless the articles are Coast Guard approved, in good working order, and properly stowed so as not to reduce the seating capacity, the space available to the occupants, or adversely affect the seaworthiness of the lifesaving apparatus.

(d) Loose equipment, except boathooks in lifeboats, must be securely attached to the lifesaving appliance to which it belongs.

§ 169.527 Required equipment for lifeboats.

(a) Lifeboats must be equipped in accordance with Table 169.527(a). This equipment is described in § 169.529.

TABLE 169.527(a)

Letter identification	Item	Exposed and partially protected waters	Protected waters
a.....	Bailer.....	1	None
b.....	Bilge pump.....	1	None
c.....	Boathooks.....	2	1
d.....	Bucket.....	2	1
e.....	Compass and mounting.....	1	None

TABLE 169.527(a)—Continued

Letter identification	Item	Exposed and partially protected waters	Protected waters
f.....	Ditty bag.....	1	None
g.....	Drinking cup.....	1	None
h.....	Fire extinguisher (motor-propelled lifeboats only).....	2	2
i.....	First-aid Kit.....	1	None
j.....	Flashlight.....	1	None
k.....	Hatchet.....	2	1
l.....	Heaving line.....	2	None
m.....	Jackknife.....	1	None
n.....	Ladder, lifeboat, gunwale.....	1	None
o.....	Lantern.....	1	1
p.....	Lifeline.....	1	1
q.....	Life preservers.....	2	2
r.....	Locker.....	1	None
s.....	Mast and sail (oar-propelled lifeboats only).....	1	None
t.....	Matches (boxes).....	2	1
u.....	Mirror, signaling.....	2	None
v.....	Oars (units).....	1	1
w.....	Oil, illuminating (quarts).....	1	None
x.....	Oil, storm (gallons).....	1	None
y.....	Painter.....	2	1
z.....	Plug.....	1	1
aa.....	Provisions (per person).....	2	None
bb.....	Rowlocks (units).....	1	1
cc.....	Rudder and tiller.....	1	None
dd.....	Sea anchor.....	1	None
ee.....	Signals, distress, floating orange smoke.....	2	None
ff.....	Signals, distress, red hand flare (units).....	1	None
gg.....	Signals, distress, red parachute flare (units).....	1	None
hh.....	Tool kit (motor-propelled lifeboats only).....	1	1
ii.....	Water (quarts per person).....	3	None
jj.....	Whistle, signaling.....	1	None
kk.....	Fishing Kit.....	1	None
ll.....	Cover, protecting.....	1	None
mm.....	Signals, lifesaving.....	1	None

§ 169.529 Description of lifeboat equipment.

(a) *Bailer.* The bailer must have a lanyard attached and must be of sufficient size and suitable for bailing.

(b) *Bilge pump.* Bilge pumps must be approved under subpart 160.044 of this chapter. They must be of the size given in Table 169.529(b) depending upon the capacity of the lifeboat as determined by the six-tenths rule as described in § 160.035-9(b) of this chapter.

TABLE 169.529(b)

Capacity of lifeboat (cubic feet)		Bilge pump size
Over—	Not over—	
330	330	1
700	700	2
		3

(c) *Boathooks.* Boathooks must be of the single hook ballpoint type. Boathook handles must be of clear grained white

ash, or equivalent, and of a length and diameter as given in Table 169.529(c).

TABLE 169.529(c)

Length of lifeboat, (feet)		Boathook handles	
Over—	Not over—	Diameter (inches)	Length (feet)
23	23	1.50	8
29	29	1.75	10
		2	12

(d) *Bucket*. Each bucket must be of heavy gage galvanized iron, or other suitable corrosion-resistant metal, of not less than 2-gallon capacity, and must have a 6-foot lanyard of 12-thread manila or equivalent attached.

(e) *Compass and mounting*. The compass and mounting must be of an approved type.

(f) *Ditty bag*. The ditty bag must consist of a canvas bag or equivalent and must contain a sailmaker's palm, needles, sail twine, marline, and marline spike.

(g) *Drinking cups*. Drinking cups must be enamel coated or plastic, graduated in milliliters or ounces, and provided with lanyards 3 feet in length.

(h) *Fire extinguishers*. Each fire extinguisher must be U.L. marine approved Type B-C, Size I. One must be attached to each end of the lifeboat.

(i) *First-aid kit*. The first-aid kit must be approved under Subpart 160.041 of this chapter.

(j) *Flashlights*. Each flashlight must be approved under Subpart 161.008 of this chapter. Three spare cells (or one 3-cell battery) and two spare bulbs, stowed in a watertight container, must be provided with each flashlight. Batteries must be replaced yearly during the annual strippings, cleaning, and overhaul of the lifeboat.

(k) *Hatchets*. Hatchets must be approved under subpart 160.013 of this chapter. They must be attached to the lifeboat by individual lanyards and be readily available for use, one at each end of the lifeboat.

(l) *Heaving line*. The heaving line must be of adequate strength, 10 fathoms in length, and 1 inch in circumference. It must remain buoyant after being submerged for 24 hours.

(m) *Jackknife*. The jackknife approved under Subpart 160.043 of this chapter.

(n) *Ladder, lifeboat gunwale*. The lifeboat gunwale ladder must consist of 3 flat wood steps with cut for hand holds. The steps must be spaced 12 inches apart and fastened with $\frac{5}{8}$ inch diameter manila rope or equivalent. Each rope end must be tied inside the lifeboat at about amidships with the ladder stowed on top of the side benches and ready for immediate use.

(o) *Lantern*. The lantern must contain sufficient oil to burn for at least 9 hours, and be ready for immediate use. In totally enclosed lifeboats, an interior

lighting system may be used in lieu of a lantern.

(p) *Lifeline*. The lifeline must be properly secured to both sides of the lifeboat along its entire length, festooned in bights not longer than 3 feet, with a seine float in each bight. The float may be omitted if the line is of an inherently buoyant material and absorbs little or no water. The lifeline must be of a size and strength not less than $\frac{3}{8}$ -inch diameter manila. The bights must hang to within 12 inches of the water when the lifeboat is light.

(q) *Life preservers*. Life preservers must be of an approved type. These preservers are in addition to those required by § 196.539 of this chapter.

(r) *Locker*. The locker must be suitable for the storage and preservation of the small items of equipment required under paragraph 169.527.

(s) *Mast and sail*. A unit, consisting of a standing lug sail together with the necessary spars and rigging, must be provided in accordance with Table 169.529(s). The sails must be of good quality canvas, or other material acceptable to the Commandant, colored Indian Orange (Cable No. 70072, Standard Color Card of America). Rigging must consist of galvanized wire rope not less than three-sixteenths inch in diameter. The mast and sail must be protected by a suitable cover.

TABLE 169.529(s)

Length of lifeboat, feet		Area, square feet	Standing lug sail										Commercial designation No.	Mast ¹			Yard ¹		
Over—	Not over—		Luff and head lengths		Leach length		Foot length		Clew to throat		Ounces per square yard	Length		Diam-eter, inches	Length		Diam-eter, inches		
			Feet	Inches	Feet	Inches	Feet	Inches	Feet	Inches		Feet			Inches	Feet		Inches	
	17	58	5	11	12	1	8	10	10	10	14.35	10	11	2	3	6	11	2	
17	19	74	6	8	13	8	10	0	12	2	14.35	10	12	6	3	7	8	2	
19	21	93	7	5	15	1	11	2	13	8	14.35	10	13	10	3½	8	5	2½	
21	23	113	8	3	16	11	12	4	15	1	14.35	10	15	2	3½	9	3	2½	
23	25	135	9	0	18	6	13	6	16	6	14.35	10	16	6	4	10	0	3	
25	27	158	9	9	20	0	14	7	17	10	17.50	8	17	10	4	10	9	3	
27	29	181	10	5	21	5	15	7	19	1	17.50	8	19	2	4½	11	5	3½	
29	31	203	11	0	22	8	16	6	20	3	20.74	6	20	6	4½	12	0	3½	
31 ²																			

¹ Mast lengths measured from heel to center of upper halyard sheave. Mast diameters measured at thwart. Mast and yard shall be of clear-grained spruce, fir, or equivalent.

² Subject to special consideration.

(t) *Matches*. A box of friction matches in a watertight container, stowed in an equipment locker or secured to the underside of the stern thwart if no locker is fitted, must be provided.

(u) *Mirrors, signaling*. Signaling mirrors must be of an approved type.

(v) *Oars*. A unit, consisting of a complement of rowing oars and steering oar, must be provided for each lifeboat in accordance with Table 169.529(w) except that motor-propelled and hand-propelled lifeboats need only be

equipped with four rowing oars and one steering oar. In any case, the emergency lifeboats must be provided with the full complement of oars prescribed by the table. All oars must be buoyant.

TABLE 169.529(w)

Length of lifeboat, feet		Number of oars		Length of oars, feet	
Over—	Not over—	Rowing	Steering	Rowing	Steering
15	15	4	1	8	9
	19	6	1	10	11

TABLE 169.529(w)—Continued

Length of lifeboat, feet		Number of oars		Length of oars, feet	
Over—	Not over—	Rowing	Steering	Rowing	Steering
19	21	6	1	11	12
21	23	8	1	12	13
23	25	8	1	13	14
25	27	8	1	14	15
27		8	1	15	16

(w) *Oil, illuminating*. One quart of illuminating oil must be provided in a metal container if a lantern is carried.

(x) *Oil, storm.* One gallon of vegetable, fish, or animal oil must be provided in a suitable metal container so constructed as to permit a controlled distribution of oil on the water, and so arranged that it can be attached to the sea anchor.

(y) *Painter.* Painters must be of manila rope not less than 2¼ inches in circumference, or equivalent, and of a length not less than 3 times the distance between the deck on which the lifeboat is stowed and the light draft of the vessel. For lifeboats on vessels certificated for exposed or partially protected water service, one of the painters must have a long eye splice and be attached to the thwart with a toggle. The other painter must be attached to the stem.

(z) *Plug.* The automatic drain required in the lifeboat must be provided with a cap or plug attached to the lifeboat by a suitable chain.

(aa) *Provisions.* Approved emergency rations must be provided, consisting of 5000 calories for each person the lifeboat is approved to carry. The provisions must be stowed in lockers or other compartments providing suitable protection.

(bb) *Rowlocks.* A unit, consisting of sufficient rowlocks and rowlock sockets for each oar required by Table 169.529(w) plus 2 additional rowlocks. The rowlocks must be attached to the lifeboat by separate chains so as to be available for immediate use, except that the 2 additional spare rowlocks shall be carried in the equipment locker or stowed near the stern if no locker is fitted. The rowlocks and rowlock sockets must be distributed so as to provide the maximum amount of single banked oars practicable.

(cc) *Rudder and tiller.* The rudder and tiller must be constructed in accordance with § 160.035-3(t) of this chapter.

(dd) *Sea anchor.* The sea anchor must be of an approved type.

(ee) *Signals, distress, floating orange smoke.* The floating orange smoke distress signals must be approved under Subpart 160.022 of this chapter. The signals must be replaced no later than the first annual stripping, cleaning, and overhaul of the lifeboat after the date of expiration.

(ff) *Signals, distress, red hand flare.* A unit consists of twelve hand red flare distress signals approved under Subpart 160.021 or 160.023 of this chapter and stored in a watertight container. Signals must be replaced no later than the first annual stripping, cleaning, and overhaul of the lifeboat after the date of expiration.

(gg) *Signals, distress, red parachute flare.* A unit consists of twelve parachute red flare distress signals with an approved means of projection approved under Subparts 160.024 and 160.028 respectively; or twelve approved hand-held rocket-propelled parachute red flare distress signals approved under subpart 160.036. Flares must be stored in a portable watertight container. Flares must be replaced no later than the first annual stripping, cleaning, and overhaul of the lifeboat after the date of expiration.

(hh) *Tool kit.* The tool kit must consist of at least the following tools contained in a suitable container:

- (1) One 12-ounce ball peen hammer.
- (2) One screwdriver with 6-inch blade.
- (3) One pair 8-inch slip joint pliers.
- (4) One 8-inch adjustable end wrench.

(ii) *Water.* (1) For each person the lifeboat is certified to carry, there must be provided three quarts of drinking water in containers approved under subpart 160.026. Water must be replaced no later than the first annual stripping, cleaning, and overhaul of the lifeboat after date of expiration.

(2) One or more desalting kits, approved under subpart 160.058 of this chapter, may be used as a substitute for one-third of the drinking water required by this section.

(3) The drinking water must be stowed in drinking water tanks, lockers, or other compartments providing suitable protection.

(jj) *Whistle, signaling.* The whistle must be of the ball-type or multi-tone type, of corrosion resistant construction, with a 35-inch lanyard attached, and in good working order.

(kk) *Fishing kit.* The fishing kit must be approved under subpart 160.061 of this chapter.

(ll) *Cover, protecting.* The cover must be of a highly visible color and capable of protecting the occupants against exposure.

(mm) *Table of lifesaving signals.* The table of lifesaving signals must be in accordance with the provisions of Chapter V, Regulation 16, of the International Convention for Safety of Life at Sea, 1974, and must be printed on water resistant paper.

§ 169.531 Required equipment for liferafts.

(a) Each liferaft must be fitted with the equipment required by and described in § 160.051-7(c) of Subchapter Q (Specifications) of this chapter.

§ 169.535 Required for lifefloats.

(a) Each lifefloat must be equipped in accordance with Table 169.535(a). The equipment is described in § 169.537.

TABLE 169.535(a)

Letter identification	Item	Number required for each lifefloat	
		Exposed and partially protected water	Protected water
(a).....	Boathook.....	1	1
(b).....	Lifeline.....	1	1
(c).....	Paddles.....	4	4
(d).....	Painter.....	1	1
(e).....	Water light.....	1	None

§ 169.537 Description of equipment for lifefloats.

(a) *Boathook.* Each boathook must be of the single hook all point type. Boathook handles must be of clear grained white ash, or equivalent, not less than 6 feet long and 1½ inches in diameter.

(b) *Lifeline.* Each lifeline must be properly secured around the sides and ends of the lifefloat, festooned in bights not longer than 3 feet, with a seine float in each bight. The float may be omitted if the line is of an inherently buoyant and absorbs little or no water. The lifeline must be of a size and strength not less than ¾-inch diameter manila.

(c) *Paddles.* Paddles must be not less than 5 feet long.

(d) *Painter.* The painter must—

(1) Be at least 30m (100 ft.) long, but not less than 3 times the distance between the deck on which the life float(s) are stowed and the light draft of the vessel.

(2) Have a breaking strength of at least 6.7 KN (1500 lbs.), except that if the capacity of the life float is 50 persons or more, the breaking strength must be at least 13.4 KN (3000 lbs.).

(3) Be of a dark color, if synthetic, or of a type certified to be resistant to deterioration from ultraviolet light, and

(4) Be stowed in such a way that it runs freely when the life float floats away from the sinking vessel.

(e) *Water light.* The water light must be approved under subpart 161.010 of this chapter. The water light must be attached to the life float by a 12-thread manila or equivalent synthetic lanyard 3 fathoms in length.

Personal Flotation Devices (PFDs)

§ 169.539 Type required.

(a) All personal flotation devices (PFDs) must be either—

(1) A Type I approved under subpart 160.055, 160.002, or 160.005 of subchapter Q (specification) of this chapter; or

(2) A Type V approved specifically for sailing school vessel use under subpart 160.064 and 160.077 of subchapter Q of this chapter; or

(3) A Type II approved subparts 160.047, 160.052 or 160.060 or a Type III approved under subpart 160.064 if the vessel carries exposure suits, in accordance with § 169.551.

§ 169.541 Number required.

(a) Each vessel must be provided with an approved adult personal flotation device of an appropriate size for each person carried. In addition, unless the service is such that children are never carried, there must be provided an approved personal flotation device of a suitable size for each child carried.

§ 169.543 Distribution and stowage.

(a) Personal flotation devices must be distributed through the upper part of the vessel in protected places convenient to the persons on board.

(b) If practicable, personal flotation device containers must be designed to allow the PFDs to float free.

(c) Personal flotation devices for children, when provided, must be stowed separately.

(d) Lockers, boxes, and closets in which PFDs are stowed must not be capable of being locked.

§ 169.545 Markings.

(a) Each personal flotation device must be marked with the vessel's name.

(b) Where PFDs are stowed so that they are not readily visible to persons onboard, the containers in which they are stowed must be marked "adult personal flotation devices" or "child personal flotation device", as appropriate, and with the number contained therein, in at least 1-inch letters and figures.

(c) Each personal flotation device carried on vessels certificated for exposed or partially protected waters service must have a light approved under Subpart 161.012 of this chapter. The light must be securely attached to the front shoulder area of the personal flotation device.

(d) Each personal flotation device must have at least 200 sq. cm. (21 sq. in.) of retroreflective material attached on its front side and at least 200 sq. cm. on its back side. If the personal flotation device is reversible, retroreflective material must be applied as described above on both sides.

(1) Retroreflective material required by this section must be Type I material

that is approved under Subpart 164.018 of this chapter.

Additional Lifesaving Equipment

§ 169.549 Ring lifebuoys and watertights.

(a)(1) The minimum number of lifebuoys and the minimum number to which watertights must be attached must be in accordance with the following table:

TABLE 169.549(a)(1)

Length of vessel	Minimum number of buoys	Minimum number of buoys with watertights attached
Under 100.....	2	1
100 feet to less than 200 ft.....	4	2
200 feet to less than 300 ft.....	6	2
300 feet to less than 400 ft.....	12	4
400 feet to less than 600 ft.....	18	9
600 feet to less than 800 ft.....	24	12
800 feet and over.....	30	15

(2) One lifebuoy on each side of a vessel must have an attached line at least 15 fathoms in length.

(b) All lifebuoys must be placed where they are readily accessible. They must be capable of being readily cast loose.

(c)(1) All ring lifebuoys must be approved under subpart 160.050 or 160.064 of this chapter and be international orange in color.

(2) Each watertight must be approved under subpart 161.010 of this chapter.

§ 169.551 Exposure suits.

(a) This section applies to each vessel having overnight accommodations and operating in exposed and partially protected waters service except those—

(1) With totally enclosed lifeboats sufficient to accommodate all persons onboard; or

(2) Operating on routes between 35° N and 35° S latitude.

(b) Each vessel required by paragraph (a) to have exposure suits must carry one exposure suit for each person on board.

(c) Each exposure suit must be approved under Subpart 160.071 of this chapter.

§ 169.553 Pyrotechnic distress signals.

(a) All pyrotechnic distress signals must be of an approved type.

(b) Replacement must be made no later than the first inspection for certification or reinspection after the date of expiration.

(c) Except as otherwise provided in this section, each vessel must carry the following pyrotechnic distress signals:

(1) 6 hand red flare distress signals, and 6 hand orange smoke distress signals; or,

(2) 12 hand held rocket propelled parachute red flare distress signals.

(e) All pyrotechnic distress signals must be carried near the helm or in a location considered suitable by the Officer in Charge, Marine Inspection.

(f) All pyrotechnic distress signals must be stowed in a portable waterweight container.

§ 169.555 Emergency position indicating radio beacon (EPIRB).

(a) Each vessel certificated for exposed or partially protected waters must have an approved Class A emergency position indicating radiobeacon (EPIRB) that is—

(1) Operational;

(2) Stowed where it is readily accessible for testing and use; and

(3) Stowed in a manner so that it will float free if the vessel sinks.

(b) Each vessel must have an additional Class B EPIRB for every twenty-five persons onboard, for use in the lifeboats and liferafts.

§ 169.556 Work vests.

(a) Buoyant work vests carried under the permissive authority of this section must be approved under Subpart 160.053 of this chapter.

(b) Approved buoyant work vests are items of safety apparel and may be carried aboard vessels to be worn by persons when working near or over the water under favorable working conditions. Vests are not accepted in lieu of any of the required number of approved personal flotation devices and must not be worn during drills and emergencies.

(c) The approved buoyant work vests must be stowed separately from personal flotation devices, and in locations where they will not be confused with personal flotation devices.

(d) Each work vest is subject to examination by a marine inspector to determine its serviceability. If a work vest is found not to be in a serviceable condition, then it must be repaired or removed from the vessel. If a work vest is beyond repair, it must be destroyed or mutilated in the presence of the marine inspector.

Firefighting Equipment

§ 169.559 Fire pumps.

(a) Each sailing school vessel must be equipped with fire pumps as required in Table 169.559(a).

TABLE 169.559(a).—FIRE PUMPS

Length	Exposed and partially protected water service	Protected water service
65 feet but less than 90 feet.....	1 1	0
90 feet but less than 120 feet.....	2 1	1 1
120 feet or greater.....	2 2	1 1

¹ May be driven off a propulsion engine and may be used as a bilge pump.

² Must be driven by a source of power independent of the propulsion engine and may be used as a bilge pump.

³ One pump may be driven off a propulsion unit and one pump may be used as a bilge pump. Pumps must be located in separate spaces.

(b) Fire pump capacity must be in accordance with the following:

Vessel length	Minimum capacity
Less than 90 ft.....	5.5 m ³ /hr (25 gpm).
90 feet but less than 120 ft.....	11.0 m ³ /hr (50 gpm).
Greater than 120 ft.....	14.3 m ³ /hr (66.6 gpm).

(c) Each fire pump must be fitted with a pressure gage on the discharge side of the pump.

(d) Each vessel must have a hand operated portable fire pump having a capacity of at least 1.1 m³/hr (5 gpm). This pump must be equipped with suction and discharge hose suitable for use in firefighting.

§ 169.561 Fire main.

(a) Each vessel required to be provided with a power-driven fire pump must also be provided with a fire main, hydrants, hoses and nozzles.

(b) Fire hydrants must be of sufficient number and located so that any part of the vessel may be reached with an effective stream of water from a single length of hose.

(c) All piping, valves, and fittings must be in accordance with good marine practice and suitable for the purpose intended.

§ 169.563 Firehose.

(a) One length of firehose must be provided for each fire hydrant required.

(b) Vessels less than 90 feet in length must have commercial firehose or equivalent of not over 1½ inch diameter or garden hose of not less than ¾ inch nominal inside diameter. If garden hose is used, it must be of a good commercial grade constructed of an inner rubber tube, plies of braided cotton reinforcement and an outer rubber cover, or of equivalent material, and must be fitted with a commercial garden hose nozzle of good grade bronze or equivalent metal.

(c) Vessels of 90 feet or greater must have lined commercial firehose that conforms to Underwriters' Laboratories, Inc. Standard 19 or Federal Specification ZZ-H-451E. The firehose must be fitted

with a combination nozzle approved under § 162.027 of this chapter.

(d) Each length of firehose must be a single piece 50 feet long.

(e) Firehose must be connected to the hydrants at all times, except that, on open decks where no protection is afforded to the hose, it may be temporarily removed from the hydrant in heavy weather and stowed in an accessible nearby location.

§ 169.564 Fixed extinguishing systems, general.

(a) Fixed carbon dioxide or halogenated extinguishing systems must be installed to protect the following spaces—

(1) The machinery and fuel tank spaces of all vessels, except where machinery and fuel tank spaces are so open to the atmosphere as to make the use of a fixed system ineffective;

(2) The paint and oil rooms and similar hazardous spaces; and

(3) The galley stove area, for vessels certificated for exposed or partially protected water service.

(b) Each fixed fire extinguishing system must be of an approved carbon dioxide or halogenated type and installed to the satisfaction of the Officer in Charge, Marine Inspection.

§ 169.565 Fixed carbon dioxide systems.

(a) The number of pounds of carbon dioxide required for each space protected must be equal to the gross volume of the space divided by the appropriate factor in Table 169.565(a).

TABLE 169.565(a)

Gross volume of compartment, cubic feet		Factor
Over—	Not over—	
0.....	500	15
500.....	1,600	16
1,600.....	4,500	18
4,500.....		20

(b) A separate supply of carbon dioxide is not required for each space protected. The total available supply must be sufficient for the space requiring the greatest amount.

(c) Controls. (1) Each control and valve for the operation of the system must be outside the spaces protected and accessible at all times.

(2) Each branch line must be fitted with an approved shutoff valve. Each valve must be kept closed at all times except to operate the particular system.

(3) The arrangements must be such that the entire charge to any space can be introduced into the space by the operation of one valve selecting the space, and one control for releasing the required amount of fire extinguishing

agent. The release control must be of an approved type and located adjacent to the branch line shutoff valve.

(4) Complete but simple instructions for the operation of the system must be located in a conspicuous place at or near the releasing control device.

(5) Each control valve to branch lines must be labeled to indicate the space served.

(d) Piping. (1) The pipe and fittings for the extinguishing systems must be in accordance with the system manufacturer's approved design manual.

(2) Each pipe, valve, and fitting of ferrous materials must be galvanized.

(3) Each dead-end line must extend at least 2 inches beyond the last orifice and must be closed with cap or plug.

(4) Each pipe, valve, and fitting must be securely supported and, where necessary, protected against injury.

(5) Drains and dirt traps must be fitted where necessary to prevent accumulation of dirt or moisture. Each drain and dirt trap must be located in accessible locations but not in accommodation spaces.

(e) Discharge outlets. (1) The area of discharge outlets shall be as specified in the manufacturer's approved design manual.

(2) The discharge of the required amount of carbon dioxide must be complete within two minutes.

(f) Cylinders. (1) Each cylinder must be securely fastened and supported, and where necessary protected against injury. Cylinders must be located outside the space protected.

(2) Each cylinder must be mounted in an upright position or inclined not more than 30° from the vertical, except that cylinders which are fitted with flexible or bent siphon tubes may be inclined not more than 80° from the vertical.

(3) Each cylinder used for storing extinguishing agent must be approved and marked in accordance with Department of Transportation regulations.

(4) Each cylinder must be mounted so it is readily accessible and capable of easy removal for recharging and inspection. Cylinders must be capable of weighed in place.

(5) Where subject to moisture, cylinders must be installed so that a space of at least 2 inches is provided between the flooring and the bottom of the cylinders.

(6) Each cylinder storage area must be properly ventilated and the temperature inside must not exceed 130° F.

(i) Provision must be made by means of plugs, covers, dampers, etc., to prevent the admission of air into the space protected.

(j) Systems must be fitted with a delayed discharge and alarm bell arranged so the alarm sounds for at least twenty seconds before the carbon dioxide is released into the space.

§ 169.567 Portable extinguishers.

(a) The minimum number of portable fire extinguishers required on each vessel is determined by the Officer in Charge, Marine Inspection, in

accordance with Table 169.567(a) and other provisions of this subpart.

TABLE 169.567(a)

Space protected	Total number extinguishers required	Type extinguishers permitted		Coast Guard classification
		Medium	Minimum size	
Living space and open boats	1 per 1000 cu. ft. of space	Halon 1211 Foam Carbon dioxide Dry chemical	2½ pounds 1¼ gallons 4 pounds 2 pounds	B-I B-I B-I B-I
Propulsion machinery space (gasoline or other fuel having a flashpoint of 100 °F or lower) with fixed CO ₂ or halon system.	1	Foam Carbon dioxide Dry chemical Halon 1211	1½ gallons 4 pounds 2 pounds 2½ pounds	B-I B-I B-I B-I
Propulsion machinery space (gasoline or other fuel having a flashpoint of 100 °F or lower) with fixed CO ₂ or halon system.	2	Foam Carbon dioxide Dry chemical Halon 1211	2½ gallons 15 pounds 10 pounds 10 pounds	B-II B-II B-II B-II
Propulsion machinery space (diesel oil or other fuel having a flashpoint over 100 °F).	2 (none required if fixed CO ₂ system is installed).	Foam Carbon dioxide Dry chemical Halon 1211	2½ gallons 15 pounds 10 pounds 10 pounds	B-II B-II B-II B-II
Galley (without fixed system)	1 per 500 cu. ft.	Foam Carbon dioxide Dry chemical Halon 1211	2½ gallons 15 pounds 10 pounds 10 pounds	B-II B-II B-II B-II

(b) The Officer in Charge, Marine Inspection, may permit the use of any approved fire extinguishers, including semiportable extinguishers, which provide equivalent fire protection.

(c) All portable fire extinguishers installed on vessels must be of an approved type.

(d) Portable fire extinguishers must be stowed in a location convenient to the space protected.

(e) Portable fire extinguishers must be installed and located to the satisfaction of the Officer in Charge, Marine Inspection.

(f) Portable fire extinguishers which are required to be protected from freezing must not be located where freezing temperatures may be expected.

(g) Each vessel must carry spare charges for at least 50 percent of each size and variety of hand portable extinguishers required. For units that can not be readily recharged on the vessel, one spare extinguisher for each classification carried onboard must be provided in lieu of spare charges.

§ 169.569 Fire axes.

(a) Each vessel must carry at least the number of fire axes set forth in Table 169.569(a). The Officer in Charge, Marine Inspection may require additional fire axes necessary for the proper protection of the vessel.

TABLE 169.569(a)

Length		Number of axes
Over—	Not over—	
0	65	0
65	90	1
90	120	2
120	150	3
150		4

(b) Fire axes must be stowed so as to be readily available in the event of emergency.

(c) If fire axes are not located in the open or behind glass, they must be placed in marked enclosures containing the fire hose.

Subpart 169.00—Machinery and Electrical

§ 169.601 General.

(a) The regulations in this subpart contain requirements for the design, construction and installation of machinery on sailing school vessels.

(b) Machinery must be suitable in type and design for the purpose intended. Installations of an unusual type and those not addressed by this subpart are subject to the applicable regulations in Subchapter F (Marine Engineering) and Subchapter J (Electrical Engineering) of this chapter.

(c) The use of liquefied inflammable gases, such as propane, methane, butane, etc., as fuel is prohibited.

Internal Combustion Engine Installations

§ 169.605 General.

(a) Generators, starting motors, and other spark producing devices must be mounted as high above the bilges as practicable.

(b) Gages to indicate engine cooling water temperature, exhaust cooling water temperature and engine lubricating oil pressure must be provided and located in plain view.

(c) All electrical Components of the engine must be protected in accordance with § 183.410 of Title 33, Code of Federal Regulations to prevent ignition of flammable vapors.

§ 169.607 Keel cooler installations.

(a) Except as provided in this section, keel cooler installations must meet the requirements of § 56.50-96 of this chapter.

(b) Approved metallic flexible connections may be located below the deepest load waterline if the system is a closed loop below the waterline and its vent is located above the waterline.

(c) Fillet welds may be used in the attachment of channels and half round pipe sections to the bottom of the vessel.

(d) Short lengths of approved nonmetallic flexible hose may be used at machinery connections fixed by hose clamps provided that—

- (1) The clamps are of a corrosion resistant material;
- (2) The clamps do not depend on spring tension for their holding power; and
- (3) Two clamps are used on each end of the hose or one hose clamp is used and the pipe ends are expanded or beaded to provide a positive stop against hose slippage.

§ 169.608 Grid cooler installations

- (a) Hull penetrations for grid cooler installations must be made through a cofferdam or at a sea chest.
- (b) Grid coolers must be suitably protected against damage from debris and grounding by recessing the unit into the hull or by the placement of protective guards.
- (c) Each grid cooler hull penetration must be equipped with a shutoff valve.

§ 169.609 Exhaust systems.

(a) Engine exhaust installations and associated cooling systems must be built in accordance with the requirements of American Boat and Yacht Council, Inc. Standard P-1, "Safe Installation of Exhaust Systems for Propulsion and Auxiliary Machinery" and the following additional requirements:

- (1) All exhaust installations with pressures in excess of 15 pounds per square inch gage or employing runs passing through living or working spaces must meet the material specifications of Part 56 of Title 46, Code of Federal Regulations.
- (2) Horizontal dry exhaust pipes are permitted if they do not pass through living or berthing spaces, terminate above the deepest load waterline, are arranged to prevent entry of cold water from rough seas, and are constructed of corrosion resistant material at the hull penetration.
- (3) When the exhaust cooling system is separate from the engine cooling system, a suitable warning device must be provided to indicate a failure of water flow in the exhaust cooling system.

§ 169.611 Carburetors.

- (a) This section applies to all vessels having gasoline engines.
- (b) Each carburetor other than a down-draft type, must be equipped with integral or externally fitted drip collectors of adequate capacity and arranged so as to permit ready removal of fuel leakage. Externally fitted drip collectors must be covered with flame screens.

(c) Each gasoline engine must be equipped with an approved means of backfire flame control. Installations of backfire flame arresters or engine air and fuel induction systems bearing basic Approval No. 162.015 may be continued in use as long as they are serviceable and in good condition. New installations or replacements must meet one of the following requirements:

- (1) The backfire flame arrester must be approved under Subpart 162.041 of this chapter. The flame arrester must be secured to the air intake with a flamtight connection.
- (2) The engine air and fuel induction system must provide adequate protection from propagation of backfire flame to the atmosphere equivalent to that provided by an approved backfire flame arrester. A gasoline engine utilizing an air and fuel induction system, and operated without an approved backfire flame arrester, must have the installation approved, tested and labelled in accordance with Subpart 162.042 of this chapter.
- (3) The carburetor or the engine air induction system must have an attachment which disperses engine backfire flames to the atmosphere outside the vessel in such a manner that the flames will not endanger the vessel, persons on board, or nearby vessels and structures. Each attachment must be of metallic construction with flamtight connections and firmly secured to withstand vibration, shock, and engine backfire. These installations do not require formal approval and labelling, but must be accepted by the OCMI.

(d) Where manufacturers wish to produce vessels having an integrated engine-vessel design, the installation must be approved under Subpart 162.043 of this chapter.

Fuel Systems

§ 169.613 Gasoline fuel systems.

(a) Each gasoline fuel system must meet the requirements of § 56.50-70 of this chapter.

§ 169.615 Diesel fuel systems.

(a) Each diesel fuel system must meet the requirements of § 56.50-75 of this chapter.

Steering Systems

§ 169.618 General.

- (a) Each vessel must have an effective steering system.
- (b) The steering system must be designed to withstand all anticipated loading while under sail, including shocks to the rudder. Additionally, the steering system on vessels with an auxiliary means of propulsion must not

be damaged at the vessel's maximum astern speed.

(c) The main steering gear must be capable of moving the rudder from hard-over to hard-over at an average rate of not less than $2\frac{1}{3}^\circ$ per second with the vessel at design service speed (ahead).

§ 169.619 Reliability.

(a) Except where the OCMI judges it impracticable, the steering system must—

(1) provide continued or restored steering capability in the event of a failure or malfunction of any single steering system component other than the rudder or rudder stock;

(2) be independent of other systems, including auxiliary propulsion machinery; and

(3) be operable in the event of localized fire or flooding.

(b) A main and independent auxiliary steering gear must be provided, except when—

(1) a small vessel uses a tiller or direct mechanical linkage as the primary means of controlling the rudder; or

(2) installation of an auxiliary steering gear is not possible.

Note.—A partial reduction of normal steering capability as a result of malfunction or failure is acceptable. This reduction should not be below that necessary for the safe navigation of the vessel.

(c) The strength and reliability of any component that is not provided in duplicate must be suitable to the cognizant OCMI. Where redundant or backup equipment or components are provided to meet the requirements of paragraphs (a) and (b) of this section, the following must be provided:

(1) A means to readily transfer from the failed equipment or component to the backup.

(2) Readily available tools or equipment necessary to make the transfer.

(3) Instructions for transfer procedures, posted at the main steering location.

(4) A means to steady the rudder while making the transfer.

§ 169.620 Rudder stops.

(a) Each vessel with an auxiliary means of propulsion or power-driven steering gear must be fitted with strong and effective rudder stops.

(b) Rudder stops may be either structural or internal to the steering gear, but must be independent of the steering controls.

§ 169.621 Communications.

A reliable means of voice communications must be provided

between the main steering location and each auxiliary steering location.

§ 169.622 Rudder angle indicators.

Each vessel must have a rudder angle indicator at the main steering location that meets the requirements of § 113.40-10 of this chapter, except where a tiller or direct mechanical linkage is the primary means of controlling the rudder.

§ 169.623 Power-driven steering systems.

(a) Power-driven steering systems must have means to be brought into operation from a dead ship condition, without external aid. The system must automatically resume operation after an electric power outage.

(b) Control of power-driven steering systems from the main steering control location must include, as applicable—

(1) Control of any necessary ancillary device (motor, pump, valve, etc.);

(2) A pilot light to indicate operation of each power unit; and

(3) Visual and audible alarms to indicate loss of power to the control system or power units and overload of electric motors.

(c) Overcurrent protection for steering system electric circuits must meet § 111.93-11 of this chapter, as applicable.

Ventilation

§ 169.625 Compartments containing diesel machinery.

(a) Spaces containing machinery must be fitted with adequate drip-proof ventilators, trunks, louvers, etc., to provide sufficient air for proper operation of the propulsion and auxiliary engines.

(b) Air-cooled propulsion and auxiliary engines installed below deck must be fitted with air intake ducts or piping from the weather deck. The ducts or piping must be arranged and supported to safely sustain stresses induced by weight and engine vibration and to minimize transfer of vibration to the supporting structure. Prior to installing ventilation for the engines, plans or sketches showing the machinery arrangement including air intakes, exhaust stack, method of attachment of ventilation ducts to the engine, location of spark arresting mufflers and capacity of ventilation blowers must be submitted to the OCMF for approval.

(c) Spaces containing machinery must be fitted with at least two ducts to furnish natural or mechanical supply and exhaust ventilation. One duct must extend to a point near the bottom of the compartment, and be installed so that the ordinary collection of water in the bilge will not trap the duct. Where

forced ventilation is installed, the duct extending to the bottom of the compartment must be the exhaust. The total inlet area and the total outlet area of ventilation ducts must be not less than one square inch for each foot of beam of the vessel. These minimum areas must be increased when such ducts are considered part of the air supply to the engines.

(d) All ducts must be of rigid permanent noncombustible construction, properly fastened, supported, and reasonably gastight from end to end.

(e) All supply ducts for ventilation purposes must be provided with cowls or scoops having a free area not less than twice the required duct area. When the cowls or scoops are screened, the mouth area must be increased to compensate for the area of the screen wire. Dampers are prohibited in supply ducts. Cowls or scoops must be kept open at all times except when weather would endanger the vessel if the openings were not temporarily closed. Supply and exhaust openings must not be located when the natural flow of air is unduly obstructed, or adjacent to possible sources of vapor ignition, and must not be located where exhaust air may be taken into the supply vents.

§ 169.627 Compartments containing diesel fuel tanks.

Unless they are adequately ventilated, enclosed compartments or spaces containing diesel fuel tanks and no machinery must be provided with a gooseneck vent of not less than 2½ inches in diameter. The vent opening must not be located adjacent to possible sources of vapor ignition.

§ 169.629 Compartments containing gasoline machinery or fuel tanks.

Spaces containing gasoline machinery or fuel tanks must have natural supply and mechanical exhaust ventilation meeting the requirements of American Boat and Yacht Council Standard H-2.5, "Design and Construction; Ventilation of Boats using Gasoline."

§ 169.631 Separation of machinery and fuel tank spaces from accommodation spaces.

(a) Machinery and fuel tank spaces must be separated from accommodation spaces by watertight or vapor tight bulkheads of double diagonal wood, marine plywood, steel plate, or equivalent construction.

(b) On vessels less than 90 feet in length, segregation may be by means of a watertight or vapor tight engine box.

Piping Systems

§ 169.640 General.

(a) Vital piping systems, as defined in § 169.642 of this subpart, must meet the material and pressure design requirements of Subchapter F of this chapter.

(b) Except as provided in this paragraph, nonmetallic piping system materials must meet the applicable requirements of 46 CFR 56.60-25.

(1) Rigid nonmetallic materials are acceptable for use in bilge, ballast, and machinery-connected piping systems on vessels less than 120 feet in length, provided that bilge and fire systems do not use the same piping.

(2) Nonmetallic piping is prohibited in fuel systems except where flexible hose is permitted.

(3) Rigid nonmetallic materials may be used in non-vital systems.

§ 169.642 Vital systems.

(a) For the purpose of this part, the following are considered vital systems—

(1) A marine engineering system identified by the OCMF as being crucial to the survival of the vessel or to the protection of the personnel on board; and

(2) On vessels greater than 120 feet in length—

- (i) Bilge system;
- (ii) Ballast system;
- (iii) Fire protection system;
- (iv) Fuel oil system; and
- (v) Steering and steering control system.

Bilge Systems

§ 169.650 General.

All vessels must be provided with a satisfactory arrangement for draining any compartment, other than small buoyancy compartments, under all practical conditions. Sluice valves are not permitted in watertight bulkheads except as specified in § 169.652(a).

§ 169.652 Bilge piping.

(a) All vessels of 26 feet in length and over must be provided with individual bilge lines and suction for each compartment except that the space forward of the collision bulkhead may be serviced by a sluice valve or portable bilge pump if the arrangement of the vessel is such that ordinary leakage can be removed this way.

(b) The bilge pipe on vessels 65 feet in length and under must be not less than one inch nominal pipe size. On vessels greater than 65 but less than 120 feet in length the bilge pipe must be not less than one and one-half inches. Piping on larger vessels must meet the

requirements contained in § 56.50-50 of this chapter.

(c) Each bilge suction must be fitted with a suitable strainer having an open area not less than three times the area of the bilge pipe.

(d) Each individual bilge suction line must be led to a central control point or manifold. Each line must be provided with a stop valve at the control point or manifold and a check valve at some accessible point in the bilge line, or a stop-check valve located at the control point or manifold.

(e) Each bilge pipe piercing the collision bulkhead must be fitted with a screw-down valve located on the forward side of the collision bulkhead and operable from above the weather deck.

§ 169.654 Bilge pumps.

(a) Vessels of less than 40 feet in length must have a fixed hand bilge pump having a minimum capacity of 10 gpm and operable from on deck.

(b) Vessels over 40 feet but less than 65 feet must have a fixed power bilge pump having a minimum capacity of 25 gpm.

(c) Vessels of 65 feet in length or greater must have two fixed power bilge pumps having a minimum capacity of 66 gpm.

(d) Each power driven bilge pump must be self priming.

(e) Each bilge pump required by this section must be permanently connected to the bilge main.

(f) Bilge pumps may also be connected to the firemain.

Electrical

§ 169.662 Hazardous locations.

Electrical equipment must not be installed in lockers that are used to store paint, oil, turpentine, or other flammable liquids unless the equipment is explosionproof or intrinsically safe in accordance with § 111.105-9 or § 111.105-11 of this chapter.

Electrical Installations Operating at Potentials of Less Than 50 Volts on Vessels of Less Than 100 Gross Tons

§ 169.664 Applicability.

The requirements in this subpart apply to electrical installations operating at potentials of less than 50 volts on vessels of less than 100 gross tons.

§ 169.665 Name plates.

Each generator, motor and other major item of power equipment must be provided with a name plate indicating the manufacturer's name, its rating in volts and amperes or in volts and watts

and, when intended for connection to a normally grounded supply, the grounding polarity.

§ 169.666 Generators and motors.

(a) Each vessel of more than 65 feet in length having only electrically driven fire and bilge pumps must have two generators. One of these generators must be driven by a means independent of the auxiliary propulsion plant. A generator that is not independent of the auxiliary propulsion plant must meet the requirements of § 111.10-4(c) of this chapter.

(b) Each generator and motor must be in a location that is accessible adequately ventilated, and as dry as practicable.

(c) Each generator and motor must be mounted as high as practicable above the bilges to avoid damage by splash and to avoid contact with low lying vapors.

(d) Each generator must be protected from overcurrent by a circuit breaker, fuse or an overcurrent relay.

§ 169.667 Switchboards.

(a) Each switchboard must be in as dry a location as practicable, accessible, protected from inadvertent entry, and adequately ventilated. All uninsulated current carrying parts must be mounted on nonabsorbent, noncombustible, high dielectric insulating material.

(b) Each switchboard must be—

- (1) Totally enclosed; and
- (2) Of the dead front type.

(c) Each ungrounded conductor of a circuit must have at the point of attachment to the power source either—

- (1) A circuit breaker; or
- (2) A switch and fuse.

(d) Each switch other than one mounted on a switchboard must be of the enclosed type.

§ 169.668 Batteries.

(a) Each battery must be in a location that allows the gas generated in charging to be easily dissipated by natural or induced ventilation.

(b) Except as provided in paragraph (c) of this notice, a battery must not be located in the same compartment with a gasoline tank or gasoline engine.

(c) If compliance with paragraph (b) of this section is not practicable, the battery must be effectively screened by a cage or similar structure to minimize the danger of accidental spark through dropping a metal object across the terminals.

(d) Each battery must be located as high above the bilges as practicable and secured against shifting with motion of the vessel. It must be accessible with not less than 10 inches head room.

(e) All connections must be made to battery terminals with permanent type connectors. Spring clips or other temporary type clamps must not be used.

(f) Each battery must be located in a tray of lead or other suitable material resistant to deteriorating action by the electrolyte.

(g) Each battery charger intended for connection to a commercial supply voltage must employ a transformer of the isolating type. An ammeter that is readily visible must be included in the battery charger circuit.

(h) A voltage dropping resistor, provided for charging a battery, must be mounted in a ventilated noncombustible enclosure that prevents hazardous temperatures at adjacent combustible materials.

(i) The main supply conductor from the battery must have an emergency switch located as close as practicable to the battery that opens all ungrounded conductors.

(j) If a storage battery is not in the same compartment and adjacent to the panel or box that distributes power to the various lighting, motor and appliance branch circuits, the storage battery lead must be fused at the battery.

§ 169.669 Radiotelephone equipment.

A separate circuit from the switchboard must be provided for each radiotelephone installation.

§ 169.670 Circuit breakers.

Each circuit breaker must be of the manually reset type designed for—

- (a) Inverse time delay;
- (b) Instantaneous short circuit protection; and

(c) Repeated opening of the circuit without damage to the circuit breaker.

§ 169.671 Accessories.

Each light, receptacle and switch exposed to the weather must be watertight and must be constructed of corrosion-resistant material.

§ 169.672 Wiring for power and lighting circuits.

(a) Wiring for power and lighting circuits must have stranded copper conductors, be 14 AWG or larger, and—

- (1) Meet Table 310-13 of the National Electrical Code;
- (2) Be listed as "50 volt boat cable"; or
- (3) Meet Subpart 111.60 of this chapter.

(b) Conductors must be sized so that the voltage drop at the load terminals is not more than 10 percent.

§ 169.673 Installation of wiring for power and lighting circuits.

- (a) Wiring must be run as high as practicable above the bilges.
- (b) Wiring, where subject to mechanical damage, must be protected.
- (c) A wiring joint or splice must be mechanically secure and made in a junction box or enclosure.
- (d) Unless a splice is made by an insulated pressure wire connector, it must be thoroughly soldered and taped with electrical insulating tape or the soldered joint must be otherwise protected as to provide an insulation the same as that of the conductors joined.
- (e) Where ends of stranded conductors are to be clamped under terminal screws, they must be formed and soldered unless fitted with pressure terminal connectors.
- (f) Conductors must be protected from overcurrent in accordance with their current-carrying capacities.
- (g) Conductors supplying motors and motor operated appliances must be protected by a separate overcurrent device that is responsive to motor current. This device must be rated or set at not more than 125 percent of the motor full-load current rating.
- (h) On metallic vessels the enclosures and frames of all major electrical equipment must be permanently grounded to the metal hull of the vessel by the mounting bolts or other means. Cable armor must not be used as the normal grounding means.
- (i) On nonmetallic vessels, the enclosures and frames of major electrical equipment must be bonded together to a common ground by a normally noncurrent carrying conductor.
- (j) For grounded systems the negative polarity of the supply source must be grounded to the metal hull or, for nonmetallic vessels, connected to the common ground.
- (k) On a nonmetallic vessel, where a ground plate is provided for radio equipment it must be connected to the common ground.
- (l) For grounded systems, hull return must not be used except for engine starting purposes.

Electrical Installations Operating at Potentials of 50 Volts or More on Vessels of Less Than 100 Gross Tons**§ 169.674 Applicability.**

The requirements in this subpart apply to electrical installations operating at potentials of 50 volts or more, on vessels of less than 100 gross tons.

§ 169.675 Generators and motors.

- (a) Each generator and motor must be fitted with a nameplate of corrosion-

resistant material marked with the following information as applicable:

- (1) Name of manufacturer.
 - (2) Manufacturer's type and frame designation.
 - (3) Output in kilowatts or horsepower rating.
 - (4) Kind of rating (continuous, intermittent, etc.).
 - (5) Revolutions per minute at rated load.
 - (6) Amperes at rated load.
 - (7) Voltage.
 - (8) Frequency if applicable.
 - (9) Number of phases, if applicable.
 - (10) Type of winding (for direct-current motors).
- (b) Each vessel of more than 65 feet in length having only electrically driven fire and bilge pumps must have two generators. One of these generators must be driven by a means independent of the auxiliary propulsion plant. A generator that is not independent of the auxiliary propulsion plant must meet the requirements of § 111.10-4(c) of this chapter.
- (c) Each generator and motor must be in a location that is accessible, adequately ventilated, and as dry as practicable.
- (d) Each generator and motor must be mounted as high as practicable above the bilges to avoid damage by splash and to avoid contact with low lying vapors.
- (e) Each motor for use in a location exposed to the weather must be of the watertight or waterproof type or must be enclosed in a watertight housing. The motor enclosure or housing must be provided with a check valve for drainage or a tapped hole at the lowest part of the frame for attaining a drain pipe or drain plug.
- (f) Except as provided in paragraph (g) and (h) of this section, each generator and motor for use in a machinery space must be designed for an ambient temperature of 50 degrees C. (122 degrees F.).
- (g) A generator or motor may be designed for an ambient temperature of 40 degrees C. (104 degrees F.) if the vessel is designed so that the ambient temperature in the machinery space will not exceed 40 degrees C. under normal operating conditions.
- (h) A generator or motor designed for 40 degrees C. may be used in a 50 degrees C. ambient location provided it is derated to 80 percent of full load rating, and the rating or setting of the overcurrent device is reduced accordingly. A nameplate specifying the derated capacity must be provided for each motor and generator.
- (i) A voltmeter and an ammeter must be provided that can be used for

measuring voltage and current of each generator that is in operation. For each alternating-current generator a means for measuring frequency must also be provided. Additional control equipment and measuring instruments must be provided, if needed, to ensure satisfactory operation of each generator.

§ 169.676 Grounded electrical systems.

- (a) Except as provided in paragraph (b) of this section, each electrical system must meet § 111.05 of this chapter.
- (b) Ground detection is not required.

§ 169.677 Equipment protection and enclosure.

- (a) Except as provided in this section all electrical equipment including motors, generators, controllers, distribution panels, consoles, etc., must be at least drip-proof and protected.
- (b) Equipment mounted on a hinged door or an enclosure must be constructed or shielded so that no live parts of the door mounted equipment will be exposed to accidental contact by a person with the door open and the circuit energized.
- (c) Any cabinet, panel, or box containing more than one source of potential in excess of 24 volts must be fitted with a sign warning personnel of this condition and identifying the circuits to be disconnected to remove all the potentials in excess of 24 volts.
- (d) Each distribution panelboard must be enclosed.

§ 169.678 Main distribution panels and switchboards.

- (a) A distribution panel to which the generator leads are connected, and from which the electric leads throughout the vessel directly or indirectly receive their electric power is a switchboard.
- (b) Each switchboard must be fitted with a driphood and front nonconducting hand rails.
- (c) If the switchboard is accessible from the rear, non-conducting hand rails must be provided in the rear of the switchboard.
- (d) Nonconducting mats or grating must be provided on the deck in front of each switchboard.
- (e) If the switchboard is accessible from the rear, non-conducting mats or grating must be provided on the deck in the rear of the switchboard.
- (f) Not less than 24 inches working space must be provided in front of each switchboard and not less than 18" working space must be provided in the rear of each switchboard that is accessible from the rear.
- (g) Metal cases of instruments and secondary windings of instrument transformers must be grounded.

(h) Each switchboard must be placed in a location that is accessible, adequately ventilated, and as dry as practicable. All uninsulated current carrying parts must be mounted on nonabsorbent, noncombustible, high dielectric insulating material.

(i) Each switchboard must be of the dead front type.

§ 169.679 Wiring for power and lighting circuits.

Wiring for each power and lighting circuit must meet Subpart 111.60 of this chapter.

§ 169.680 Installation of wiring for power and lighting circuits.

(a) Wiring must be run as high as practicable above the bilges.

(b) Each cable installed where particularly susceptible to damage such as locations in way of doors, hatches, etc., must be protected by removable metal coverings, angle irons, pipe, or other equivalent means. All metallic coverings must be electrically continuous and grounded to the metal hull or common ground, and all coverings such as pipe that may trap moisture must be provided with holes for drainage. Where cable protection is carried through a watertight deck or bulkhead, the installation must maintain the watertight integrity of the structure.

(c) Each cable entering a box or fitting must be protected from abrasion, and must meet the following requirements:

(1) Each opening through which conductors enter must be adequately closed.

(2) Cable armor must be secured to the box or fitting.

(3) In damp or wet locations, each cable entrance must be watertight.

(d) The enclosures of all equipment must be permanently grounded to the metal hull of the vessel by the mounting bolts or other means. Cable armor must not be used as the normal grounding means.

(e) On a nonmetallic vessel, the enclosures must be bonded to a common ground by a normal noncurrent carrying conductor.

(f) On a nonmetallic vessel, where a ground plate is provided for radio equipment it must be connected to the common ground.

(g) Except as provided in paragraph (i) of this section, each armored cable must have a metallic covering that is—

(1) Electrically and mechanically continuous; and

(2) Grounded at each end of the run to—

(i) The metal hull; or

(ii) The common ground required by paragraph (e) of this section on nonmetallic vessels.

(h) In lieu of being grounded at each end of the run as required by paragraph (g) of this section, final sub-circuits may be grounded at the supply end only.

(i) All equipment, including switches, fuses, lampholders, etc., must be of a type designed for the proper potential and be so identified.

(j) Except as provided in paragraph (l) of this section, each junction box, connection box, and outlet box, must have an internal depth of at least 1½ inches.

(k) For a box incorporated in a fixture having a volume of not less than 20 cubic inches, the depth may be decreased to not less than 1 inch.

(l) Each conductor, except a fixture wire within a box, must have a free space computed using the volume per conductor given in Table 169.680(1). If a fitting or device such as a cable clamp, hickey, switch or receptacle is contained in the box, each fitting or device must count as one conductor.

TABLE 169.680(1)

Size of conductor A.W.G.	Free space for each conductor in box (cubic inches)
14	2.0
12	2.25
8	2.50
1	3.0

(m) Each junction box, connection box, and outlet box for use in a damp or wet location must be of watertight construction.

(n) Each lighting fixture must be constructed in accordance with the requirements of Subchapter J of this chapter.

(o) A separate circuit from the switchboard must be provided for each radiotelephone installation.

(p) Knife switches must be so placed or designed that gravity or vibration will not tend to close them. Knife switches, unless of the double throw type, must be connected so that the blades are dead when the switch is in the open position.

(q) Circuits must be connected to the fuse end of switches and to the coil end of circuit breakers, except that generator leads or incoming feeders may be connected to either end of circuit breakers.

(r) Receptacle outlets and attachment plugs for the attachment of portable lamps, tools, and similar apparatus supplied as ship's equipment and operating at 100 volts or more, must provide a grounding pole and a grounding conductor in the portable

cord to ground the non-current carrying metal parts of the apparatus.

(s) Receptacle outlets of the type providing a grounded pole must be of a configuration that will not permit the dead metal parts of portable apparatus to be connected to a live conductor.

§ 169.681 Disconnect switches and devices.

(a) Externally operable switches or circuit breakers must be provided for motor and controller circuits and must open all ungrounded conductors of the circuit.

(b) If the disconnect means is not within sight of the equipment that the circuit supplies, means must be provided for locking the disconnect device in the "open" position.

(c) For circuits protected by fuses, the disconnect switch required for fuses in § 132.64(b) of this chapter is adequate for disconnecting the circuit from the supply.

(d) The disconnect means may be in the same enclosure with motor controllers.

(e) Disconnect means must be provided to open all conductors of generator and shore power cables.

§ 169.682 Distribution and circuit loads.

(a) Except as provided in paragraph (b) of this section, the connected load on a lighting branch circuit must not exceed 80 percent of the rating of the overcurrent protective device, computed using the greater of—

- (1) The lamp sizes to be installed; or
- (2) 50 watts per outlet.

(b) Circuits supplying electrical discharge lamps must be computed using the ballast input current.

(c) The branch circuit cables for motor and lighting loads must be no smaller than No. 14 AWG.

§ 169.683 Overcurrent protection, general.

(a) Overcurrent protection must be provided for each ungrounded conductor for the purpose of opening the electric circuit if the current reaches a value that causes an excessive or dangerous temperature in the conductor or conductor insulation.

(b) Disconnect means must be provided on the supply side of and adjacent to all fuses for the purpose of deenergizing the fuses for inspection and maintenance purposes. All disconnect means must open all ungrounded conductors of the circuit simultaneously.

(c) Each conductor, including a generator lead and shore power cable, must be protected in accordance with its current-carrying capacity.

(d) If the allowable current-carrying capacity of a conductor does not correspond to a standard size fuse, the next larger size or rating may be used but not exceeding 150 percent of the allowable current-carrying capacity of the conductor.

(e) Plug (screw in type) fuses and fuseholders must not be used in circuits exceeding 125 volts between conductors. The screw shell of plug type fuseholders must be connected to the load of the circuit. Edison base fuses may not be used.

(f) If the allowable current-carrying capacity of the conductor does not correspond to a standard rating of circuit breakers, the next larger rating not exceeding 150 percent of the allowable current-carrying capacity of the conductor may be used.

(g) Lighting branch circuits must be protected against over current either by fuses or circuit breakers rated at not more than 20 amperes.

(h) Each circuit breaker must be of the manually reset type designed for—

(1) Inverse time delay;

(2) Instantaneous short circuit protection; and

(3) Repeated opening of the circuit in which it is to be used without damage to the circuit breaker.

(i) Circuit breakers must indicate whether they are in the open or closed position.

(j) Devices such as instruments, pilot lights, ground detector lights, potential transformers, etc. must be supplied by circuits protected by overcurrent devices.

(k) Each generator must be protected with an overcurrent device set at a value not exceeding 15 percent above the full-load rating for continuous rated machines or the overload rating for special rated machines.

§ 169.684 Overcurrent protection for motors and motor branch circuits.

(a) Except as provided in paragraph (d) of this section, each motor must be provided with running protection against overcurrent. A protective device integral with the motor that is responsive to motor current or to both motor current and temperature may be used.

(b) The motor branch circuit conductors, the motor control apparatus, and the motors must be protected against overcurrent due to short circuits or grounds with overcurrent devices.

(c) The motor branch circuit overcurrent device must be capable of carrying the starting current of the motor.

(d) Each manually started continuous duty motor, rated at one horsepower or

less, that is within sight from the starter location, is considered as protected against overcurrent by the overcurrent device protecting the conductors of the branch circuit.

§ 169.685 Electric heating and cooking equipment.

(a) Each electric space heater for heating rooms and compartments must be provided with thermal cutouts to prevent overheating. Each heater must be so constructed and installed as to prevent the hanging of towels, clothing, etc. on the heater, and to prevent overheating of heater parts and adjacent bulkheads or decks.

(b) All electric cooking equipment, attachments, and devices, must be of rugged construction and so designed as to permit complete cleaning, maintenance, and repair.

(c) Doors for electric cooking equipment must be provided with heavy duty hinges and locking devices to prevent accidental opening in heavy seas.

(d) Electric cooking equipment must be mounted to prevent dislodgment in heavy seas.

(e) For each grill or similar type cooking equipment, means must be provided to collect grease or fat and to prevent spillage on wiring or the deck.

(f) Where necessary for safety of personnel, grab rails must be provided. Each electric range must be provided with sea rails with suitable barriers to resist accidental movement of cooking pots.

§ 169.686 Shore power.

If a shore power connection is provided it must meet the following requirements:

(a) A shore power connection box or receptacle and a cable connecting this box or receptacle to the main distribution panel must be permanently installed in an accessible location.

(b) The shore power cable must be provided with a disconnect means located on or near the main distribution panel.

Electrical Installations on Vessels of 100 Gross Tons and Over

§ 169.687 General.

Except as provided in this subpart, electrical installations on vessels of 100 gross tons and over must meet the requirements of Parts 110–113 of this chapter.

§ 169.688 Power supply.

(a) The requirements of this section apply in lieu of Subpart 111.10 of this chapter.

(b) If a generator is used to provide electric power for any vital system listed in § 169.642 of this subchapter, at least two generating sets must be provided. At least one required generating set must be independent of the auxiliary propulsion machinery. A generator that is not independent of the auxiliary propulsion plant must meet the requirements of § 111.10–4(c) of this chapter. With any one generating set stopped, the remaining set(s) must provide the power necessary for each of the following:

(1) Normal at sea load plus starting of the largest vital system load that can be started automatically or started from a space remote from the main distribution panel (switchboard).

(2) All vital systems simultaneously with nonvital loads secured.

(c) The adequacy of ship service generators must be demonstrated to the satisfaction of the OCMI during the initial inspection required by § 169.221 of this subchapter.

§ 169.689 Demand loads.

Demand loads must meet § 111.60–7 of this chapter except that smaller demand loads for motor feeders are acceptable if the cable is protected at or below its current-carrying capacity.

§ 169.690 Lighting branch circuits.

Each lighting branch circuit must meet the requirements of § 111.75–5 of this chapter, except that—

(a) Appliance loads, electric heater loads, and isolated small motor loads may be connected to a lighting distribution panelboard; and

(b) Branch circuits in excess of 30 amperes may be supplied from a lighting distribution panelboard.

§ 169.691 Navigation lights.

Navigation light systems must meet the requirements of § 111.75–17 of this chapter except the requirements of § 111.75–17 (a) and (c).

§ 169.692 Remote stop stations.

In lieu of the remote stopping systems required by Subpart 111.103 of this chapter, remote stop stations must be provided as follows:

(a) A propulsion shutdown in the pilothouse for each propulsion unit.

(b) A bilge slop or dirty oil discharge shutdown at the deck discharge.

(c) A ventilation shutdown located outside the space ventilated, and

(d) A shutdown from outside the engine room for the fuel transfer pump, fuel oil service pump, or any other fuel oil pump.

§ 169.693 Engine order telegraph systems.

An engine order telegraph system is not required.

Subpart 169.700—Vessel Control, Miscellaneous Systems, and Equipment**§ 169.703 Cooking and heating.**

(a) Cooking and heating equipment must be suitable for marine use. Cooking installations must meet the requirements of ABYC Standard A-3, Recommended Practices and Standards covering galley stoves."

(b) The use of gasoline for cooking, heating or lighting is prohibited on all vessels.

(c) The use of liquified petroleum gas (LPG) or compressed natural gas (CNG) is authorized for cooking purposes only.

(1) The design, installation and testing of each LPG or CNG system must meet ABYC A-1-78 and A-22-78 respectively.

(2) The stowage of each cylinder must comply with the requirements for the stowage of cylinders of liquified or non-liquified gases used for heating, cooking, or lighting in Part 147 of this chapter.

(i) The cylinders must be located in a metal locker or housing on or above the weather deck in such a position that any escaping vapor cannot reach living quarters or enclosed compartments.

(ii) The lockers or housing must be vented to the open air near the bottom for gases evolving vapors heavier than air and near the top of the enclosure for vapors lighter than air.

(iii) The cylinders must be protected from climatic extremes.

(3) If the fuel supply line enters an enclosed space on the vessel, a remote shutoff valve must be installed which can be operated from a position adjacent to the appliance. The valve must be located between the regulator and the point where the fuel supply enters the enclosed portion of the vessel.

§ 169.705 Mooring equipment.

Each vessel must be fitted with ground tackle and hawsers deemed necessary by the Officer in Charge, Marine Inspection, depending upon the size of the vessel and the waters on which it operates.

§ 169.709 Compass.

(a) Each vessel must be fitted with a magnetic steering compass.

(b) Each vessel certificated for exposed or partially protected water service must have an emergency compass in addition to the one required in paragraph (a).

§ 169.711 Emergency lighting.

(a) Vessels must be equipped with a suitable number of portable battery lights.

(b) Adequate emergency lighting, automatically actuated upon failure of the main lighting system, must be fitted along the avenues of escape, in the wheelhouse and in the engine compartment.

(c) Each vessel less than 90 feet in length not equipped with a single source emergency lighting system must have individual, storage battery powered, automatically operated lights in strategic locations. These lights must have an automatic battery charger, must not be readily portable, and must have sufficient capacity for 6 hours continuous operation.

§ 169.713 Engine room communications system.

An efficient communication system must be provided between the principal steering station and the engine room on vessels which are not equipped with pilothouse controls if, in the opinion of the Officer in Charge, Marine Inspection, this is necessary for proper operation of the vessel.

§ 169.715 Radio.

(a) Each vessel, except as noted in paragraph (d) of this section, must have at least one VHF radiotelephone capable of receiving and transmitting on the appropriate safety channels.

(b) Each vessel, except as noted in paragraph (d) of this section, certificated for exposed or partially protected waters must also have a single side band (SSB) radiotelephone capable of receiving and transmitting on the appropriate safety channels.

(c) Each vessel, except as noted in paragraph (d), certificated for exposed or partially protected waters service must have emergency antennae which are independent of the vessel's masts and emergency power supplies which are independent of the ship's electrical system and located above the main deck.

(d) Open boats when traveling in a convoy may carry one VHF radiotelephone capable of receiving and transmitting on the appropriate safety channels and an emergency backup radiotelephone, with emergency antenna, per convoy.

§ 169.717 Fireman's outfit.

(a) Each vessel greater than 120 feet but less than 150 feet in length must carry one approved fireman's outfit consisting of—

(1) An approved self-contained breathing apparatus with belt and lifeline;

(2) An approved flame safety lamp;

(3) One approved 3-cell, explosion-proof flashlight constructed in accordance with subpart 161.008 of this chapter;

(4) One fire ax;

(5) Boots and gloves of rubber or other electrically nonconducting material;

(6) A rigid helmet which provides effective protection against impact; and

(7) Protective clothing.

(b) Each vessel 150 feet or greater must carry two approved fireman's outfits. The outfits must be stowed in widely separated accessible locations.

(c) Lifelines must be of steel or bronze wire rope. Steel wire rope must be either inherently corrosion resistant or made so by galvanizing or tinning. Each end must be fitted with a hook with keeper having a throat opening which can be readily slipped over a 5/8-inch bolt. The total length of the lifeline is dependent upon the size and arrangement of the vessel, and more than one line may be hooked together to achieve the necessary length. No individual length of lifeline may be less than 50 feet in length. The assembled lifeline must have a minimum breaking strength of 1,500 pounds.

(d) A complete recharge must be carried for each self-contained breathing apparatus and a complete set of spare batteries and bulb must be carried for each flashlight. The spares must be stowed in the same location as the equipment it is to reactivate.

(e) Protective clothing must be constructed of material that will protect the skin from the heat of fire and burns from scalding steam. The outer surface must be water resistant.

§ 169.721 Storm sails and halyards (exposed and partially protected waters only).

(a) Unless clearly unsuitable, each vessel must have one storm trysail of appropriate size. It must be sheeted independently of the boom and must have neither headboard nor battens.

(b) Each vessel having headsails must also have one storm head sail of appropriate size and strength.

(c) Each mast must have at least two halyards, each capable of hoisting a sail.

§ 169.723 Safety belts.

Each vessel must carry a harness type safety belt conforming to Offshore Racing Council (ORC) standards for each person on watch or required to work the vessel in heavy weather.

§ 169.725 First aid kit.

Each vessel must carry an approved first aid kit, constructed and fitted in accordance with Subpart 160.041 of this chapter.

§ 169.726 Radar reflector

Each nonmetallic vessel less than 90 feet in length must exhibit a radar reflector of suitable size and design while underway.

Markings**§ 169.730 General alarm bell switch.**

When a general alarm system is required by this subpart, there must be a general alarm bell switch in the pilothouse, clearly and permanently identified by lettering on a metal plate or with a sign in red letters on a suitable background: "GENERAL ALARM"

§ 169.731 General alarm bell.

Each general alarm bell must be identified by red lettering at least ½ inch high: "GENERAL ALARM—WHEN BELL RINGS GO TO YOUR STATION."

§ 169.732 Carbon dioxide alarm.

Each carbon dioxide alarm must be conspicuously identified: "WHEN ALARM SOUNDS—VACATE AT ONCE. CARBON DIOXIDE BEING RELEASED."

§ 169.733 Fire extinguishing branch lines.

Each branch line valve of every fire extinguishing system must be plainly and permanently marked indicating the spaces served.

§ 169.734 Fire extinguishing system controls.

Each control cabinet or space containing valves or manifolds for the various fire extinguishing systems must be distinctly marked in conspicuous red letters at least 2 inches high: "CARBON DIOXIDE FIRE EXTINGUISHING SYSTEM," "HALON FIRE EXTINGUISHING SYSTEM" as appropriate.

§ 169.735 Fire hose stations.

Each fire hydrant must be identified in red letters and figures at least two inches high "FIRE STATION NO. 1," "2," "3," etc. Where the hose is not stowed in the open or readily seen behind glass, this identification must be placed so as to be readily seen from a distance.

§ 169.736 Self-contained breathing apparatus.

Each locker or space containing self-contained breathing apparatus must be marked "SELF-CONTAINED BREATHING APPARATUS."

§ 169.737 Hand portable fire extinguishers.

Each hand portable fire extinguisher must be marked with a number, and the location where it is stowed must be marked with a corresponding number. The marks must be at least ½ inch high. Where only one type and size of hand portable fire extinguisher is carried, the numbering may be omitted.

§ 169.738 Emergency lights.

Each emergency light must be marked with a letter "E" at least ½ inch high.

§ 169.739 Lifeboats.

(a) The name and hailing port of the vessel must be plainly marked or painted on each side of the bow of each lifeboat in letters not less than 3 inches high.

(b) Each lifeboat must have its number plainly marked or painted on each side of the bow in figures not less than 3 inches high. The lifeboats on each side of the vessel must be numbered from forward aft, with the odd numbers on the starboard side.

(c) The cubical contents and number of persons allowed to be carried in each lifeboat must be plainly marked or painted on each side of the bow of the lifeboat in letters and numbers not less than 1½ inches high. In addition, the number of persons allowed must be plainly marked or painted on top of at least 2 thwarts in letters and numbers not less than 3 inches high.

(d) Each oar must be conspicuously marked with the vessel's name.

(e) Where mechanical disengaging apparatus is used, the control effecting the release of the lifeboat must be painted bright red and must have thereon in raised letters either the words—"DANGER—LEVER DROPS BOAT", or the words—"DANGER—LEVER RELEASES HOOKS".

(f) The top of thwarts, side benches and footings of lifeboats must be painted or otherwise colored international orange. The area in way of the red mechanical disengaging gear control lever, from the keel to the side bench, must be painted or otherwise colored white, to provide a contrasting background for the lever. This band of white should be approximately 12 inches wide depending on the internal arrangements of the lifeboat.

§ 169.740 Liferrafts and lifefloats.

(a) Rigid type liferafts and lifefloats, together with their oars and paddles, must be conspicuously marked with the vessel's name and hailing port.

(b) The number of persons allowed on each rigid type liferaft and lifefloat must be conspicuously marked or painted

thereon in letters and numbers at least 1½ inches high.

(c) There must be stenciled in a conspicuous place in the immediate vicinity of each inflatable liferaft the following:

INFLATABLE LIFERAFT NO — — — —
— — — — — PERSONS
CAPACITY

These markings must not be placed on the inflatable liferaft containers.

§ 169.741 Personal flotation devices and ring life buoys.

Each personal flotation device and ring life buoy must be marked with the vessel's name and hailing port.

§ 169.742 Firehose and axes.

Each firehose and axe must be marked with the vessel's name.

§ 169.743 Portable magazine chests.

Portable magazine chests must be marked in letters at least 3 inches high: "PORTABLE MAGAZINE CHEST—FLAMMABLE—KEEP LIGHTS AND FIRE AWAY."

§ 169.744 Emergency position indicating radiobeacon (EPIRB).

Each EPIRB must be marked with the vessel's name.

§ 169.745 Escape hatches and emergency exits.

Each escape hatch and other emergency exit must be marked on both sides using at least 1-inch letters: "EMERGENCY EXIT, KEEP CLEAR", unless the markings are deemed unnecessary by the Officer in Charge, Marine Inspection.

§ 169.746 Fuel shutoff valves.

Each remote fuel shutoff station must be marked in at least 1-inch letters indicating purpose of the valves and direction of operation.

§ 169.747 Watertight doors and hatches.

Each watertight door and watertight hatch must be marked on both sides in at least 1-inch letters: "WATERTIGHT DOOR—CLOSE IN EMERGENCY" or "WATERTIGHT HATCH—CLOSE IN EMERGENCY", unless the markings are deemed unnecessary by the Officer in Charge, Marine Inspection.

§ 169.748 Hull.

(a) Documented vessels must have the following markings (block letters and numerals):

(1) The name of the vessel—on both bows and the stern, not less than 4 inches high.

(2) Hailing port—on the stern, not less than 4 inches high.

(3) Draft marks—on the stem and stern of all vessels 50 gross tons and over, 6 inches high.

(4) Official number—on the vessel's main beam, not less than 3 inches high.

(5) Net tonnage—on the vessel's main beam, not less than 3 inches high.

(b) All markings must contrast with the color of the hull so as to be distinctly visible and legible.

§ 169.750 Radio call sign

Each vessel certificated for exposed or partially protected water service must have its radio call sign permanently displayed or readily available for display upon its deck or cabin top in letters at least 18 inches high.

Subpart 169.800—Operations

§ 169.805 Exhibition of licenses.

(a) Licenses personnel on any vessel subject to this subchapter shall have their licenses in their possession and available for examination at all times when the vessel is being operated.

§ 169.807 Notice of casualty.

(a) The owner, agent, master, or person in charge of a vessel involved in a marine casualty shall give notice as soon as possible to the nearest Coast Guard Marine Safety or Marine Inspection Office, whenever the casualty involves any of the following:

(1) Each accidental groundings and each intentional grounding which also meets any of the other reporting criteria or creates a hazard to navigation, the environment or the safety of the vessel;

(2) Loss of main propulsion or primary steering or any associated component or control system, which causes a reduction of the maneuvering capabilities of the vessel. Loss means that systems, components, sub-system or control systems do not perform the specified or required function.

(3) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route, including but not limited to fire, flooding, or failure or damage to fixed fire extinguishing systems, lifesaving equipment, auxiliary power generating equipment, Coast Guard approved equipment or bilge pumping systems;

(4) Loss of life;

(5) Injury causing a person to remain incapacitated for a period in excess of 72 hours;

(6) An occurrence resulting in damage to property in excess of \$25,000.00.

Damage includes the cost necessary to restore the property to the service condition which existed prior to the casualty but does not include the cost of salvage, gas freeing, drydocking, or demurrage.

(b) The notice must include the name and official number of the vessel involved, the name of the vessel's owner or agent, nature, location and circumstances of the casualty, nature and extent of injury to persons, and the damage to property.

(c) In addition to the notice required, the person in charge of the vessel shall report in writing or in person, as soon as possible to the Officer in Charge, Marine Inspection at the port in which the casualty occurred or nearest the port of first arrival. Casualties must be reported on Form CG-2692.

(d) The owner, agent, master, or other person in charge of any vessel involved in a marine casualty shall retain for three years the voyage records of the vessel such as both rough and smooth deck and engineroom logs, navigation charts, navigation work books, compass deviation cards, gyrocompass records, record of draft, aids to mariners, radiograms sent and received, the radio log, and crew, sailing school student, instructor, and guest lists. The owner, agent, master, or other officer in charge, shall make these records available to a duly authorized Coast Guard officer or employee for examination upon request.

(e) Whenever a vessel collides or is connected with a collision with a lightship, buoy, or other aid to navigation under the jurisdiction of the Coast Guard, the person in charge of the vessel shall report the accident to the nearest Officer in Charge, Marine Inspection. A report on Form CG-2692 is not required unless any of the results listed in paragraph (b) of this section occur.

§ 169.809 Charts and nautical publications.

As appropriate for the intended voyage all vessels must carry adequate and up-to-date—

- (a) Charts;
- (b) Sailing directions;
- (c) Coast pilots;
- (d) Light lists;
- (e) Notices to mariners;
- (f) Tide tables; and
- (g) Current tables.

§ 169.813 Station bills.

(a) A station bill (muster list) shall be prepared and signed by the master of the vessel. The master shall ensure that the bill is posted in conspicuous locations throughout the vessel, particularly in the living spaces, before the vessel sails.

(b) The station bill must set forth the special duties and duty station of each member of the ship's company for the various emergencies. The duties must, as far as possible, be comparable with the regular work of the individual. The

duties must include at least the following and any other duties necessary for the proper handling of a particular emergency:

(1) The closing of airports, watertight doors, scuppers, sanitary and other discharges which lead through the vessel's hull below the margin line, etc., the stopping of fans and ventilating systems, and the operating of all safety equipment.

(2) The preparing and launching of lifeboats and liferafts.

(3) The extinguishing of fire.

(4) The mustering of guests, if carried, including the following:

(i) Warning the guests.

(ii) Seeing that they are dressed and have put on their personal flotation devices in a proper manner.

(iii) Assembling the guests and directing them to the appointed stations.

(iv) Keeping order in the passageways and stairways and generally controlling the movement of the guests.

(v) Seeing that a supply of blankets is taken to the lifeboats.

(5) The custody of the portable radio apparatus required by § 169.715.

§ 169.815 Emergency signals.

(a) The station bill must set forth the various signals used for calling the ship's company to their stations and for giving instructions while at their stations.

(b) The following signals must be used.

(1) The first alarm signal must be a continuous blast of the vessel's whistle for a period of not less than 10 seconds supplemented by the continuous ringing of the general alarm bells for not less than 10 seconds.

(2) For dismissal from fire alarm stations, the general alarm must be sounded three times supplemented by three short blasts of the vessel's whistle.

(3) The signal for boat stations or boat drill must be a succession of more than six short blasts, followed by one long blast, of the vessel's whistle supplemented by a comparable signal on the general alarm bells.

(4) For dismissal from boat stations, there must be three short blasts of the whistle.

(c) Where whistle signals are used for handling the lifeboats, they must be as follows:

(1) To lower lifeboats, one short blast.

(2) To stop lowering the lifeboats, two short blasts.

§ 169.817 Master to instruct ship's company.

The mast shall conduct drills and give instructions as necessary to insure that

all hands are familiar with their duties as specified in the station bill.

§ 169.819 Manning of lifeboats and liferafts.

(a) The provisions of this section shall apply to all vessels equipped with lifeboats and/or liferafts.

(b) The master shall place a licensed deck officer, an able seaman, or a certificated lifeboatman in command of each lifeboat or liferaft. Each lifeboat or liferaft with a prescribed complement of 25 or more persons must have one additional certificated lifeboatman.

(c) The person in charge of each lifeboat or liferaft shall have a list of its assigned occupants, and shall see that the persons under his orders are acquainted with their duties.

(d) Vessels required to carry sufficient lifeboats on each side to accommodate all persons on board need only carry the certificated lifeboatmen required for the manning of the lifeboats on one side.

§ 169.821 Patrolmen.

(a) The master shall designate a member of the ship's company to be a roving patrolman, whenever the vessel is operational.

(b) The roving patrolman shall frequently visit all areas to ensure that safe conditions are being maintained.

§ 169.823 Openings.

(a) Except as provided in paragraph (b) of this section, all watertight doors in subdivision bulkheads, hatches, and openings in the hull must be kept closed during the navigation of the vessel.

(b) The master may permit hatches or other openings to be uncovered or opened for reasonable purposes such as ship's maintenance, when existing conditions warrant the action and the openings can readily be closed.

§ 169.824 Compliance with provisions of certificate of inspection.

The master or person in charge of the vessel shall see that all of the provisions of the certificate of inspection are strictly adhered to. Nothing in this subpart shall be construed as limiting the master or person in charge of the vessel, on his own responsibility, from diverting from the route prescribed in the certificate of inspection or taking such other steps as he deems necessary and prudent to assist vessels in distress or for other similar emergencies.

§ 169.825 Wearing of safety belts.

The master of each vessel shall ensure that each person wears an approved safety harness when aloft or working topside in heavy weather.

Tests, Drills, and Inspections

§ 169.826 Steering, communications and control.

The master shall test the vessel's steering gear, signaling whistle, engine controls, and communications equipment prior to getting underway.

§ 169.827 Hatches and other openings.

The master is responsible for seeing that all hatches, openings in the hull, and watertight doors are properly closed tight prior to leaving protected waters.

§ 169.829 Emergency lighting and power systems.

(a) Where fitted, the master shall have the emergency lighting and power systems operated and inspected at least once in each week that the vessel is navigated to ensure that the system is in proper operating condition.

(b) The master shall have the internal combustion engine driven emergency generators operated under load for at least 2 hours at least once in each month that the vessel is navigated.

(c) The master shall have the storage batteries for emergency lighting and power systems tested at least once in each 6-month period that the vessel is navigated to demonstrate the ability of the storage battery to supply the emergency loads for the specified period of time.

(d) The date of each test and the condition and performance of the apparatus must be noted in the official logbook.

§ 169.831 Emergency position indicating radio beacon (EPIRB).

The master shall ensure that—

(a) The EPIRB required in § 169.555 of this subchapter is tested monthly, using the integrated test circuit and output indicator, to determine that it is operative; and

(b) The EPIRB's battery is replaced after the EPIRB is used and before the marked expiration date.

§ 169.833 Fire and boat drills.

(a) When the vessel is operating, the master shall conduct a fire and boat drill each week. The scheduling of drills is at the discretion of the master except that at least one fire and boat drill must be held within 24 hours of leaving a port if more than 25 percent of the ship's company have been replaced at that port.

(b) The fire and boat drill must be conducted as if an actual emergency existed. All persons on board including guests shall report to their respective stations and be prepared to perform the duties specified in the station bill.

(1) Fire pumps must be started and a sufficient number of outlets used to ascertain that the system is in proper working order.

(2) All rescue and safety equipment must be brought from the emergency equipment lockers and the persons designated must demonstrate their ability to use the equipment.

(3) All watertight doors which are in use while the vessel is underway must be operated.

(4) Weather permitting, lifeboat covers and strongbacks must be removed, plugs or caps put in place, boat ladders secured in position, painters led forward and tended, and other life saving equipment prepared for use. The motor and hand-propelling gear of each lifeboat, where fitted, must be operated for at least 5 minutes.

(5) In port, every lifeboat must be swung out, if practicable. The unobstructed lifeboats must be lowered to the water and the ship's company must be exercised in the use of the oars or other means of propulsion. Although all lifeboats may not be used in a particular drill, care must be taken that all lifeboats are given occasional use to ascertain that all lowering equipment is in proper order and the crew properly trained. The master shall ensure that each lifeboat is lowered to the water at least once every 3 months.

(6) When the vessel is underway, and weather permitting, all lifeboats must be swung out to ascertain that the gear is in proper order.

(7) The person in charge of each lifeboat and liferaft shall have a list of its crew and shall ensure that the men under his command are acquainted with their duties.

(8) Lifeboat equipment must be examined at least once a month to ensure that it is complete.

(9) The master shall ensure that all persons on board fully participate in these drills and that they have been instructed in the proper method of donning and adjusting the personal flotation devices used and informed of the stowage locations of these devices.

(c) The master shall have an entry made in the vessel's official logbook relative to each fire and boat drill setting forth the date and hour, length of time of the drill, numbers on the lifeboats swung out and numbers on those lowered, the length of time that motor and hand-propelled lifeboats are operated, the number of lengths of hose used, together with a statement as to the condition of all fire and lifesaving equipment, watertight door mechanisms, valves, etc. An entry must also be made to report the monthly examination of the

lifeboat equipment. If in any week the required fire and boat drills are not held or only partial drills are held, an entry must be made stating the circumstances and extent of the drills held.

(d) A copy of these requirements, Form CG-809, Notice-Station Bill and Drills, must be framed under glass or other transparent material and posted in a conspicuous place about the vessel. This form may be obtained from the Officer in Charge, Marine Inspection.

§ 169.835 Exposure suits.

The master of each vessel which is required to carry exposure suits, shall ensure that prior to getting underway, each person on board is instructed in the use of exposure suits.

§ 169.837 Lifeboats, liferafts, and lifefloats.

(a) The master or person in charge shall ensure that the lifeboats, rescue boats, liferafts, and lifefloats, are properly maintained at all times, and that all equipment for the vessel required by the regulations in this subchapter is provided, maintained, and replaced as indicated or when necessary.

(b) The master shall ensure that:

(1) Each lifeboat has been stripped, cleaned and thoroughly overhauled at least once in each year.

(2) The fuel tanks of motor propelled lifeboats have been emptied and fuel changed once every twelve months.

(3) Each lifefloat has been cleaned and thoroughly overhauled once every twelve months.

(4) Each inflatable liferaft has been serviced at an approved facility every 12 months or not later than the next vessel inspection for certification if the time since the date of the last servicing does not exceed 15 months.

§ 169.839 Firefighting equipment.

(a) The master or person in charge shall ensure that the vessel's firefighting equipment is at all times ready for use and that all firefighting equipment required by the regulations in this subchapter is provided, maintained, and replaced as indicated.

(b) The master or person in charge shall have performed at least once every 12 months the tests and inspections of all hand portable fire extinguishers, semiportable fire extinguishing systems, and fixed fire extinguishing systems on board as described in section 169.247 of this subchapter. The master or person in charge shall keep records of the tests and inspections showing the dates when performed, the number and/or other identification of each unit tested and inspected, and the name(s) of the

person(s) and/or company conducting the tests and inspections. These records must be made available to the marine inspector upon request and must be kept for the period of validity of the vessel's current certificate of inspection.

Conducting these tests and inspections does not relieve the master or person in charge of his responsibility to maintain this firefighting equipment in proper condition at all times.

§ 169.841 Logbook entries.

(a) Each vessel subject to the inspection provisions of this subchapter must have an official logbook.

(b) The master shall place all entries required by law or regulation in the logbook.

(c) A Coast Guard form "Official Logbook" may be utilized or the owner may utilize his own format for an official logbook. The logs must be kept available for review by the Coast Guard for a period of one year after the date to which the records refer or for the period of validity of the vessel's current certificate of inspection, whichever is longer.

(d) All tests, drills, inspections and notifications required in this subchapter must be entered in the official logbook.

(e) Prior to getting underway the master shall enter in the logbook the name of each sailing school student, sailing school instructor, and guest onboard, and the fact that each person was notified of the applicable safety standards for sailing school vessels as required by § 169.853 of this chapter.

§ 169.847 Lookouts.

Nothing in this part exonerates any master or officer of the watch from the consequences of any neglect to keep a proper lookout.

§ 169.849 Posting placards containing instructions for launching and inflating inflatable liferafts.

Every vessel equipped with inflatable liferafts must have posted in conspicuous places readily accessible to the ship's company and guests approved placards containing instructions for launching and inflating inflatable liferafts. The number and location of such placards for a particular vessel shall be determined by the Officer in Charge, Marine Inspection.

§ 169.853 Display of plans.

(a) Each vessel must have permanently exhibited for the guidance of the master, general arrangement plans for each deck showing the fire control stations, the various sections enclosed by fire resisting bulkheads, the sections enclosed by fire retarding bulkheads, together with the particulars

of the fire alarms, detecting systems, fire extinguishing appliances, means of access to different compartments, ventilation systems and the position of dampers and remote stops.

(b) Plans must clearly show for each deck the boundaries of the watertight compartments, the openings therein with the means of closure and the position of any controls, and the arrangements for the correction of any list due to flooding.

§ 169.855 Pre-underway training.

Prior to getting underway the master shall ensure that all sailing school students, sailing school instructors and guests are instructed in the handling of sails, emergency procedures, nautical terms, location and use of lifesaving and firefighting equipment, and the general layout of the vessel.

§ 169.857 Disclosure of safety standards.

(a) This section applies to all sailing school vessels and all promotional literature or advertisements offering passage or soliciting sailing school students or instructors for voyages on sailing school vessels.

(b) Each item of promotional literature or advertisement that offers passage or solicits students or instructors for voyages onboard a sailing school vessel must contain the following information:

(1) The name of the vessel;

(2) The country of registry;

(3) A statement detailing the role and responsibility of a sailing school student or instructor; and

(4) A statement that the vessel is inspected and certificated as a sailing school vessel and does not meet the same high level of safety standards required of an oceangoing passenger vessel.

(c) Before getting underway the master shall ensure that each sailing school student, sailing school instructor, and guest is notified of the specialized nature of sailing school vessels and that the applicable safety requirements for these vessels are not the same as those applied to passenger vessels.

PART 170—STABILITY REQUIREMENTS FOR ALL INSPECTED VESSELS

2. The authority citation for Part 170 is revised to read as follows:

Authority: Sec. 2, 87 Stat. 418 (46 App. U.S.C. 86); sec. 2, 49 Stat. 888 as amended (46 App. U.S.C. 88a); 46 U.S.C. 3306 and 3703; sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); 49 U.S.C. 108; sec. 3, 66 Stat. 675 (50 U.S.C. 198); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

3. In § 170.055, by adding new paragraphs (h)(6), (s) and (t) to read as follows:

§ 170.055 Definitions concerning a vessel.

(h) * * *

(6) "Mean length" is the average of the length between perpendiculars (LBP) and the length on deck (LOD).

(s) "Existing sailing school vessel" means a sailing vessel which has an application for initial inspection for certification as a sailing school vessel on file with the Coast Guard prior to June 1, 1985 and whose initial inspection for certification is completed prior to September 1, 1985.

(t) "New sailing school vessel" means a sailing vessel which is not an existing sailing school vessel.

4. In § 170.070 by adding a new paragraph (b)(5) to read as follows:

§ 170.070 Applicability.

(b) * * *

(5) A sailing school vessel that is an open boat that complies with the requirements in § 173.063(e) of this subchapter.

5. In § 170.105, by adding a new paragraph (b)(5) to read as follows:

§ 170.105 Applicability.

(b) * * *

(5) A sailing school vessel that is an open boat that complies with the requirements in § 173.063(e) of this subchapter.

6. In § 170.160, by adding a new paragraph (b)(4) to read as follows:

§ 170.160 Specific Applicability.

(b) * * *

(4) A sailing school vessel that is an open boat that complies with the requirements in § 173.063(e) of this subchapter.

7. In § 170.245, by revising the introductory text of paragraph (b) to read as follows:

§ 170.245 Foam flotation material.

(b) If foam is used to comply with § 171.070(d), § 171.095(c), or § 173.063(e) of this subchapter, the following applies:

PART 171—SPECIAL RULES PERTAINING TO VESSELS CARRYING PASSENGERS

8. The authority citation for Part 171 is revised to read as follows:

Authority: Sec. 2, 87 Stat. 418 (46 App. U.S.C. 86); sec. 2, 49 Stat. 888 as amended (46 App. U.S.C. 88a); 46 U.S.C. 3306 and 3703; sec.

4, 67 Stat. 462 (43 U.S.C. 1333(d)); 49 U.S.C. 108; sec. 3, 66 Stat. 675 (50 U.S.C. 198); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

9. In § 171.001, by revising paragraph (b) to read as follows:

§ 171.001 Applicability.

(b) Specific sections of this part also apply to nautical school ships, sailing school vessels, oceanographic vessels, and nuclear vessels. The applicable sections are listed in Subparts C and D of Part 173 and Subpart D of Part 174 of this subchapter.

10. In § 171.035, by adding paragraph (a)(5) to read as follows:

§ 171.035 Intact stability requirements for a sailing vessel or an auxiliary sailing vessel.

(a) * * *

(5) A sailing school vessel that carries a combined total of six or more sailing school students or instructors.

11. By revising § 171.057 (a) (introductory text) and (b) (introductory text) to read as follows:

§ 171.057 Intact stability requirements for a sailing catamaran.

(a) A sailing vessel that operates on protected waters must be designed to satisfy the following equation:

(b) A sailing vessel that operates on partially protected or exposed waters must be designed to satisfy the following equation:

PART 173—SPECIAL RULES PERTAINING TO VESSEL USE

12. The authority citation for Part 173 is revised to read as follows:

Authority: Sec. 2, 87 Stat. 418 (46 App. U.S.C. 86); sec. 2, 49 Stat. 888 as amended (46 App. U.S.C. 88a); 46 U.S.C. 3306 and 3703; sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); 49 U.S.C. 108; sec. 3, 66 Stat. 675 (50 U.S.C. 198); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

§ 173.055 [Redesignated as § 173.051]

13. By redesignated § 173.055 *Public nautical school ships* as § 173.051.

§ 173.060 [Redesignated as § 173.052]

14. By redesignated § 173.060 *Civilian nautical school ships* as § 173.052.

15. By adding § 173.053—§ 173.063 to read as follows:

§ 173.053 Sailing schools vessels.

(a) The general requirements in Subpart A of Part 171 of this subchapter apply to sailing school vessels in the application of the requirements in §§ 173.054–173.063.

(b) In addition to regular passengers, for the purpose of complying with §§ 171.070 through 171.073 and § 171.080, the following will also be counted as passengers:

- (1) Sailing school students
- (2) Sailing school instructors
- (3) Guests

§ 173.054 Watertight subdivision and damage stability standards for new sailing school vessels.

(a) Each new sailing school vessel which has a mean length greater than 75 feet (22.9 meters) or which carries more than 30 persons must comply with the requirements in § 171.040(a)(1) and §§ 171.070 through 171.073 and § 171.080 of this Subchapter for Type II subdivision and damage stability.

(b) Each new sailing school vessel which has a mean length of 75 feet (22.9 meters) or less and carries more than 30 persons must comply with the requirements in § 171.040(a)(1) and either § 171.043 or §§ 171.070 through 171.073 and § 171.080 of this Subchapter.

(c) Each new sailing school vessel which does not carry more than 30 persons must have a collision bulkhead unless it has a mean length less than 40 feet (12.2 meters) and is operated on partially protected waters.

§ 173.055 Watertight subdivision and damage stability standards for existing sailing school vessels.

(a) Except as provided in paragraph (c), an existing sailing school vessel which carries more than 49 persons must be fitted with a collision bulkhead and any additional bulkheads necessary to provide one compartment subdivision.

(b) Except as provided in paragraph (c), an existing sailing school vessel which has a mean length greater than 65 feet (19.8 meters), must be fitted with additional transverse watertight bulkheads necessary to provide one compartment subdivision, when the following Subdivision Numerals are exceeded.

- (1) For vessels to be operated on Exposed Waters: $L \times N > 4000$.
 - (2) For vessels to be operated on Partially Protected Waters: $L \times N > 4500$.
 - (3) For vessels to be operated on Protected Waters: $L \times N > 5000$.
- where L is the mean length and N is the number of persons on board.

(c) An existing sailing school vessel which has a mean length of 90 feet (27.4 meters) or less may, instead of one compartment subdivision, be fitted with a collision bulkhead and sufficient air tankage or other internal buoyancy to maintain the fully-loaded vessel afloat

with positive stability in the flooded condition.

(d) Except as provided in paragraph (e), an existing sailing school vessel which has a mean length greater than 65 feet (19.8 meters) must be fitted with a collision bulkhead.

(e) On an existing sailing school vessel which has a mean length of 90 feet (27.4 meters) or less operating on protected waters with no other requirement for subdivision, the collision bulkhead may be omitted.

(f) An existing sailing school vessel which has a mean length of 65 feet (19.8 meters) or less carrying more than 15 persons on exposed waters must be fitted with a collision bulkhead.

§ 173.056 Collision and other watertight bulkheads.

(a) Collision bulkheads required by this section must comply with the requirements in § 171.085 of this subchapter.

(b) Each sailing school vessel required to meet paragraph (a) of § 173.054 must comply with the machinery space bulkhead requirements in § 171.095 of this subchapter.

§ 173.057 Permitted locations for Class I watertight doors.

(a) Class I doors are permitted in any location on a sailing school vessel which has a mean length of 90 feet (27.4 meters) or less.

(b) Class I doors fitted in accordance with § 170.270 of this subchapter shall additionally be marked in two-inch letters "RECLOSE AFTER USE", and be provided with a remote position indicator at the main navigating station of the vessel.

§ 173.058 Double bottom requirements.

Each sailing school vessel which has a mean length greater than 90 feet and is certificated for exposed water service must comply with the double bottoms requirements in §§ 171.105-171.109 of this subchapter.

§ 173.059 Penetrations and openings in watertight bulkheads.

Penetrations and openings in watertight bulkheads must comply with the requirements in Subpart E of Part 171 of this subchapter.

§ 173.060 Openings in the side of a vessel below the bulkhead or weather deck.

(a) Openings in the side of a vessel below the bulkhead or weather deck must comply with the requirements in Subpart F of Part 171 of this subchapter.

(b) In addition to the requirements in paragraph (a) of this section, each sailing school vessel which has a mean length greater than 90 feet must comply with the requirements in § 56.50-95 of Subchapter F of this chapter.

§ 173.061 Watertight integrity above the margin line.

The watertight integrity of each sailing school vessel above the margin line must comply with the requirements in Subpart G of Part 171 of this subchapter.

§ 173.062 Drainage of weather deck.

The weather deck of each sailing school vessel must be provided with drainage in accordance with the requirements in Subpart H of Part 171 of this subchapter.

§ 173.063 Intact stability requirements.

(a) Except as provided in this section, each sailing school vessel must meet the intact stability requirements in § 171.035 of this subchapter.

(b) In applying the requirements in § 170.170 and § 171.055 of this subchapter, the value of "T" is equal to the angle of heel at which the deck edge is immersed or $\frac{1}{2}$ of the downflooding angle, whichever is less.

(c) In applying the requirements of § 171.055(d) (1) and (2) of this subchapter, the value "X" is equal to 0.6 long tons/square foot (9.8 metric tons/square meter).

(d) Each vessel of the open boat type that is required to comply with the requirements in § 171.035(d) through (h) of this subchapter, may instead comply with the requirements in paragraph (e) of this section.

(e) In lieu of complying with the requirements of paragraph (b) of this section, an open boat may be provided with sufficient air tankage or other internal buoyancy to maintain the vessel afloat when the vessel is completely flooded or capsized. If foam is used to comply with this paragraph, it must be installed in accordance with the requirements in § 170.245 of this subchapter.

(f) A sailing school catamaran must meet the intact stability requirements in § 171.057.

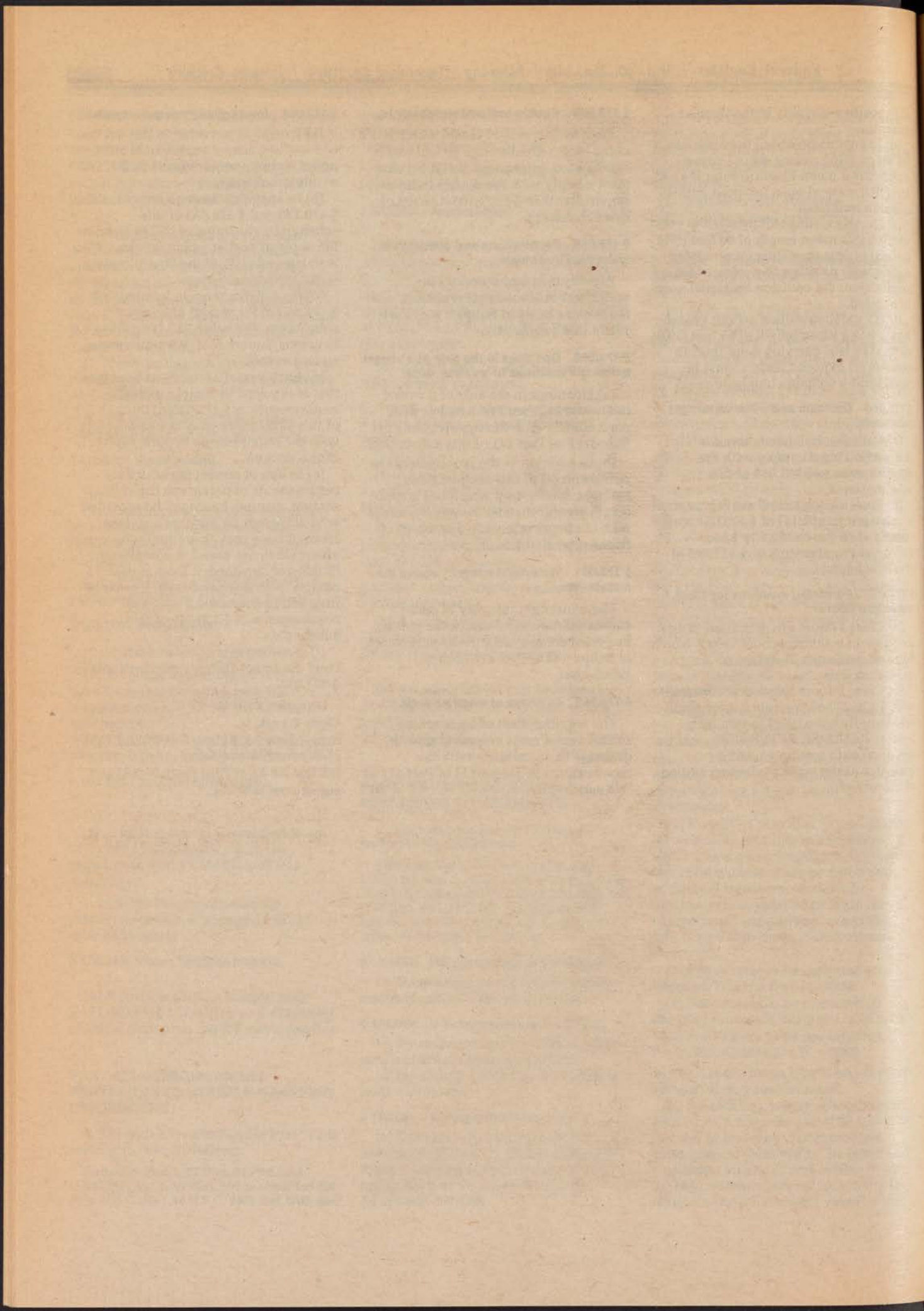
December 17, 1984.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard Chief, Office of Merchant Marine Safety.

[FR Doc. 84-33131 Filed 12-21-84; 8:45 am]

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Part IV

Small Business Administration

13 CFR Part 123

**Federal Action Loans and Currency
Fluctuation Loans; Final Rule and Interim
Final Rule**

SMALL BUSINESS ADMINISTRATION**13 CFR Part 123**

(Rev. 11, Amdt. 1)

Federal Action Loans**AGENCY:** Small Business Administration.**ACTION:** Final rule.

SUMMARY: This final rule implements Title III of the Omnibus Budget Reconciliation Act of 1984 (Pub. L. 98-270) which, by providing funding for Subsections 7(b)(3) and 7(b)(4) of the Small Business Act, activates the previously dormant Federal Action Loan program and also provides that the 1983 Payment-in-Kind Land Diversion (PIK) program, or any successor PIK program with a similar impact on the small business community, shall be deemed to be a consequence of Federal action, (authorizing SBA to make loans to small concerns injured by such action). This final rule also conforms to Pub. L. 98-473 which provides that eligibility of applicants shall not be based on the number of affected small businesses within a county or other political subdivision. This Subpart applies to all designations of areas of substantial economic injury as a result of Federal action pursuant to subsection 7(b)(3) of the Small Business Act.

EFFECTIVE DATE: January 7, 1985.**FOR FURTHER INFORMATION CONTACT:**

Bernard Kulik, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. Telephone: (202) 653-6879.

SUPPLEMENTARY INFORMATION: As part of the Small Business Administration's (SBA) implementation of Title III of the Omnibus Budget Reconciliation Act of 1984, Pub. L. 98-270, approved April 18, 1984 (98 Stat. 157), SBA is hereby adding a new Subpart D to Part 123, Chapter I of Title 13, Code of Federal Regulations, to implement Subsection 7(b)(3) of the Small Business Act ("Act") [15 U.S.C. 636(b)(3)]. Public Law 98-270 additionally provides \$100,000,000 aggregate funding for this program for each of the fiscal years 1985 and 1986, together with another program designed to alleviate substantial economic injury caused to small concerns by the fluctuation of the Mexican peso (Subpart E).

On August 21, 1984, at 49 FR 33198, SBA published proposed regulations concerning Federal Action loan assistance for comment. SBA received 77 comments on that publication. SBA has carefully reviewed all comments. Where appropriate, SBA has made changes to the regulations in response to

the comments received. A detailed analysis of the issues raised by these comments and changes made appears below. After the close of the comment period, Section 111 A of Pub. L. 98-473 was approved October 12, 1984, and provides, in part, that eligibility of individual applicants for loans under subsection 7(b)(2) through (4) shall not be in any way dependent upon the number of disaster victims in a county or other political subdivision. This final rule conforms to this provision.

Overview of the Federal Action Loan Program

Pursuant to subsection 7(b)(3) of the Act, SBA is authorized to make loans to small business concerns, which have suffered economic injury in direct or indirect consequence of Federal actions, and which the Agency determines to be unable to obtain credit elsewhere. The 1983 Payment-In-Kind Land Diversion Program, or any successor PIK program with a similar impact on the small business community, is deemed to have caused such injury to qualifying small concerns. These regulations require the Governor of a State to certify to such economic injury, and to the need for such loan assistance because such financial assistance is not otherwise available on reasonable terms.

The Governor's request for a designation of such area of economic injury will cite the specific action alleged to be the cause of the injury and name the county or counties to be designated and will certify that the injury to small concerns in the State is of such magnitude as to warrant Federal involvement in the form of subsidized loans; generally, this requirement would be satisfied if at least 25 small concerns in the State have suffered substantial economic injury. The Governor should also certify that such Federal action has caused extraordinary, sudden and temporary dislocation in each requested county, and that the injury was the direct (proximate) result of the Federal action, requiring such financial assistance (§ 123.51). The regulation defines substantial economic injury as a decrease of at least 40 percent in income from operations or working capital which renders the business unable to meet its financial obligations (§ 123.52). Most small businesses are eligible, if they demonstrate that they have suffered an injury due to the Federal action stated in the designation, but a business which has changed ownership after the event and certain other classes of business are not eligible [§ 123.53(a)]. Proceeds of these loans may be used only to alleviate the specific economic

injury caused by the designated event (§ 123.53).

Review of Public Comments

Section 123.51(a) of the proposed regulation set forth requirements for designation of areas of economic dislocation due to action of the Federal Government including a requirement that the Governor of a State certify that at least 25 small business concerns in a county or other political subdivision have suffered substantial economic injury. SBA received numerous comments indicating that this minimum was too restrictive. Commenters said that such a threshold wrongly precluded assistance to affected small businesses located in sparsely populated counties and excluded small businesses in industries with a limited small business representation. Commenters also objected to the fact that injured businesses which generate the majority of their sales in designated counties, but which are located in non-designated counties, would be denied assistance. Several commenters stated that SBA was unfair in adopting such a threshold because the enabling legislation contained no such restriction. One commenter objected to the proposed rule because SBA had experienced annual economic injury lending in excess of \$100 million on only two occasions since the inception of the program and thus did not need a threshold requirement.

The final regulation does not contain a numerical threshold for each county or other political subdivision. Instead, the numerical threshold is applied to the whole State and the Governor's request must contain a certification that the Federal action caused extraordinary, sudden and temporary dislocation in each affected county, with a substantial adverse effect on the overall economic conditions of each such county. This change conforms to the provision of Public Law 98-473, which prohibits the dependency of individual eligibility on a minimum number of affected small business concerns in a county or other political subdivision. The change also avoids the exclusion of counties or other political subdivisions which have suffered substantial injury, while preserving the ability to identify dislocations of sufficient magnitude to warrant the use of Federal resources in the form of subsidized loans. By applying a numerical threshold only to States, the final regulation alleviates the concerns expressed in the public comments, and recognized by Congress.

Section 123.51(c) of the proposed rule, now § 123.51(a)(ii) of the final rule, set

forth guidelines identifying counties in which small businesses have been injured by the 1983 Payment-In-Kind Land Diversion program. Under the proposed rule no designation for PIK-related economic injury would have been issued unless at least 20 percent of the available farming acreage or 50,000 or more acres in the county had been so diverted. Commenters objected to these guidelines for several reasons. They said that the guidelines failed to recognize causes other than PIK which resulted in economic injury such as grain embargoes, high interest rates, higher taxes, higher energy costs, droughts, etc. They complained that this guideline unfairly subjects PIK affected small businesses to a second threshold test while other small businesses are subject only to the single threshold of 25 small businesses per county. They stated that SBA was wrongly imposing a restriction that was not included in the enabling legislation. These comments suggested abolition of the acreage limitation entirely and establishing the inability to obtain credit elsewhere as the only restriction on PIK applicants. In its review of comments SBA additionally noted that many individuals who did not object to proposed § 123.51(c), but participated in the comment process nevertheless, were located in counties which failed to meet the PIK acreage test imposed by that provision. SBA therefore reasoned that many more objections would have been received on this issue had these commenters realized its significance.

While SBA is sympathetic to the issues raised and regrets the exclusion of concerns which believe they should qualify for assistance, subsection 7(b)(3) of the Act clearly limits the Agency's lending authority to economic injury resulting from Federal action including the PIK program and does not admit of other causes. Accordingly, the final rules provide that PIK-injured small businesses are eligible only where either 20 percent or more (minimum: 5,000 acres) of the cropland acres or 50,000 or more acres in their county, have been diverted from production by the 1983 PIK program. The 5,000 acres minimum per county where the PIK diversion exceeds 20 percent of the cropland is added to eliminate the eligibility of counties with minimal cropland acreage. SBA has administratively determined that these tests equitably identify those counties where the substantial economic injury may have been caused by PIK rather than by other factors. Economic injuries caused by other Federal actions are also governed by § 123.51(a).

Commenters also noted that the term "available farming acreage" in § 123.51(c) was vague as it related to U.S. Department of Agriculture terminology. They suggested a rule modification which would enable State officials or PIK-affected concerns to determine more accurately whether a particular county met this requirement. In response to these comments SBA revised the wording of this provision to conform to U.S. Department of Agriculture terminology. The final rules change the term "available farming acreage" to "cropland." USDA defines cropland as acreage currently being tilled; acreage which has been tilled but devoted to legumes, orchards, vineyards, 1-row shelter belts and grasses established by the producer; and acreage not currently tilled but which has been tilled in a prior year and is suitable for crop production.

SBA has provided in the following table a list of counties by State which meet SBA's requirements as set forth under Subsection 123.51(a)(ii) for the 1983 PIK program.

Counties having: (1) 20 percent or more of cropland acres, but at least 5,000 acres, diverted from production due to the 1983 Payment-in-Kind Land Diversion (PIK) program, or (2) 50,000 or more acres diverted from production by reason of such PIK program. These counties may be included in a governor's Federal Action loan certification where small businesses located in the county have suffered substantial economic injury due to the PIK program and are in need of financial assistance not otherwise available on reasonable terms.

Arizona

Maricopa Pinal

California

Butte Kern Sutter
Colusa Kings Tulare
Fresno San Joaquin Yolo

Colorado

Baca Prowers Yuma
Kiowa Washington
Kit Carson Weld

Idaho

Power

Illinois

Bureau Knox Mercer
Champaign La Salle Ogle
DeKalb Lawrence Stark
Du Page Lee Vermillion
Henry Livingston Whiteside
Iroquois McHenry Winnebago
Kankakee McLean

Indiana

Daviess Kosciusko Vermillion
Gibson Orange

Iowa

Boone Buena Vista Cedar
Buchanan Butler Cerro Gordo

Clinton
Crawford
Delaware
Fayette
Franklin
Greene
Hamilton
Hancock
Hardin

Harrison
Iowa
Jasper
Kossuth
Lyon
Marshall
Monona
O'Brien
Plymouth

Pocahontas
Shelby
Sioux
Story
Tama
Webster
Winneshiek
Woodbury
Wright

Kansas

Finney Harper Stanton
Ford Haskell Stevens
Gray Meade Sumner
Hamilton Seward Thomas

Louisiana

Morehouse Richland

Michigan

Allegan Hillsdale Oakland

Minnesota

Blue Earth Lac Qui Parle Redwood
Chippewa Lyon Renville
Clay Marshall Roseau
Faribault Martin Stearns
Fillmore Mower Stevens
Freeborn Murray Swift
Jackson Nobles Wilkin
Kandiyohi Norman Yellow
Kittson Polk Medicine

Mississippi

Bolivar Sunflower Washington

Montana

Chouteau Sheridan Valley

Nebraska

Adams Gage Merrick
Antelope Gosper Phelps
Boone Hall Platte
Buffalo Hamilton Polk
Butler Holt Rock
Cedar Howard Saunders
Clay Kearney Thayer
Custer Kimball Wheeler
Dawson Lancaster York
Fillmore Lincoln
Franklin Madison

New Mexico

Curry Quay Roosevelt

North Dakota

Barnes LaMoure Ransom
Benson Logan Renville
Bottineau McHenry Richland
Burleigh McIntosh Sargent
Cass McLean Stark
Cavalier Morton Stutsman
Dickey Mountrail Townner
Emmons Nelson Traill
Grand Forks Pembina Walsh
Grant Pierce Ward
Hettinger Ramsey Wells

Oklahoma

Alfalfa Custer Kingfisher
Beaver Dewey Kiowa
Beckham Garfield Major
Blaine Grant Noble
Caddo Greer Texas
Canadian Harmon Tillman
Cimarron Harper Washita
Comanche Jackson Woods
Cotton Kay

South Dakota

Beadle	Day	Minnehaha
Brookings	Hand	Roberts
Brown	Kingsbury	Spink
Clark	Lyman	Sully

Texas

Andrews	Gray	Oldham
Archer	Hale	Parmer
Armstrong	Hansford	Potter
Bailey	Hardeman	Randall
Baylor	Hartley	Refugio
Brisco	Haskell	Roberts
Calhoun	Hockley	Runnels
Cameron	Hutchinson	San Patricio
Carson	Jeff Davis	Schleicher
Castro	Jones	Sherman
Cochran	Kleberg	Swisher
Crosby	Lamb	Terry
Dallam	Lipscomb	Wharton
Dawson	Lubbock	Wichita
Deaf Smith	Lynn	Yoakum
Floyd	Moore	Young
Foard	Nueces	
Gaines	Ochiltree	

Washington

Douglas	Lincoln
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West Virginia

Jefferson

Wisconsin

Dane	Iowa	Rock
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Source: Compiled from data furnished by the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

Section 123.51(b) sets forth requirements regarding a Governor's request for a designation of an area of economic injury. The proposed rule stated that a Governor's request must cite the specific Federal action alleged to be the cause of the injury and include a certification that: (1) At least 25 small concerns located in a county have suffered substantial economic injury, and (2) those businesses are in need of financial assistance not otherwise available on reasonable terms. The request for designation must be accompanied by documentation which supports the certification. Several comments stated that the certification requirement was burdensome and impracticable. Commenters stated that it is not included in the regulations. They also questioned how a Governor could determine that small businesses had experienced the necessary 40 percent decrease in income from operations or working capital.

The Agency rejects the contention that the certification requirement is unreasonable or burdensome and retains the certification process in the final rule as well suited to assess the adverse impact of Federal action on the economy of a State or subdivision thereof. The final rule, however, reflects two changes: the threshold of 25 small concerns now relates to States rather

than counties to assure that the injury to small concerns in the State is sufficient to warrant Federal involvement in the form of subsidized loans, and the Governor must certify that the specific Federal action has caused extraordinary, sudden and temporary dislocation in each county for which a designation is requested. The provision does not contemplate that a Governor or his representative analyze individual small businesses' accounting records to determine the extent of economic injury. The provision merely requires Governors to make a reasonable effort to determine whether a Federal action has had serious adverse impact on the State and on each county included in the certification. Governors may base their certifications on written assurances of the extent of the economic injury from reliable local authorities, itemized listings from emergency services personnel, economic studies from research groups, or any other reasonable evidence.

Several comments requested immediate loan assistance for apparent Federal Government action which adversely affected their particular industries. SBA emphasizes that the final rules under Subsection 123.51 require the designation and application procedures set forth therein, and that the Federal Government action involved must have occurred on or after October 1, 1983, except for the 1983 PIK program.

The definition of "substantial economic injury" for the purposes of Subpart D is set forth in § 124.52. The proposed rules for this section established 40 percent criteria relative to profit from operations, cash position or operating costs. The public response to this issue was considerable and similar to the response to analogous proposed rules for currency fluctuation loans. Many comments questioned the inclusion of specific variables, especially the profit variable, and the use of thresholds of 40 percent as appropriate criteria for establishing substantial economic injury. Several comments suggested a decrease in sales as an alternate and better verifiable measure of economic injury. Others believed that profit decreases should be evaluated, but only in conjunction with other criteria. Still others expressed concern that a specific threshold of 40 percent decrease in profits was inflexible and unfair. Their view was that it penalized those small businesses with marginal profits. One commenter said profits could too easily be manipulated to achieve predetermined results. Additionally, two comments stated that a 40 percent increase in

operating costs was a poor indicator of substantial economic injury.

In response to these comments, SBA has rewritten this section eliminating the increase in operating costs and changing the terms "profit from operations" and "cash position" to the more commonly understood terms "income from operations" and "working capital," respectively. Accordingly, the measure of substantial economic injury now addresses either of two conditions: At least a 40 percent decrease in income from operations or a 40 percent decrease in working capital (as adjusted for frozen accounts receivable or similar accounts).

SBA believes that a decrease in sales is not as meaningful a measure as income from operations because the former disregards a firm's ability to adjust costs of goods sold and expenses with changes in sales. The measure of income from operations, however, recognizes the effect of cost adjustments. Income from operations also takes into account increased operating expense such as interest which may be occasioned by additional borrowing. It also takes into account decreased gross margins which are brought about by the dislocation. Other dislocation effects not measured by decrease in income such as payment of accounts payable will be shown in decreased working capital (as adjusted for frozen accounts receivable and similar accounts).

SBA rejected the complete elimination of the 40 percent test, as some commenters suggested, basing their argument on the possibility that a small concern may have experienced depressed earnings in the prior fiscal year due to other factors not present in the current year of adverse Federal action. In these cases, the comparison between years would be distorted and would not measure accurately the impact occasioned by the Federal action.

Although the Agency recognizes the merit of this reasoning, SBA presumes that injured firms are financially sound before the impact of Federal action. Moreover, the Agency believes that such distortion will occur infrequently and not materially affect the overall evaluation of substantial economic injury.

Commenters also expressed concern that SBA's application process might require applicants to furnish expensive financial documents in order to establish their economic injury within the guidelines. However, the applicant need furnish only information which is readily available or prepared at

minimum expense. The supporting documents normally furnished are photocopies of standard business records which are necessary to meet the concern's accounting and tax compliance requirements.

SBA received several comments concerning: (1) Use of loan proceeds for refinancing of pre-disaster debt, (2) giving grants to affected small businesses in lieu of loans. The Agency lacks statutory authority to do these things. However, the use of loan proceeds for working capital purposes, including the payment of short-term debt, is eligible. For example, it is proper to use loan proceeds to pay interim loans incurred as a direct or indirect result of the Federal action which the firm cannot refinance through conventional means on reasonable terms. In addition, loan proceeds may be used to pay current or past due installments and interest on long-term debt if necessary for the firm's survival.

Commenters were concerned that the combined \$100 million funding limitation for both the Federal Action and Currency Fluctuation Loan programs would unfairly favor Federal Action loan applicants over Currency Fluctuation applicants, or vice versa. The Agency has attempted to estimate demand for these programs, but is unable to accurately determine pent-up demand and demand likely to be occasioned by future events. However, SBA will seek to provide for fair and equitable distribution of program resources.

Technical Corrections

SBA recognizes a need for a technical correction to § 123.53(c) concerning the use of loan proceeds. Certain tax delinquencies might result from the economic injury itself and not from negligence or fraud. The final rule removes the unintended prohibition against the use of loan proceeds for the payment of taxes delinquent because of the economic injury. Other minor editorial changes have also been made.

Regulatory Impact

SBA certifies that this final regulation is not a major rule for purposes of E.O. 12291, since it will not have an impact of \$100 million or more on the economy, nor result in a cost increase for anyone anywhere, nor have an adverse effect on competition or employment. However, for purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is likely to have a significant economic impact on a substantial number of small entities. Consequently, the following information is offered:

1. The reasons, objectives and legal basis for this final rule, as well as a detailed description of the issues raised by public comments and the Agency's resolution of such issues are set forth above.

2. The regulations will apply to all small businesses which apply for assistance pursuant to section 7(b)(3) of the Small Business Act, alleging to have suffered substantial economic injury as a result of or in consequence of Federal action.

3. There is one reporting requirement specifically inherent in this rule; applicants will be required to substantiate their requests for assistance (OMB Approval No. 3245-0017).

4. There are no Federal rules which duplicate, conflict with, or overlap this final rule.

5. There are no significant alternatives to this rule. In each instance in which SBA has provided a substantive requirement in a regulation, it was either pursuant to a specific statutory requirement [§§ 123.50 and 123.51(a)] or in conformity with SBA's other economic injury loan program procedures which have proven to be administratively sound and equitable based upon extensive administrative experience. [§§ 123.51(b), 123.52, and 123.53].

This rule is intended, as mentioned above, to implement certain provisions of Pub. L. 98-270 and Pub. L. 98-473. As such, it will permit the dispensing of financial assistance, and provide for the orderly administration of such lending to qualified recipients. There are no monetary costs or other adverse effects inherent in this rule.

The approval number of a reporting and recordkeeping requirement under the Paperwork Reduction Act of 1980 (Pub. L. 96-511) is noted in the text of this regulation.

List of Subjects in 13 CFR Part 123

Disaster assistance, Loan programs—business, Small businesses.

PART 123—[AMENDED]

Accordingly, pursuant to sections 5(b)(6) and 7(b)(3) of the Small Business Act, 14 U.S.C. 634 and 636, a new Subpart D is added to Part 123, Chapter I, of Title 13 of the Code of Federal Regulations, as follows:

Subpart D—Federal Action Loans

- § 123.50 Introduction.
- § 123.51 Designation.
- § 123.52 Substantial economic injury.
- § 123.53 Loan conditions.

Authority: Secs. 5(b)(6) and 7(b)(3) Small Business Act, 15 U.S.C. 634 and 636; Pub. L. 98-270, Title III; Pub. L. 98-473.

Subpart D—Federal Action Loans

§ 123.50 Introduction

This subpart applies to loans made for substantial economic injury caused by, or in direct or indirect consequence of, action of the Federal Government (as defined herein). These loans are available only for small concerns meeting the size standards of Part 121 of this chapter as of the time (stated in the relevant designation) when such substantial economic injury commenced, which are located within the designated area, and which are unable to obtain Credit Elsewhere (as defined in § 123.3). For additional eligibility criteria see § 123.53(a) of this part.

§ 123.51 Designation

(a) *Criteria.* Whenever the Administration determines it to be necessary to appropriate to assist small concerns to remain in business or to effect additions to, alterations in, or reestablishment in the same or a new location of a plant or facilities, or to adopt methods of operation, made necessary by actions of the Federal Government (including inability to market a product, and certain Payment-In-Kind agricultural programs), it shall designate specific counties or other political subdivisions within a state as areas of substantial economic injury. The criteria for such designation are, generally:

(1) The injury resulting from the specific Federal action shall be of such magnitude in the State as to warrant Federal involvement in the form of subsidized loans. Generally, this requirement will be satisfied if at least 25 small concerns in the State have suffered substantial economic injury, as defined in § 123.52.

(2) The specific Federal action caused extraordinary, sudden and temporary dislocation in each designated county. Generally, this requirement will be satisfied if the impact of the Federal action on the overall economy of the county had a substantial adverse effect on the economic conditions of each affected county. No designation for PIK-related economic injury (as defined in paragraph (a)(5) of this section) shall be issued unless either: (A) 20 percent or more, but at least 5,000 acres, of the available cropland in the county has been diverted from production by reason of such PIK program, or (ii) 50,000 or more acres of the available cropland in the county have been diverted from production by reason of

such PIK program. In making such determinations, SBA will rely on data supplied to SBA by the U.S. Department of Agriculture. A list of counties meeting either requirement as a result of the 1983 PIK program is published simultaneously in the *Federal Register* for December 24, 1984.

(3) The injury resulted:

- (i) From direct action of the Federal government, or
- (ii) As a consequence of Federal action, or
- (iii) From requirements or restrictions imposed on such small concerns under any Federal law, any State law enacted in conformity with such Federal law, or any regulation or order of a Federal, State, regional or local agency issued in conformity with such Federal law. Injuries alleged to result from the payment of any tax, or civil or criminal fine or penalty are not eligible under this program.

(4) Without assistance under this program the small concern is likely to be unable to market a product or likely to suffer substantial economic injury (as defined in § 123.52).

(5) The injury is the direct (proximate) result of an affirmative, formal, final action taken by a recognized governmental unit as set forth in paragraph (a)(3) of this section on or after October 1, 1983, or the injury results from the 1983 Payment-in-Kind Land Diversion (PIK) program (7 CFR Part 770) or a subsequent PIK program, within its specific limitations (such as limitations to, and payment in, certain commodities, and dollar ceiling amounts).

(b) *Request and Certification by Governor.* (1) The Governor of a State in which the impacted county or counties are located, shall request such designation. The request shall cite the specific action alleged to be the cause of the injury, name the county or counties to be designated as areas of substantial economic injury, and certify that:

(i) The injury to small concerns in the State (generally, at least twenty-five) is of such magnitude as to warrant Federal involvement in the form of subsidized loans (see paragraph (a)(1) of this section).

(ii) The specific Federal action has caused extraordinary, sudden and temporary dislocation in each county for which a designation is requested (see paragraph (a)(ii) of this section).

(iii) The injury in each such county was the direct (proximate) result of the Federal action (see paragraphs (a)(3) and (5) of this section).

(iv) The injured small concerns are in need of financial assistance which is not

otherwise available on reasonable terms (see paragraph (a)(4) of this section).

(2) The request, together with supporting documentation, shall be sent by the Governor to the SBA Regional Office serving the State, within 6 months after the action which allegedly has caused the injury, or March 8, 1985, whichever is later. The Administrator may extend the filing time for the request where the injury could not reasonably be ascertained within the permitted time. The Regional Office will forward the request and documentation to the appropriate Disaster Area Office where the request will be evaluated and forwarded with a recommendation to SBA's Central Office. The Administrator will take final action and, if the request is approved, publish a notice of designation in the *Federal Register*. The designation shall also state the date when such Federal action commenced.

§ 123.52 Substantial economic injury.

For purposes of this Subpart substantial economic injury means:

(a) *Income from operations.* A decrease of at least 40 percent in income from operations over a period of at least 6 months subsequent to the claimed injury as compared with a similar period for the immediately preceding fiscal year and which is directly attributable to such injury and results in the inability of the small business to meet its obligations as they mature and to pay ordinary or necessary operating expenses; or

(b) *Working capital.* A decrease in working capital (adjusted for frozen accounts receivable or similar accounts) of at least 40 percent over a period of at least 6 months subsequent to the claimed injury as compared with a similar period in the preceding fiscal year, also attributable and with the result as described in the preceding paragraph; or

(c) *Other.* A reasonable expectation of paragraph (a) or (b) of this section.

§ 123.53 Loan conditions.

(a) *Eligibility of applicants.* Applicants otherwise eligible under § 123.50 shall be able to demonstrate to the satisfaction of SBA that their substantial economic injury is directly (proximately) due to the cause stated in the designation and provide evidence of their loss (OMB Approval No. 3245-0017). Small concerns regardless of their business activity are eligible to apply for these loans, except for multilevel sales distribution plans of the "pyramid" type, [see § 120.2(d)(12) of this chapter], media of any description [see § 120.2(d)(4)], gambling [see § 120.2(d)(5)], financing [see

§ 120.2(d)(6)], speculative ventures (e.g., mineral exploration) [see § 120.2(d)(2)], rental property [see § 120.2(d)(7)], and illegal activities [see § 120.2(d)(9)]. All non-profit groups are ineligible. Consumer and marketing cooperatives are ineligible. Other cooperatives are eligible under this Subpart only if small and each of the owners would itself qualify as a small business concern under Part 121 of this chapter.

(b) *Ineligible loss.* If a small concern was established or has undergone a substantial change of ownership (more than 50 percent) after the impending economic injury became apparent and no contract of sale existed at the time, the owner shall be deemed to have assumed that risk and not to have incurred an economic injury. Loss of anticipated profits or a drop in sales which is not injury-related, is not considered an economic injury.

(c) *Use of Proceeds.* (1) Proceeds of loans under this section may be used for:

(i) Alleviation of the problem caused by the Federal action (e.g., change in location or method of operation);

(ii) Working capital necessary to carry the concern until resumption of normal operations, including debt service and operating costs, but not to exceed that which the business could provide had such economic injury not occurred; and

(iii) Upgrading, if required to meet building code requirements.

(2) Proceeds of a loan under this section may not be used for the payment of dividends or other disbursements to owners, partners, officers or stockholders unless they constitute reasonable remuneration and are directly related to their performance of services; to refund existing indebtedness incurred prior to, or not as a result of, the event which gave rise to the issuance of the designation; nor to reduce loans provided, guaranteed or insured by another Federal agency or a small business investment company licensed under the Small Business Investment Act. No part of the proceeds of any loan under this subpart shall be used, directly or indirectly, to pay any obligations resulting from a Federal, state or local tax penalty as a result of negligence or fraud, or non-tax criminal fine or any civil fine or penalty for non-compliance with a law, regulation or order of a Federal, state, regional, or local agency or similar matter.

(3) Each borrower shall use the loan proceeds for the purposes set forth in the loan authorization. Any loan recipient who wrongfully applies loan proceeds shall be civilly liable to SBA in an amount equal to one and one-half

times the original amount of the loan (Pub. L. 92-385, approved August 16, 1972; 86 Stat. 554).

(d) *Use of other assets.* Applicants must use personal and business assets to the greatest extent possible without incurring undue personal hardship, before disbursement of funds under this subpart.

(e) *Loan Amount.* No loan under this subpart shall exceed \$500,000, and the amount of such loan shall be based solely on a determination made on each application.

(f) *Interest.* Loans under this subpart shall bear interest at a rate not to exceed eight percent.

(g) *Other requirements.* For application requirements see § 123.7; for record keeping requirements see § 123.18; for terms of loans, see § 123.9(a); for types of loans, see § 123.4; for service fees, see § 123.6 of this part.

(Catalog of Federal Domestic Assistance No. 59.040, Federal Action Disaster Loans)

Dated: November 28, 1984

James C. Sanders,

Administrator.

[FR Doc. 84-33481 Filed 12-21-84; 8:45 am]

BILLING CODE 8025-01-M

13 CFR Part 123

[Revision 11, Amdt. 2]

Currency Fluctuation Loans

AGENCY: Small Business Administration.

ACTION: Interim final rule.

SUMMARY: These amendments implement new section 23 of the Small Business Act (Act) 15 U.S.C. 631, *et seq.*, which was added by Pub. L. 98-437, as it relates to currency fluctuation loans under Sec. 7(b)(4) of the Act (15 U.S.C. 636). It removes the requirement from a Governor's request for a description of an area in which small concerns are eligible for such loans, that at least 25 small concerns in each county suffered substantial economic injury as a result of drastic currency fluctuation in a neighboring country. Instead, it leaves to the Governor the manner of documenting the magnitude of the adverse impact on the economy of each county for which such designation is requested. For the Mexican peso fluctuation of 1982/83, specific counties are listed. A further amendment corrects an unintended implied prohibition against the use of proceeds from currency fluctuation loans for payment of tax delinquencies resulting from the currency fluctuation, and not from

negligence or fraud. Because of the emergency nature of this subject, SBA publishes these amendments in interim final form, but solicits public comments on the matter.

EFFECTIVE DATE: January 7, 1985.

ADDRESS: Comments should be sent to the Deputy Associate Administrator for Disaster Assistance, Room 820, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Bernard Kulik, Deputy Associate Administrator for Disaster Assistance, Telephone (202) 653-6879.

SUPPLEMENTARY INFORMATION: On October 4, 1984, at 49 FR 39268, the Small Business Administration (SBA) published a final rule for the Currency Fluctuation Disaster Loan program as part of SBA's implementation of Title III of the Omnibus Budget Reconciliation Act of 1984, Pub. L. 98-270, approved April 18, 1984 (98 Stat. 157). This final rule added a new Subpart E to Part 123, Chapter I of Title 13, Code of Federal Regulations, to implement new Subsection 7(b)(4) of the Act.

This rule required that a Governor's request for a designation of an area of dislocation caused by a currency fluctuation must include a certification that at least 25 small business concerns located in a county or smaller political subdivision of the State have directly suffered substantial economic injury as a result of drastic currency fluctuation in a neighboring country. SBA included this requirement in the final rule despite critical public comments because of the limitation imposed by Pub. L. 98-270 that program costs, for both currency fluctuation disaster loans pursuant to Section 7(b)(4) of the Act and Federal action loans, including loans to small concerns injured by the "Payment-in-Kind" agricultural program, authorized by Subsection 7(b)(3), may not exceed \$100 million per year in fiscal years 1984 through 1986. This requirement was intended to facilitate effective allocation of program resources to projected demand. In addition, this requirement parallels the criteria used for physical disaster declarations under section 7(b)(1) of the Act. SBA believed that any county which had suffered substantial economic dislocation as a result of a major currency fluctuation, such as the 1982 and 1983 Mexican peso devaluations, would at least meet this numerical threshold.

Section 111 A of Pub. L. 98-473, approved October 12, 1984, (98 Stat. 1837), provides, in part, that eligibility of applicants may not be dependent upon the number of affected small business concerns in a county or other political

subdivision. This amendment is therefore necessary to revise the process for designating areas of economic injury due to currency fluctuation and substitutes a new § 123.61(a).

The new procedure for designation requests a Governor to cite the specific currency fluctuation and certify to facts demonstrating the magnitude of the injury in the State, the impact of the injury on the economic conditions of each affected county, and the condition of the injured small business concern.

The Governor must first certify that the injury is of such magnitude in the State as to warrant Federal involvement in the form of subsidized loans. Generally, this requirement will be satisfied if at least 25 small business concerns in the State have suffered substantial economic injury as a result of a specified fluctuation.

The second certification required of the governor is that the impact of the currency fluctuation caused extraordinary, sudden and temporary dislocation in each county for which a designation is requested. The dislocation must have had substantial adverse effect on the general economic conditions of each affected county. No minimum number of injured small business concerns is required in a county; the test is the adverse impact on the economic conditions of each county. Because currency fluctuations might affect different counties in a variety of ways, the amended rule proposes no measure of economic impact. The documentation of the degree of economic impact in each county is left to each Governor.

Because the principal Congressional purpose of the currency fluctuation disaster loan program was the impact of the devaluations of the Mexican peso which occurred during 1982 and 1983, and the degree and extent of those impacts are known, the amended rule lists areas of economic dislocation due to those events. The counties which suffered extraordinary, sudden and temporary dislocation due to the 1982 and 1983 Mexican peso devaluations were identified by the President's Southwest Border States Working Group during 1983 based on the definition of the border region by the former Southwest Border States Regional Commission. Because these counties were specifically listed by an official Federal Government entity as the areas of significant impact from these events, the amended rule adopts that list for purposes of this Subpart. The substantially impacted counties are those included in the President's August 13, 1983 announcement of Federal

initiatives to respond to the peso devaluations and which established the Southwest Border Action Group chaired by the Vice-President. Areas of economic dislocation as a result of these events are listed in the regulation.

The rule further provides that, for economic dislocation caused by any subsequent currency fluctuations, SBA may use similar, appropriate Federal definitions of the affected area, if available.

Finally, as the prior rule also required, the Governor must certify that the affected small business concerns: (1) Were financially sound prior to the currency fluctuation, (2) are in need of financial assistance that is otherwise not available on reasonable terms, and (3) would become insolvent or be unable to return quickly (within six months) to their former level of operation without the loans provided by this program.

Another amendment replaces subparagraph 123.63(c)(2) in order to make a technical correction concerning the use of loan proceeds. Certain tax delinquencies might result from the economic dislocation itself and not from negligence or fraud. The amendment removes the unintended prohibition against the use of loan proceeds for the payment of taxes delinquent because of the economic dislocation.

One of these amendments implements the cited statute and is of an emergency nature, requiring prompt implementation. The other amendment corrects an unintended implication, as noted above. Therefore, SBA is adopting this regulation in interim final form without prior public participation. We are, however, soliciting public comment on this matter, and will consider any comments in connection with our final rule on this matter.

Regulatory Impact

These amendments are not major rules for purposes of E.O. 12291 because they are not likely to result in an annual economic effect of \$100 million or more, nor to result in a cost increase for anyone anywhere, nor to have an adverse effect on competition or employment. For purposes of the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*, these amendments will have a significant economic impact on a substantial number of small entities. For purposes of Section 603 of that Act the following information is offered:

1. The reason why these amendments are being adopted, their objectives and legal basis have been indicated above.

2. The regulations will apply to all small business concerns applying for economic injury assistance pursuant to section 7(b)(4) of the Small Business

Act, 15 U.S.C. 636, as a direct result of drastic and sudden currency fluctuations in a neighboring country. Since SBA has no experience with currency-caused economic injuries, it is not possible to estimate the number of small concerns affected by these amendments.

3. There are no reporting or record-keeping requirements specifically inherent in these amendments. However, applicants will be required to substantiate their requests for assistance.

4. There are no Federal rules which duplicate, conflict with, or overlap these amended regulations.

5. There are no significant alternatives to these amendments which implement the underlying statute.

These amendments are intended to implement section 111 A of Pub. L. 98-473, adding a new section 23(2) to the Small Business Act. It will permit the dispensing of disaster assistance to small concerns adversely affected by the currency fluctuations described above. There are no monetary costs or adverse effects inherent in this rule.

Since these amendments carry no reporting or record-keeping requirement, they are not subject to the Paperwork Reduction Act of 1980, Pub. L. 98-511.

List of Subjects in 13 CFR Part 123

Disaster assistance, Loan programs/business, Small businesses.

PART 123—[AMENDED]

Accordingly, pursuant to sections 7(b)(4) and 23(2) of the Act, 15 U.S.C. 636 and 650, sections 123.61(a) and 123.63(c)(2) of Part 123 of Chapter I, Title 13 of the Code of Federal Regulations, are revised to read as follows:

§ 123.61 Designation.

(a) *Request for designation.* A designation of an area of economic dislocation caused by drastic currency fluctuations and adjustments in the regulation of the monetary system of a country contiguous to the continental United States shall be requested by the Governor of the State in which the economic dislocation is claimed to have injured small business concerns. The Governor's request must cite the specific drastic fluctuation in the value of the currency and the adjustment in the regulation of the monetary system of the contiguous country, and must certify that:

(1) The injury resulting from the specified currency fluctuation is of such magnitude in the State as to warrant Federal involvement in the form of subsidized loans. Generally, this

requirement will be satisfied if at least 25 small business concerns in the State have suffered substantial economic injury (as defined in § 123.62) as a result of these events;

(2) The impact of the currency fluctuation caused extraordinary, sudden, temporary dislocation and substantial adverse effect on the general economic conditions of each affected county.

(3) With respect to the fluctuations in the value of the Mexican peso which occurred during 1982 and 1983, the counties which suffered extraordinary, sudden and temporary dislocation were identified in the President's August 13, 1983 announcement of Federal initiatives to respond to the Peso devaluation which established the Southwest Border Action Group chaired by the Vice-President. The counties are the following:

Arizona		
Cochise	Pima	Yuma
Santa Cruz		
California		
Imperial	Riverside	San Diego
New Mexico		
Dona Ana	Hidalgo	Otero
Grant	Luna	
Texas		
Brewster	Jeff Davis	Starr
Cameron	Jim Hogg	Terrell
Culberson	Kinney	Uvalde
Dimmit	LaSalle	Val Verde
Edwards	Maverick	Webb
El Paso	Pecos	Willacy
Hidalgo	Presidio	Zapata
Hudspeth	Real	Zavala

For purposes of this paragraph, with respect to designation of areas of economic dislocation caused by any subsequent currency fluctuation, SBA may utilize any appropriate Federal definition of the affected area, if available;

(4) The affected small business concerns were financially sound prior to these events, and are in need of financial assistance that is not otherwise available on reasonable terms, and without the loans provided by this program these concerns would either become insolvent or be unable to return quickly (within 6 months after the commencement of these events) to their former level of operation.

§ 123.63 Loan conditions.

(c) * * *

(2) Proceeds of a loan under this subpart may not be used to refinance any other (non-SBA) loans, or credit, nor for the payment of dividends or other

disbursements to owners, partners, officers or stockholders unless they constitute reasonable remuneration and are directly related to their performance of services; to reduce loans provided, guaranteed or insured by another Federal agency or a small business investment company licensed under the Small Business Investment Act. No part of the proceeds of any loan under this

subpart shall be used, directly or indirectly, to pay any obligations resulting from a Federal, state or local tax penalty resulting from negligence or fraud, or non-tax criminal fine or any civil fine or penalty for non-compliance with a law, regulation or order of a Federal, state, regional, or local agency or similar matter.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 59.039, Currency Devaluation Disaster Loans)

Dated: November 26, 1984.

J.C. Sanders,

Administrator.

[FR Doc. 84-33482 Filed 12-24-84; 8:45 am]

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The list will be resumed when bills are enacted into public law during the first session of the 99th Congress which convenes on January 3, 1985.

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² Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).



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