AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

8-25-86
Vol. 51 No. 164
Pages 30201-30322

Federal Register

Monday
August 25, 1986

Briefings on How to Use the Federal Register—
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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: September 25; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Doris Tucker 202-523-3419

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Presidential Documents

Title 3—

The President

Memorandum of August 20, 1986

Extension of the Exercise of Certain Authorities Under the Trading With the Enemy Act

Memorandum for the Secretary of State, the Secretary of the Treasury

Under Section 101(b) of Public Law 95–223 (91 Stat. 1625; 50 U.S.C. App. 5(b) note), and a previous determination made by me on September 5, 1985 (50 F.R. 36563), the exercise of certain authorities under the Trading With the Enemy Act is scheduled to terminate on September 14, 1986.

I hereby determine that the extension for one year of the exercise of those authorities with respect to the applicable countries is in the national interest of the United States.

Therefore, pursuant to the authority vested in me by Section 101(b) of Public Law 95–223, I extend for one year, until September 14, 1987, the exercise of those authorities with respect to countries affected by:

(1) the Foreign Assets Control Regulations, 31 CFR Part 500;

(2) the Transaction Control Regulations, 31 CFR Part 505;

(3) the Cuban Assets Control Regulations, 31 CFR Part 515; and

(4) the Foreign Funds Control Regulations, 31 CFR Part 520.

This memorandum shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, August 20, 1986.

[FR Doc. 86–19304
Filed 8–22–86; 8:50 am]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 51, No. 164
Monday, August 25, 1986

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

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

7 CFR Part 20

Export Sales Reporting Requirements; Corn and Grain Sorghum

AGENCY: Foreign Agricultural Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule amends the Export Sales Reporting Regulations (7 CFR Part 20) to change the marketing year for corn and grain sorghum from "October 1 through September 30" to "September 1 through August 31". This change would conform such marketing year with the marketing year used for other programs and data collection activities of the Department of Agriculture.

EFFECTIVE DATE: This rule shall become effective for reports to be submitted on and after September 1, 1986.

FOR FURTHER INFORMATION CONTACT: Richard E. Passig, Director, Export Sales Reporting Division, Room 5965–S, Foreign Agricultural Service, Department of Agriculture, Washington, DC 20250. Telephone: (202) 447–3273.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures required by Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "non-major". It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies or geographic regions; or (3) significant adverse effect 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.

It has been determined that this rule will not have a significant economic impact on a substantial number of small entities. In accordance with the Regulatory Flexibility Act, a copy of this rule has been submitted to the Chief Counsel, Office of Advocacy, U.S. Small Business Administration.

Information collection requirements contained in the regulation (7 CFR Part 20) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB clearance number 0551–0007.

The Food Security Act of 1985 changed the definition of the term "marketing year" for corn from "October 1—September 30" to "September 1—August 31" in the Agricultural Adjustment Act of 1938, as amended. On March 11, 1986, the Department published regulations (7 CFR Part 713) governing various programs for 1986 and subsequent crops of certain agricultural commodities which, among other things, provided that for these programs the marketing year for corn and grain sorghum would be the period September 1—August 31. See 51 FR 8440. It is deemed desirable to use the same marketing year (September 1—August 31) for corn and grain sorghum under the Export Sales Reporting Program in order to avoid potential confusion on the part of submitters of export sales data and to make comparison of such data received more meaningful. Implementation of this rule on and after September 1, 1986 will not cause an increased reporting burden on the public and constitutes merely a minor change in reporting procedures. Consequently, it is found, upon good cause, that the requirements for notice, public procedure and effective date provided in 5 U.S.C. 553 are impracticable, unnecessary and contrary to the public interest.

List of Subjects in 7 CFR Part 20

Agricultural commodities, Exports, Reporting and recordkeeping requirements.

PART 20—[AMENDED]

Accordingly, Part 20 of Subtitle A of Title 7 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 20 is revised to read as follows.

Authority: Sec. 812, Pub. L. 91–524, as added by Pub. L. 93–86, Sec. 1(27)(B), 87 Stat. 238 (7 U.S.C. 612c–3); Sec. 7(g), Pub. L. 96–72, as amended, 93 Stat. 519 (50 U.S.C. App. 2406(g)).

2. The table of contents is amended by adding at the end thereof the following:

Sec.

* * * * *

20.12 OMB control number assigned pursuant to Paperwork Reduction Act.

3. A new § 20.12 is added to read as follows:

§ 20.12 OMB control number assigned pursuant to Paperwork Reduction Act.

The information collection requirements contained in these regulations have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0551–0007.

Appendix I to Part 20—[Amended]

4. Appendix I to 7 CFR Part 20 is amended to read as follows:

Commodity to be reported	Unit of measure to be used in reporting	Beginning of marketing year	End of marketing year
*	* * *	*	*
Corn, unmilled.	Metric tons	Sept. 1	Aug. 31.
*	* * *	*	*
Grain sorghums, unmilled.	Metric tons	Sept. 1	Aug. 31.
*	* * *	*	*

Signed at Washington, DC, on August 8, 1986.

Thomas O. Kay,

Administrator, Foreign Agricultural Service.

[FR Doc. 86–19108 Filed 8–22–86; 8:45 am]

BILLING CODE 3410–10–M

Agricultural Marketing Service

7 CFR PART 981

Almonds Grown in California; Extension of the Disposition Date for 1985–86 Crop Year Reserve Almonds

AGENCY: Agricultural Marketing Service, UDSA.

ACTION: Final rule.

SUMMARY: This action extends the time which handlers of California almonds have to sell their 1985–86 crop year reserve almonds to reserve outlets. Normally, reserve almonds not sold by handlers to reserve outlets by September 1 would be disposed of by the Almond Board of California. This action was recommended in view of the projected short almond crop for the 1986–87 season, and is needed to allow almond handlers to utilize 1985–86 season reserve almonds for sales to reserve outlets (secondary markets). Without this action, handlers would have to use new crop 1986–87 almonds for such uses.

EFFECTIVE DATE: September 1, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultureal Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatability.

It is estimated that 70 handlers of California almonds under the marketing order for almonds grown in California will be subject to regulation during the course of the current season and that the great majority of these firms may be classified as small entities. This extension issued under this marketing order has been issued in prior years, and has resulted in decreased reserve inventories and the stabilization of almond supplies, from one season into another, with attendant benefits to handlers and the industry.

This final rule adds § 981.466a to the Subpart—Administrative Rules and Regulations. This subpart is issued under the marketing agreement and order No. 981, both as amended, regulating the handling of almonds grown in California. Section 981.466a is added pursuant to § 981.66(e) of the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based on a recommendation of the Almond Board of California, hereinafter referred to as the "Board" and upon other available information. It is further found that this action will tend to effectuate the declared policy of the act.

Section 981.66(e) provides that any reserve almonds remaining unsold to reserve outlets as of each September 1, subsequent to any crop year in which handlers are required to withhold such almonds from normal outlets, shall be disposed of by the Board as soon as practicable through the most readily available reserve outlets. Section 981.66(e) also provides that the date of September 1 may be extended by the Secretary of Agriculture upon recommendation of the Board or the receipt of other information. This action extends the September 1 date to March 1, 1987, for the purpose of disposing of 1985–86 crop year reserve almonds.

The extension of the date for the disposition of reserve almonds to reserve outlets was recommended in view of the projected short 1986–87 almond crop. Reserve outlets include: Market development, which includes school lunch, almond butter, and complementary promotional projects; and noncompetitive outlets, such as animal feed and almonds used for crushing into oil. In particular this is the fifth year of a market development program for almond butter, in which reserve almonds have been committed to the trade. The extension of the date will allow the industry to meet its market development obligation for almond butter promotion with reserve almonds from the 1985–86 crop, rather than using almonds from the 1986–87 season. Thus, the extension would benefit the industry by stabilizing almond suppliers over the 1986–87 season.

It has been determined that an emergency situation exists which warrants publication of this final rule without prior opportunity for public comment. This action will relax a restriction on handlers by allowing them additional time to sell their 1985–86 crop year reserve almonds beyond the current September 1, 1986, deadline. Therefore, this action should take effect on or before September 1, 1986, and consequently, there is not sufficient time to issue a notice of proposed rulemaking soliciting comments from the public.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice of rulemaking and other public procedure with respect to this emergency action are impracticable and contrary to the public interest, and that good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.**

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, California, Almonds.

1. The authority citation for 7 CFR Part 981 continues to read as follows:

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

PART 981—ALMONDS GROWN IN CALIFORNIA

2. Section 981—466a is added to the Subpart—Administrative Rules and Regulations as follows: (This section will not appear in the Code of Federal Regulations).

§ 981.466a Extension of the disposition date for 1985–86 crop year reserve almonds.

Pursuant to § 981.66(e), the date of September 1, contained in § 981.66(e) shall be changed to March 1, 1987, with regard to the disposition of 1985–86 crop year reserve almonds.

Dated: August 20, 1986.

Eric M. Forman,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 86–19158 Filed 8–22–86; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Temporary Revision of Supply Plant Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rules.

SUMMARY: This action temporarily reduces for the months of September 1986 through March 1987 the percentage of supply plant receipts that must be transferred or diverted to pool distributing plants in order for the supply plant to maintain pool status under the Nebraska-Western Iowa order. The revision is made in response to a request by a supply plant operator in order to maintain the pool status of producers historically associated with the Nebraska-Western Iowa order.

EFFECTIVE DATE: August 25, 1986.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Temporary Revision of Supply Plant Shipping Percentage: Issued July 29, 1986; published August 1, 1986 (51 FR 27553).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and the provisions of § 1065.7(b)(3) of the Nebraska-Western Iowa order.

Notice of proposed rulemaking was published in the **Federal Register** (51 FR 27553) concerning a proposed reduction in the percentage of supply plant receipts that must be transferred or diverted to pool distributing plants in order for the supply plant to maintain pool status. The temporary reduction would be effective for the months of September 1986 through March 1987. The public was afforded the opportunity to comment on the proposed notice by submitting written data, views and arguments by August 8, 1986.

Statement of Consideration

After consideration of all relevant material, data, views and arguments filed and other available information, it is hereby found and determined that the supply plant shipping percentage set forth in § 1065.7(b) should be reduced by 10 percentage points from the present 40 percent to 30 percent for the months of September 1986 through March 1987.

Pursuant to the provisions of § 1065.7(b)(3), the supply plant shipping percentage as set forth in § 1065.7(b) may be increased or decreased by up to 20 percentage points during any month. Such changes may be made to encourage additional milk shipments needed to assure an adequate supply of milk to fluid handlers, or to prevent uneconomic shipments merely for the purpose of assuring that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Neu Cheese Company, a handler operating a supply plant historically pooled under the Nebraska-Western Iowa order, requested that for the months of September 1986 through March 1987, the supply plant shipping percentage requirement be reduced by 10 percentage points. Neu Cheese Company stated that it has consistently supplied milk to the fluid market by shipping its share of milk to distributing plants from its supply plant. However, the handler stated that it is having trouble finding fluid outlets at which to qualify its supply of milk for the period September 1986 through March 1987 because of a change in the ownership of a distributing plant traditionally supplied by Neu Cheese Company. Neu Cheese Company claimed that the distributing plant's new management is requiring the supply plant operator to pay significant fees in order to pool milk on the basis of its sales to the distributing plant, and that Neu Cheese Company agree to deliver to the distributing plant a percentage of its milk supply substantially in excess of the market's Class I utilization percentage. The handler stated that in order to continue the pool status of producers long associated with the Nebraska-Western Iowa order, the pool supply plant shipping percentage must be temporarily reduced by 10 percentage points, from 40 percent of the supply plant's receipts to 30 percent.

The temporary revision was supported in additional comments filed on behalf of Neu Cheese Company, and in comments filed by Wells' Dairy, Inc., a fluid milk processor regulated under the order, and by Associated Milk Producers, Inc., a cooperative association representing a substantial number of producers who supply milk to the Nebraska-Western Iowa market. Data in the comments indicate that there will be sufficient supplies of milk available for fluid use if the supply plant shipping percentage is temporarily reduced. Comments filed by Goodrich Dairy, a distributing plant regulated under the order, opposed the proposed revision but stated no reason for doing so.

Without the temporary revision, milk would have to be shipped from the Neu Cheese plant to a Beatrice distributing plant 160 miles away, pumped into and out of the distributing plant, and transported back to New Cheese solely to qualify all of Neu Cheese's supply of milk for pooling. Such movement would be inefficient and uneconomic, and the additional pumping to which the milk would be subject would be detrimental to the quality of the milk. It is concluded that the relaxation of the supply plant shipping percentage by 10 percentage points for the months of September 1986 through March 1987 will prevent uneconomic movements of milk to pool distributing plants merely for the purpose of qualifying it as producer milk under the order.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area for the months of September 1986 through March 1987;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective upon publication of this notice in the **Federal Register.**

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

PART 1065—[AMENDED]

It is therefore ordered, that in paragraph (b) of § 1065.7, the provision "40 percent" is revised to read "30 percent" for the months of September 1986 through March 1987.

The authority citation for 7 CFR Part 1065 continues to read as follows:

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

Effective date: Upon publication in the **Federal Register.**

Signed at Washington, DC, on: 19 August, 1986.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 86–19159 Filed 8–22–86; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 015CE, Special Conditions No. 23-ACE-14]

Special Conditions; Petersen Aviation, Inc., Modified Beech Model 55 Series, Model 58 Series, and Model 95( )55 Series Airplanes, To Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions.

SUMMARY: These special conditions are issued to become part of the type certification basis for Beech Aircraft Corporation Model 95( )55 Series, Model 55 Series, and Model 58 Series airplanes that are modified to incorporate ADI provisions. The certification basis for the existing type design of these airplanes does not contain adequate or appropriate safety standards for these systems. These special conditions contain the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to the original certification basis for these airplanes.

EFFECTIVE DATE: September 24, 1986.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Aircraft Certification Division, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, Missouri 64106, telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 1985, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for Supplemental Type Certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Beech Model 95( )55 Series airplanes. This installation incorporates ADI tanks, pumps, and associated control system to supply ADI fluid to the engine in measured quantities to allow the engine to be operated on automobile gasoline (autogas). The engine will be previously certificated for use of autogas with ADI independently of the airplane installation certification. Petersen Aviation, Inc., has indicated to the FAA that they plan substantially equivalent modifications to several other makes and models of small airplanes.

The installation of ADI systems in small airplanes for this purpose was not envisioned when the certification basis for the subject airplanes was established. In addition, the Administrator has determined that the current Part 23 does not contain adequate or appropriate safety standards for these ADI systems; therefore, an ADI system is considered a novel and unusual design feature.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

While developing these special conditions, the FAA determined that the ADI fluid used in this system (a mixture of 60 percent alcohol and 40 percent water) is a flammable liquid in the same volatility class as gasoline and, as such, must be handled and protected in the same manner. Therefore, these special conditions require the ADI fluid systems to meet essentially the same standards as the airplane fuel system.

Type Certification Basis

The certification basis (TC 3A16) for the Beech Aircraft Corporation Model 95( )55 Series, Model 55 Series, and Model 58 Series Airplane is Part 3 of the Civil Air Regulations as amended to May 15, 1956, and sections 23.1385(c), 23.1387(a) and 23.1387(e) of Federal Aviation Regulations, Part 23, dated February 1, 1965, as amended by Amendment 23-12; Equivalent Safety Findings: CAR sections 3.663 and 3.757 for Models 95-B55 and 95-B55A (S/N TC-2003 and up), Models E55 and E55A (S/N TE-1084 and up), Models 58 and 58A (S/N TH-773 and up); CAR section 3.387 for Models 95-B55 and 95-B55A (all serials), Models E55 and E55A (all serials), and Models 58 and 58A (all serials); and Part 36 through Amendment 36-10 of the Federal Aviation Regulations for Models 95-B55 (S/N TC-2285 and after), for Models E55 (S/N TEI-1171 and after), and for Model 58 (S/N TH-1090 and after) and these special conditons.

Discussion of Comments

The FAA received no comments in response to Notice No. 23-ACE-14, published in the **Federal Register** on June 13, 1986. The closing date for comments was July 14, 1986.

Conclusion

This action affects only the Beech Model 55 Series, Model 58 Series, and Model 95( )55 Series airplanes incorporating ADI systems. It is not a rule of general applicability and applies only to the series and model of airplane identified in these final special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, Tires.

Citation

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

Adoption of Special Conditions

In consideration of the foregoing, the following special conditions are issued as a part of the type certification basis for Beech Model 55 Series, Model 58 Series, and Model 95( )55 Series airplanes modified to Incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) system as follows:

1. Each Anti-Detonation Injection (ADI) system must meet the applicable requirements for the design of a fuel system as specified in § 23.951(a) and (b), § 23.953(a) and (b), § 23.954, § 23.955(a) and (c)(1), § 23.959, § 23.961, § 23.963(a), (d), and (e), § 23.965(a)(1), § 23.967(a)(1) and (2), (b), (c), (d), and (e), § 23.969, § 23.971, § 23.973(a), (b), and (c), § 23.975(a)(1), (2), (3), (5), (6), an d(7), § 23.977(a)(2), (b), (c), and (d), § 23.991, § 23.993, § 23.995, § 23.997(a), (b), (c), and (d), § 23.999, § 23.1141(a), (b), (c), (d), (f), and (g), § 23.1143(a), (e), and (f), § 23.1189(a) and (c), and § 23.1337(a), (b)(1), (2), (3), and (4), and (c) of the Federal Aviation Regulations Part 23, dated February 1, 1965, as amended through Amendment 23-30, except as set forth in §§ 2 through 4 of these special conditions.

2. For ADI systems, replace the word "fuel" with the words "ADI fluid" in all Part 23 sections listed in section 1 of these special conditions, as appropriate. In addition, certain listed sections are amended as follows:

(a) In § 23.955(a) General, replace the first portion of the first sentence with "The ability of the ADI system to provide ADI fluid at a flow rate and pressure sufficient for proper engine operation must be shown. . . ."

(b) In § 23.955(c)(1), replace the entire subparagraph with "this flow rate is required for each primary pump and each alternate pump, when the pump is supplied with normal voltage."

(c) In § 23.967(d), delete the first sentence. In the second sentence, delete the phrase, "of a single engine airplane".

(d) In § 23.971, replace paragraph (a) with "(a) Each ADI fluid tank must be drainable in the normal ground attitude". Replace paragraph (b) with "(b) Each drain required by paragraph (a) of this section must comply with the provisions of § 23.999(b)".

(e) In § 23.991, replace paragraph (a) with "(a) Primary Pumps. (1) The pump which supplies ADI fluid to an engine during normal (nonfailure) operation of the system is a primary pump and there must be one primary pump for each engine. (2) It must be possible to bypass or flow ADI fluid through each primary pump." Replace paragraph (b) with "(b) Alternate provisions to permit continued supply of ADI fluid to the engine in the event of primary pump failure must be incorporated in the installation. Any pump used for that purpose will be an alternate pump for that engine. In paragraph (c), replace the word "normal" with the word "primary" and the word "emergency" with the word "alternate".

(f) In § 23.997, replace paragraph (d) with "(d) Have the capacity (with respect to operating limitations established for the ADI system) to ensure that ADI system functioning is not impaired, with the ADI fluid contaminated to a degree (with respect to particle size and density) that is greater than that established for proper operation of the ADI system," and add a new paragraph, "(e) Be located with respect to any pressure or flow sensing devices such that blockage of the filter will be detected by this device".

(g) In § 23.999, delete subparagraph (b)(1).

(h) In § 23.1141(a), delete paragraphs (d) and (e) of § 23.777 which are incorporated by reference.

(i) In § 23.1141(a), delete subparagraph (e)(1) of § 23.1555 which is incorporated by reference.

(j) In § 23.1143, as applies to the control and shutoff of the ADI system, add, "In addition, there must be an indicator or warning light that indicates the proper operation or malfunction of the ADI system."

3. If the ADI fluid is injected into the induction air ducts, it must be injected in a location where the discharge, distribution, or atomization of the fluid will not be affected by operation on either primary or alternate air.

4. ADI System Markings. The ADI filler openings must be conspicously market at or near the filler cover with: (a) The words "ADI fluid"; and (b) the capacity of the tank in either pounds or gallons consistent with other ADI system markings.

Issued in Kansas City, Missouri, on August 8, 1986.

Edwin S. Harris,

Director Central Region

[FR Doc. 86-19070 Filed 8-22-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 21 and 23

[Docket No. 017CE, Special Conditions No. 23-ACE-16]

Special Conditions; Peterson Aviation, Inc., Modified Cessna Model 188 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions.

SUMMARY: These special conditions are issued to become part of the type certification basis for Cessna Model 188 Series airplanes that are modified to incorporate Anti-Detonation Injection (ADI) system provisions. The certification basis for the existing type design of these airplanes does not contain adequate or appropriate safety standards for these systems. These special conditions contain the additional safety standards which the Administration finds necessary to establish a level of safety equivalent to the original certification basis for these airplanes.

EFFECTIVE DATE: September 24, 1986.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Aircraft Certification Division, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, Missouri 64106, telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for Supplemental Type Certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Cessna Model 188 Series airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control system to supply ADI fluid to the engine in measured quantities to allow the engine to be operated on automobile gasoline (autogas). The engine will be previously certificated for use of autogas with ADI independently of the airplane installation certification. Peterson Aviation, Inc., has indicated to the FAA that they plan substantially equivalent modifications to several other makes and models of small airplanes.

The installation of ADI systems in small airplanes for this purpose was not envisioned when the certification basis for the subject airplanes was established. In addition, the Administrator has determined that the current Part 23 does not contain adequate or appropriate safety standards for these ADI systems; therefore, an ADI system is considered a novel and unusual design feature.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

While developing these special conditions, the FAA determined that the ADI fluid (a mixture of 60 percent alcohol and 40 percent water) is a flammable liquid in the same volatility class as gasoline and, as such, must be handled and protected in the same manner. Therefore, these special conditions require the ADI fluid systems to meet essentially the same standards as the airplane fuel system.

Type Certification Basis

TC A9CE, for Restricted Category, Part 21 of the Federal Aviation Regulations, dated February 1, 1965; for Normal Category, Part 23 of the Federal Aviation Regulations, dated February 1, 1965. In addition (S/N 18803297 and on) § 23.1559, effective March 1, 1978; for the T188C only, Part 21 of the Federal Aviation Regulations dated February 1, 1965, and Part 23 of the Federal Aviation Regulations dated February 1, 1965, with exception to § 23.221, per § 21.25(a)(1). In addition, § 23.1559, effective March 1, 1978; Equivalent Safety Items on S/N 678T, 18802349 and on, S/N T18803307T, T18803308T, T18803325T and on, Airspeed Indicator § 23.1545 (see Note 7 on TCDS on use of IAS), Airspeed Limitations § 23.1583(a)(1); and these special conditions.

Discussion of Comments

The FAA received one comment in response to Notice No. 23-ACE-16, published in the **Federal Register** on June 13, 1986. The closing date for comments was July 14, 1986.

The commenter ". . . takes issue with the FAA's determination that the anti-detonation injection (ADI) fluid is a flammable liquid in the same volatility class as gasoline. While the Petersen Aviation, Inc., ADI fluid might be a flammable liquid, other ADI liquids are not. ADI fluid is normally a mixture of water and alcohol. Alcohol is added to water to prevent freezing at low ambient temperature conditions. The concentration of alcohol required to

effectively lower the freezing temperature is insufficient to support a flame.

"Anti-detonation injection (ADI) is a generic term covering different combinations and types of alcohol and water. All ADI fluids are not flammable and some change in terminology must be incorporated to exclude non-flammable ADI fluids from having to be specifically handled and protected as gasoline."

The FAA recognizes that ADI systems have been used in both reciprocating and turbine engines for many years. In those systems, the ADI mixture ratio of alcohol to water was so low that flammability was not a problem. The ADI fluid to be used in the Petersen installation is 60 percent alcohol and 40 percent water. This ADI fluid, if spilled and allowed to separate and vaporize, will form a flammable mixture in air.

The FAA agrees that ADI is a generic term. However, unless and until Petersen adopts a descriptor or trade name for this system, the FAA will refer to it as a flammable fluid system as distinguished from a nonflammable fluid system. Other ADI systems using lower alcohol content fluid, determined to be nonflammable, may not require similar special conditions. The FAA does not plan a change in terminology at this time.

Conclusion

This action affects only the Cessna Model 188 Series airplanes Incorporating ADI systems. It is not a rule of general applicability and applies only to the series and model of airplane identified in these final special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, Tires.

Citation

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

Adoption of Special Conditions

In consideration of the foregoing, the following special conditions are issued as a part of the type certification basis for the Cessna Model 188 Series airplanes modified to incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) System as follows:

1. Each Anti-Detonation Injection (ADI) system must meet the applicable requirements for the design of a fuel system as specified in § 23.951(a) and (b); § 23.953(a) and (b); § 23.954, § 23.955(a) and (c)(1); § 23.959; § 23.961; § 23.963(a), (d), and (e); § 23.965(a)(1); § 23.967(a)(1) and (2), (b), (c), (d), and (e); § 23.969; § 23.971; § 23.973(a), (b), and (c); § 23.975(a)(1), (2), (3), (5), (6), and (7); § 23.977(a)(2), (b), (c), and (d); § 23.991; § 23.993; § 23.995; § 23.997(a), (b), (c), and (d); § 23.999; § 23.1141(a), (b), (c), (d), (f), and (g); § 23.1143(a), (e), and (f); § 23.1189(a) and (c); and § 23.1337(a), (b)(1), (2), (3), and (4), and (c) of Part 23 of the Federal Aviation Regulations, dated February 1, 1965, as amended through Amendment 23-30, except as set forth in §§ 2 through 4 of these special conditions.

2. For ADI systems, replace the word "fuel" with the words "ADI fluid" in all Part 23 sections listed in § 1 of these special conditions, as appropriate. In addition, certain listed sections are amended as follows:

(a) In § 23.955(a) General. In the first sentence, replace "The ability of the fuel system to provide fuel at the rates specified in this section and at a pressure sufficient for proper carburetor operation must be shown . . ." with "The ability of the ADI system to provide ADI fluid at a flow rate and pressure sufficient for proper engine operation must be shown. . . ."

(b) In § 23.955, replace the entire paragraph (c)(1) with "This flow rate is required for each primary pump and each alternate pump, when each pump is supplied with normal voltage."

(c) In § 23.967(d), delete the first sentence. In the second sentence, delete the phrase, "of a single engine airplane".

(d) In § 23.971, replace paragraph (a) with "(a) Each ADI fluid tank must be drainable in the normal ground attitude". Replace paragraph (b) and "(b) Each drain required by paragraph (a) of this section must comply with the provisions of § 23.999(b)".

(e) In § 23.991, replace paragraph (a) with "(a) Primary pumps. (1) The pump which supplies ADI fluid to an engine during normal (nonfailure) operation of the system is a primary pump and there must be one primary pump for each engine. (2) It must be possible to bypass or flow ADI fluid through each primary pump." Replace paragraph (b) with "(b) Alternate provisions to permit continued supply of ADI fluid to the engine in the event of primary pump failure must be incorporated in the installation. Any pump used for that purpose will be an alternate pump for that engine. In paragraph (c), replace the word "normal" with the word "primary" and the word "emergency" with the word "alternate".

(f) In § 23.997, replace paragraph (d) with "(d) Have the capacity (with respect to operating limitations established for the ADI system) to ensure that ADI system functioning is not impaired, with the ADI fluid contaminated to a degree (with respect to particle size and density) that is greater than that established for proper operation of the ADI system," and add a new paragraph to read, "(e) Be located with respect to any pressure or flow sensing devices such that the blockage of the filter will be detected by this device".

(g) In § 23.999, delete subparagraph (b)(1).

(h) In § 23.1141(a), delete paragraphs (d) and (e) of § 23.777 which are incorporated by reference.

(i) In § 23.1141(a), delete subparagraph (e)(1) of § 23.1555 which is incorporated by reference.

(j) In § 23.1143, as applies to the control and shutoff of the ADI system, add, "In addition, there must be an indicator or warning light that indicates the proper operation or malfunction of the ADI system."

3. If the ADI fluid is injected into the induction air ducts, it must be injected in a location where the discharge, distribution, or atomization of the fluid will not be affected by operation on either primary or alternate air.

4. ADI Systems Markings. The ADI filler openings must be conspicuously marked at or near the filler cover with: (a) the words "ADI fluid"; and (b) the capacity of the tank in either pounds or gallons consistent with other ADI system markings.

Issued in Kansas City, Missouri, on August 8, 1986.

Edwin S. Harris,

Director Central Region.

[FR Doc. 86-19071 Filed 8-22-86; 8:45am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 85-AWA-42]

Alteration of Prohibited Area P-66 Rancho del Cielo, Goleta, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the description, altitudes, and times of designation of Prohibited Area P-66 located near Goleta, CA. This action will provide additional prohibited area airspace over the President's residence for security purposes as requested by the U.S. Secret Service. This action will prohibit aircraft flight within the designated prohibited area.

EFFECTIVE DATE: 0901 U.t.c., October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Andrew B. Oltmanns, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9245.

SUPPLEMENTARY INFORMATION: .

History

On June 11, 1986, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to alter the

description, altitudes, and times of designation of Prohibited Area P–66 located near Goleta, CA, (51 FR 21179). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 73.93 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations alters the description, altitudes, and times of designation of Prohibited Area P–66 located near Goleta, CA. This action is necessary since the U.S. Secret Service has determined there is a need to raise the ceiling of the prohibited area and its lateral boundaries to enhance the level of security provided the president. The lateral boundaries of the existing prohibited area will be expanded and the area will be subdivided into P–66A and P–66B. P–66A will be active on a continuous basis from the surface to 4,000 feet MSL. P–66B, which will have the same lateral dimensions as P–66A, will be activated from 4,000 feet MSL to but not including 5,000 feet MSL by Notice to Airmen (NOTAM) only when the President is in residence.

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

List of Subjects in 14 CFR Part 73

Aviation safety, Prohibited areas.

Adoption of the Amendment

PART 73—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

1. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 73.93 [Amended]

2. Section 73.93 is amended as follows:

P–66 Rancho del Cielo, Goleta, CA [Removed]
P–66A Rancho del Cielo, Goleta, CA [New]
Boundaries. Beginning at lat. 34°34'00" N., long. 120°06'00" W.; to lat. 34°34'00" N., long. 120°02'00" W.; to lat. 31°34'00" N., long. 120°02'00" W.; to lat. 34°31'00" N., long. 120°06'00" W.; to the point of beginning.
Designated altitudes. Surface to 4,000 feet MSL.
Time of designation. Continuous.
Using agency. Administrator, FAA, Washington, DC.
P–66B Rancho del Cielo, Goleta, CA [New]
Boundaries. Beginning at lat. 34°34'00" N., long. 120°06'00" W.; to lat. 34°34'00" N., long. 120°02'00" W.; to lat. 34°31'00" N., long. 120°02'00" W.; to lat. 34°31'00" N., long. 120°06'00" W.; to the point of beginning.
Designated altitudes. 4,000 feet MSL to but not including 5,000 feet MSL.
Time of designation. By NOTAM.
Using agency. Administrator, FAA, Washington, DC.

Issued in Washington, DC, on August 18, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–19072 Filed 8–22–86; 8:45 am]

BILLING CODE 4910–13–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Hazardous Substances and Articles; Amendment of Flammability Regulations; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule issued by the Commission to amend regulations for classification of extremely flammable, flammable, and combustible substances which release ignitable vapors. The rule was published in the **Federal Register** of August 8, 1986 (51 FR 28529). This action is necessary to correct technical errors which appear in the text of § 1500.3(c)(6) of the final rule.

FOR FURTHER INFORMATION CONTACT: Charles M. Jacobson, Division of Regulatory Management, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6400.

SUPPLEMENTARY INFORMATION:

§ 1500.3 [Corrected]

The following corrections are made to the amendment of 16 CFR 1500.3, published in the **Federal Register** of August 8, 1986 (51 FR 28529):

1. In 1500.3(c)(6)(i), (ii), (iii), and (vii) on pages 28536 in the third column and on page 28537 in the first column, the reference to "§ 1500.43" is corrected to read "§ 1500.43a."

2. Section 1500.3(c)(6)(iv) on page 28537 is correctly revised to read as follows:

(iv) To determine flashpoint temperatures for purposes of enforcing and administering requirements of the Federal Hazardous Substances Act applicable to "extremely flammable," "flammable," and "combustible" hazardous substances, the Commission will follow the procedures set forth in § 1500.43a. However, the Commission will allow manufacturers and labelers of substances and products subject to those requirements to rely on properly conducted tests using the Tagliabue open-cup method which was in effect prior to the issuance of § 1500.43a (as published at 38 FR 27012, September 27, 1973, and set forth below), and the defintions of the terms "extremely flammable," "flammable," and "combustible" in this section before its amendment (as published at 38 FR 27012, September 27, 1983, and amended 38 FR 30105, November 1, 1973, set forth in the note following this section) if all of the following conditions are met;

(A) The substance or product was subject to and complied with the requirements of the Federal Hazardous Substances Act for "extremely flammable," "flammable," or "combustible" hazardous substances before the effective date of § 1500.43a; and

(B) No change has been made to the formulation or labeling of such substance or product after the effective date of § 1500.43a, prescribing a closed-cup test apparatus and procedure.

Dated: August 19, 1986.

Sheldon Butts,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 86–19122 Filed 8–22–86; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 133

[Docket No. 85P-0182]

Grated Cheeses; Amendment of the Standard of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the standard of identity for grated cheeses to permit the use of safe and suitable anticaking agents, including powdered cellulose. This action responds to a petition filed by cheese manufacturers and would promote honesty and fair dealing in the interest of consumers.

DATES: Compliance may begin October 24, 1986; objections by September 24, 1986.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Karen L. Carson, Center for Food Safety and Applied Nutrition (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0110.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 29, 1985 (50 FR 43720), FDA published a proposal, based on a petition from the National Cheese Institute, the Kroger Co. (Pace Dairy Foods), Sargento Cheese Co., Inc., Schreiber Foods, Inc., and Paniplus Co. (a wholly-owned subsidiary of Continental Baking Co., Inc.), to amend the standard of identity for grated cheeses [21 CFR 133.146) to permit the use of safe and suitable anticaking agents, including powdered cellulose. Interested persons were given until December 30, 1985, to comment on the proposal.

FDA received 11 comments, from the food industry and a consumer, on the proposal. Ten of the comments favored the proposal.

One of the comments in favor of the proposal pointed out that, in some circumstances, it is necessary to use more than 1 percent of powdered cellulose in order to achieve the desired results. The comment asked FDA to make it clear that "* * * while usage levels of powdered cellulose often do not exceed 1 percent, amounts up to 2 percent may be appropriate under some circumstances and are thus within good manufacturing practice for this ingredient."

In order to properly account for the variation in moisture content, texture, and age of different types of cheese, FDA believes that the use of powdered cellulose in amounts up to 2 percent of the weight of the finished food should be permitted. The agency advises that it considers 2 percent of the weight of the finished food to be the maximum use level for powdered cellulose, either alone or in combination with other suitable anticaking agents within the meaning of 21 CFR 130.3(d)(2).

The comment opposing the proposal argued that consumers expect grated cheeses to be pure and not to contain ingredients such as cellulose.

The use of anticaking agents is necessary in some cases if industry is to provide consumers with grated cheese products having the characteristic flavor and texture of freshly grated cheese. For example, prior to the use of anticaking agents, grated cheeses were dried to reduce the moisture content. The drying process altered the flavor and texture of the cheese, thereby limiting many of the uses of grated cheese products. The use of safe and suitable anticaking agents avoids the limitation, presents no safety concerns, and is clearly advantageous to consumers. The agency, therefore, concludes that it is reasonable to provide for the optional use of safe and suitable anticaking agents in these products and that doing so will promote honesty and fair dealing in the interest of consumers. Accordingly, the agency is amending the standard of identity for grated cheeses as set forth below.

Economic Impact

In the preamble to the proposal (50 FR 43720), the impact of the proposed amendment on small entities, including small businesses, was reviewed in accordance with the Regulatory Flexibility Act (Pub. L. 96-354) (5 U.S.C. 601). No comments were received on the review presented. FDA determined that the proposed action would not result in a significant economic impact on a substantial number of small entities. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

Objections

Any person who will be adversely affected by this regulation may at any time on or before September 24, 1986 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 133

Cheese, Food standards.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 133 is amended as follows:

PART 133—CHEESES AND RELATED CHEESE PRODUCTS

1. The authority citation for 21 CFR Part 133 is revised to read as follows:

Authority: Secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)); 21 CFR 5.10 and 5.61.

2. Section 133.146 is amended by revising paragraph (b)(2) to read as follows:

§ 133.146 Grated cheeses.

* * * * *

(b) * * *

(2) Safe and suitable anticaking agents.

* * * * *

Dated: August 18, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-19083 Filed 8-22-86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 510

[Docket No. 85N-0373]

New Animal Drugs; Amendment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule amending the animal drug regulations by consolidating the exemptions from certification requirements for certain antibiotic drugs. This final rule revokes the regulation providing for exemption from certification for antibiotic drugs treating fish disease and amends another regulation to cover the products that are subject to the revoked regulation. This final rule is based on a notice of proposed rulemaking published in the Federal Register of March 10, 1986 (51 FR 8202).

EFFECTIVE DATE: September 24, 1986.

FOR FURTHER INFORMATION CONTACT: Frank Pugliese, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4500.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 10, 1986 (51 FR 8202), FDA proposed to amend the animal drug regulations by revoking § 510.505 *Antibiotic drugs subject to section 512(n) of the act for fish diseases* and amending § 510.520 *Exemption from batch certification requirements for antibiotic drugs for animal use subject to section 512(n) of the act.* The intent of this proposal was to incorporate the specific exemption for antibiotic drugs subject to section 512(n) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(n)) when such drugs are intended for treatment of disease in aquarium fish not intended for food use, into the general exemption for all antibiotic drugs subject to section 512(n) of the act. Interested persons were given 30 days in which to comment.

In response to the proposal, three comments were received, two from trade associations and one from the representative of an aquarium drug manufacturer. All comments requested that the language of § 510.505 be incorporated into § 510.520 to assure the continued exemption from batch certification for antibiotic drugs used in treating diseases of aquarium fish.

The agency does not agree with the request. The exemption from the certification provisions of section 512(n) of the act is explicit in § 510.520. The incorporation of a specific reference to antibiotic drugs intended for treatment of diseases in aquarium fish would be contrary to the intent of the proposed rule. The status of antibiotic drugs intended for treatment of diseases of aquarium fish is not changed by this action.

Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

The agency has examined the potential economic effects of this rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). The rule does not impose new or different requirements on industry, because it consolidates into one regulation the exemptions from the certification requirements of the Federal Food, Drug, and Cosmetic Act that are currently contained in two regulations. The agency therefore concludes that the rule is not a major rule as defined in Executive Order 12291. Furthermore, the agency certifies that the rule will not have a significant impact on a substantial number of small business entities, as defined in the Regulatory Flexibility Act.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, Part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10.

§ 510.505 [Removed]

2. By removing § 510.505 *Antibiotic drugs subject to section 512(n) of the act for fish diseases.*

§ 510.520 [Amended]

3. In § 510.520 *Exemption from batch certification requirements for antibiotic drugs for animal use subject to section 512(n) of the act,* paragraph (a) introductory text is amended by revising the phrase "in §§ 510.505, 510.510, and 510.515" to read "in §§ 510.510 and 510.515."

Dated: August 6, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–19081 Filed 8–22–86; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Sulfamethazine Sustained-Release Boluses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Medico Industries, Inc. The application provides for use of sustained-release boluses containing 30 grams of sulfamethazine for the treatment of certain disease conditions in beef cattle and nonlactating dairy cattle.

EFFECTIVE DATE: August 25, 1986.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Medico Industries, Inc., Elkan Estates, P.O. Box 338, Elwood, KS 66024, filed NADA 140–270 providing for use of a sulfamethazine sustained-release bolus containing 30 grams of sulfamethazine for the treatment of certain disease conditions caused by organisms sensitive to sulfamethazine in beef cattle and nonlactating dairy cattle. The application is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

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 submitted to support approval of this application 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.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i)); 21 CFR 5.10 and 5.83.

2. Section 520.2260b is amended by adding new paragraphs (f) and (g) to read as follows:

§ 520.2260b Sulfamethazine sustained-release boluses.

* * * * *

(f)(1) *Sponsor.* See No. 015562 in § 510.600(c) of this chapter for use of a 30-gram sulfamethazine sustained-release bolus.

(2) *Conditions of use*—(i) *Amount.* Administer at the rate of 1 bolus (30 grams per bolus) per 200 pounds of body weight, as a single dose.

(ii) *Indications for use.* Administer orally to beef cattle and nonlactating dairy cattle for the treatment of the following diseases when caused by one or more of the listed pathogenic organisms sensitive to sulfamethazine: bovine respiratory disease complex (shipping fever complex) associated with *Pasteurella* spp.; bacterial pneumonia associated with *Pasteurell* spp.; necrotic pododermatitis (foot rot) and calf diphtheria caused by *Fusobacterium necrophorum*; colibacillosis (bacterial scours) caused by *Escherichia coli*; coccidiosis caused by *Eimeria bovis* and *E. zurnii*; acute mastitis and metritis caused by *Streptococcus* spp.

(iii) *Limitations.* For use in beef cattle and nonlactating dairy cattle only; if symptoms persist for 2 or 3 days after use, consult a veterinarian; do not slaughter animals for food for at least 8 days after the last dose; do not use in lactating dairy cattle; do not administer more than two consecutive doses.

(g) *Related tolerances.* See § 556.670 of this chapter.

Dated: August 14, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86-19082 Filed 8-22-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 317 and 321

[Department of the Treasury Circular Nos. 4-67, First Revision and 750, Third Revision]

U.S. Savings Bonds and Notes; Revised Schedule of Fees for Issuing and Paying Agents

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Notice of change in the method of calculation of issuing agent fees.

SUMMARY: This notice is being published to set out a revised schedule of fees payable to eligible issuing agents of United States Savings Bonds issued through payroll savings plans, and to explain the basis upon which the fees are computed. The revised fee schedule is applicable to issues transferred to the Bureau of the Public Debt on and after the effective date of this notice.

No changes have been made (1) in the fees paid to issuing agents for bonds issued over-the-counter or reissued to effect distribution from employee thrift savings and similar plans, or (2) in the schedule of fees payable to eligible paying agents of United States Savings Bonds and Savings Notes (Freedom Shares), including the bases on which such fees are computed. Provisions relating thereto are included here for ease of reference.

Revision of the issuing agent fee schedule has been undertaken to correct certain administrative difficulties and inequities existing under the current fee schedule. Heretofore, financial institutions qualified as issuing agents received fees for bonds issued under payroll savings plans based on their inscription methodology, i.e., a larger fee was paid for bonds inscribed manually than for bonds inscribed by computer. Fees to non-financial institutions were paid at a flat rate, lower than those paid to financial institutions.

Fees for savings bonds issued under payroll savings plans will be based, after the effective date of the change, solely on the volume issued in any calendar quarter. Because the requirements placed on both financial and non-financial institutions in issuing and delivering savings bonds are the same, the revised fee schedule has eliminated all distinctions among categories of issuing agents. The revised schedule will also recognize efficiencies and economies of scale achieved at large-volume agent sites.

The schedule was derived from an assessment of the alternative costs that the Treasury would incur if it had to obtain or provide this issuing service. Analysis indicates that 94 percent of issuing agents receiving fees for payroll issues during the last quarter of fiscal year 1985 would have received the same or somewhat larger fee payment under the new schedule.

EFFECTIVE DATE: October 1, 1986.

FOR FURTHER INFORMATION CONTACT: Dean A. Adams, Assistant Cief Counsel, Bureau of the Public Debt, Parkersburg, WV 26101 (304) 420-6505.

SUPPLEMENTARY INFORMATION: Department of the Treasury Circular, Public Debt Series No. 4-67, First Revision (31 CFR Part 317), at § 317.6(b), provides that issuing agents, other than Federal agencies, will be paid a fee for each savings bond issued, and that a schedule of fees, and the bases upon which the fees are computed and paid, will be separately pubished in the **Federal Register.**

Department of the Treasury Circular No. 750, Third Revision (31 CFR Part 321), at § 321.23(a), provides that paying agents will receive a fee for each eligible savings bond and note redeemed and that a schedule of fees and the bases on which the fees are computed and paid, will be separately published in the **Federal Register.**

Procedural Requirements

This notice is not considered a "major rule" for purposes of Executive Order 12291. A regulatory impact analysis, therefore, is not required.

The notice and public procedures of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

List of Subjects in 31 CFR Parts 317 and 321

Banks and banking, Federal Reserve System, Government securities.

Dated: August 11, 1986.

Gerald Murphy,

Fiscal Assistant Secretary.

Schedules of Fees

The following schedules of fees for the issue and redemption of savings bonds and savings notes are hereby published:

Issuing Agent Fees

Eligible organizations qualified as issuing agents by Federal Reserve Banks and Branches, acting as fiscal agents, under the provisions of Department of the Treasury Circular, Public Debt Series No. 4–67 (31 CFR Part 317), will receive payment for each savings bond they issue.

Fee Schedule—Over-the-Counter Issues

Financial institutions, which include banks, trust companies, credit unions, and savings institutions, chartered by or incorporated under the laws of the United States, or of any State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, will be paid a fee of $.85 for each Series EE bond issued on the basis of (i) a purchase application received over-the-counter or by mail, or (ii) a Bond-a-Month Plan.

Fee schedule—Payroll and Other Issues

Fees payable to financial institutions, as defined above, and to non-financial institutions, which include private employers, State and local governments and other eligible organizations which issue bonds only for their employees, will be calculated as follows:

(a) For each Series EE savings bond issued on the basis of deductions under a payroll savings plan, on the following scale:

(i) For the first 1,500 Series EE bonds issued in a calendar quarter, $.32.

(ii) For the next 8,500 Series EE bonds issued in a calendar quarter, $.11.

(iii) For all Series EE bonds over 10,000 issued in a calendar quarter, $.06.

(b) For each Series E and EE savings bond issued to effect distribution to participants in a thrift, savings, vacation, or similar plan, $.05.

Basis for Determining Fees

Fee payments will be determined by the number of individual issues included in transmittal of registration stubs or magnetic tape to the Bureau of the Public Debt for the account of an eligible agent during each calendar quarter, based on the transfer dates assigned to the transmittals by a Federal Reserve Bank.

Coverage of Fee

In establishing and paying a fee for the issue of savings bonds, the Treasury is recompensing agents for costs associated with obtaining and controlling bond stock and inscribing and delivering bonds to purchasers (exclusive of the cost of postage for bonds mailed in penalty envelopes provided to agents through the Federal Reserve Banks). The amount of the fee is based generally on the alternative costs to the Treasury of obtaining or providing this issuing service.

Charges to Customers

Financial institutions accepting fees from the Treasury for issuing savings bonds shall not make any charge to customers for the same service. Customers, in this context, are employers which provide a payroll savings plan for employees and which have arranged for a financial institution to issue the bonds. Individuals purchasing savings bonds over-the-counter or through payroll deduction may not be charged a fee by either the issuing agent or employer.

Paying Agent Fees

Financial institutions qualified as paying agents by Federal Reserve Banks and Branches, acting as fiscal agents, under the provisions of Department of the Treasury Circular No. 750 (31 CFR Part 321), will receive payment for each Series A–E and EE savings bond and savings note (Freedom Share) redeemed for cash, and for each such security redeemed in exchange for Series HH savings bonds under the provisions of Department of the Treasury Circular, Public Debt Series No. 2–80 (31 CFR Part 352).

Fee Schedule

Fees to paying agents will be calculated as follows:

(a) For each savings bond and savings note redeemed for cash, $.34.

(b) For each savings bond and savings note redeemed in exchange for Series HH bonds, $.50.

Basis for Determining Fees

Fee payments will be determined by the number of eligible paid bonds transmitted to the Bureau of the Public Debt for the account of an agent during the calendar quarter, based on the transfer dates assigned to the transmittals by a Federal Reserve Bank.

Charges to Customers

Paying agents are not authorized to make any charge for redeeming savings bonds and savings notes presented by customers.

[FR Doc. 19076 Filed 8–22–86; 8:45 am]

BILLING CODE 4810–10–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS SAMPSON (DDG 10) and USS HOEL (DDG 13) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special functions as naval destroyers. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 16, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION:

Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS SAMPSON (DDG10) and USS HOEL (DDG 13) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i), regarding the height above the hull of the forward masthead light, without interfering with their special functions as naval destroyers. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS SAMPSON (DDG 10) and USS HOEL (DDG 13) are members of the DDG 2 class of vessels for which certain exemptions, pursuant to 72 COLREGS,

Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to these two vessels.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the vessels' abilities to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S. 1605.

§ 706.2 [Amended]

1. Table One of § 706.2 is amended by adding the following vessels:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(a)(i), Annex I
USS SAMPSON	DDG 10.	2.47
USS HOEL	DDG 13.	1.97

Dated: July 16, 1986.

John Lehman,

Secretary of the Navy.

[FR Doc. 86-19077 Filed 8-22-86; 8:45 am]

BILLING CODE 3810-AE-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket RM 86-6]

Compulsory License for Cable Systems; Interim Rule

AGENCY: Library of Congress, Copyright Office.

ACTION: Interim regulations.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is amending 37 CFR 201.17 on an interim basis. These regulations implement portions of section 111 of the Copyright Act of 1976, title 17 of the United States Code. That section prescribes conditions under which cable systems may obtain a compulsory license to retransmit copyrighted works, including the filing of periodic Statements of Account and the periodic payment of copyright royalties. The amendments establish new reporting requirements for cable systems that file Statements of Account, and are issued on an interim basis to permit their immediate application pending appeal of the U.S. District Court for the District of Columbia's decision in *Cablevision Company* v. *Motion Picture Association of America, Inc., et al.*, Civil Action No. 83-1655 (D.D.C. July 31, 1986) and consolidated cases.

EFFECTIVE DATE: August 25, 1986. Written comments should be received on or before September 24, 1986.

ADDRESSES: Ten copies of written comments should be addressed, if sent by mail to: Library of Congress, Department D.S., Washington, DC 20540.

If delivered by hand, copies should be brought to: Office of the General Counsel, James Madison Memorial Building, Room 407, First and Independence Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, DC 20559, (202) 287-8380.

SUPPLEMENTARY INFORMATION: Section 111(c) of the Copyright Act of 1976 establishes a compulsory licensing system under which cable systems may make secondary transmissions of copyrighted works. The compulsory license is subject to various conditions, including the requirements that cable systems comply with provisions regarding deposit of Statements of Account and statutory royalty fees under section 111(d)(2).

On June 27, 1978, the Copyright Office adopted Statement of Account forms and regulations implementing portions of section 111 of the Copyright Act. In the course of a later Copyright Office rulemaking on the cable compulsory license which was concluded on July 3, 1980 (45 FR 45270), representatives of cable system operators requested a review of the Copyright Office regulation defining "gross receipts" for purposes of calculating the cable copyright royalties which cable systems must pay under the compulsory license. In response to this request and to petitions from copyright owners on other matters, the Copyright Office held a public hearing (Docket RM 80-2) on July 28, 1981 (Notice of June 10, 1981, 46 FR 30649) and requested written comments on, among other issues, the proper definition of "gross receipts" in light of the "tiering" of services by cable systems. On April 2, 1984, the Copyright Office issued final regulations (49 FR 13029) that included a clarifying amendment to the Copyright Office's definition of "gross receipts." (37 CFR 201.17(b)(1)).

In issuing the "gross receipts" amendment, the Copyright Office confirmed its 1978 interpretation that the Copyright Act does not allow cable systems to allocate gross receipts or the "distant signal equivalent" (DSE) value where any secondary transmission service is combined with nonbroadcast service and offered to cable subscribers for a single fee. Cablevision Company and the National Cable Television Association ("NCTA") challenged that interpretation before the U.S. District Court for the District of Columbia. On July 31, 1986, the court held the Copyright Office's regulation defining "gross receipts" invalid and concluded that "any calculation of gross receipts under section 111(d) of the Copyright Act of 1976 must include the revenues from both local and distant signals notwithstanding their tier placement[,]" and that "[a]ny revenues attributable to nonbroadcast signals are excluded from this calculation." *Cablevision Company* v. *Motion Picture Association of America, Inc., et al.*, Civil Action No. 83-1655, slip op. at 25 (D.D.C. July 31, 1986) and consolidated cases. The Court found it "beyond the province of the Court to dictate the specific method of calculating the royalties to be paid . . ." *Id.* at 26.

The defendants in the case are appealing the decision. The Copyright Office has supported the copyright owner defendants' Motion for Stay Pending Appeal which would, if granted, stay the court's Order regarding the regulation defining "gross receipts" pending determination of the case by the U.S. Court of Appeals for the District of Columbia Circuit. Until such time as the case is decided on appeal, the Copyright Office regards its interpretation of "gross receipts" as the correct interpretation of the Copyright Act, and expects the regulation to be upheld on appeal.

1. Reporting and Record-Keeping Regulation

In view of the district court's July 31, 1986 decision, however, some cable system operators may not deposit Statements of Account and royalty fees for the first accounting period in 1986 and subsequent periods in accordance with the Copyright Office regulation, even if a stay of the court's Order is granted. These system operators may allocate gross receipts by a variety of methods. It will be impossible for the Copyright Office to evaluate which of these methods are acceptable under the compulsory license, and whether cable systems have submitted the proper royalty fee for the current accounting periods, until the ultimate resolution of the *Cablevision* litigation. It is therefore of critical importance that the Copyright Office have contemporaneous records of whether each filing cable system allocates gross receipts and, if so, what method the system used to calculate its royalty fee.

In order to ensure that such records are available for evaluation at the conclusion of the appeal process, the Copyright Office is implementing a two-part interim regulation. First, this regulation requires that a cable system filing a Statement of Account for the first accounting period of 1986 and henceforth must declare to the Copyright Office whether it allocated gross receipts in calculating its royalty fee for the relevant accounting period, and if it has allocated, must also report the figure for gross receipts as calculated under the Copyright Office's definition in 37 CFR 201.17(b)(1). The Copyright Office will issue a special form for this declaration to each system that files Statements of Account with the Office. That form must be completed by the cable system operator and returned to the Copyright Office along with the Statement of Account or, in accounting period 1986–1, within thirty (30) days of receipt of the form from the Copyright Office. Second, the regulation requires a cable system that allocates gross receipts in determining its royalty fee for a particular accounting period to maintain detailed records that describe each step of the method followed by the system operator in computing the gross receipts reported in the Statement of Account. A written explanation of the method of allocation utilized by the system must also be maintained. The regulation provides that the Copyright Office may require cable systems to report the information maintained in those records at any time within a five year period following the relevant Statement of Account filing deadline.

The Copyright Office believes that this reporting and recordkeeping regulation places a minimum burden on both cable system operators and the Copyright Office while providing an adequate interim response to the administrative problems the Office foresees as a result of the district court's decision, until such time as the issues are decided on appeal.

2. Requests for Refund Based on Allocation of Gross Receipts

On August 7, 1986, the Copyright Office received a petition from the Motion Picture Association of America, Inc. ("MPAA") requesting the Copyright Office to amend its current regulations governing the calculation of gross receipts and payment of royalty fees (37 CFR 201.17(j)) by providing an expanded period for accepting and processing refund requests related to the district court's decision. The Office received statements in support of MPAA's overall proposal from Major League Baseball and the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC Inc., and comments in support of the specific language of MPAA's proposed interim regulation from a law firm representing the Community Antenna Television Association and several cable system operators. MPAA proposed the following addition to § 201.17(j):

> Requests for royalty refunds for the first accounting period of 1986 and subsequent periods based upon exclusion from gross receipts of revenues attributable to nonbroadcast signals when these signals are offered in combination with broadcast signals subject to complusory licensing under Section 111 must be in writing, must clearly be consistent with the final decision of the courts concerning this issue, and must be received in the Copyright Office before the expiration of 60 days from the date of a final decision concerning this issue.

The Copyright Office acknowledges that it will be necessary for the Office to waive the 60-day deadline for filing refund requests under § 201.17(j)(3)(i) if, when all appeals are exhausted, 37 CFR 201.17(b)(1) is held invalid. The Office cannot now evaluate such refund requests because the court's *Order* did not specify a permissible method for the allocation of gross receipts, and because the *Order* is being challenged on appeal. The current situation creates considerable confusion which could easily lead to chaos for the Copyright Office in receiving and processing requests for refund based on a court decision that may be altered or overturned on appeal, and which if upheld requires a new rulemaking proceeding to revise the regulation at issue.

The Office believes that it would be premature and inefficient to determine a proper method of calculating gross receipts and to process refund requests based upon that method until the appeal process is exhausted. Any interim approach now adopted by the Copyright Office could ultimately be different from any final, revised "gross receipts" regulation, and would only further confuse the final tabulation of refund requests and supplemental payments for various accounting periods.

While the Copyright Office recognizes that the refund issue poses serious problems for cable systems as well as copyright owners, the Office has determined that it is not necessary to amend § 201.17(j) now. The Office instead makes a commitment to waive the 60-day deadline for filing refund requests under § 201.17(j)(3)(i) for cable systems that request refunds based upon allocation of gross receipts, if 37 CFR 201.17(b)(1) is finally held invalid. In that event, at the conclusion of the new rulemaking proceeding the Office will establish a reasonable time period during which refund requests will be accepted. Until that time, the Copyright Office will not accept refund requests based upon a cable system's allocation of gross receipts. This interim measure will facilitate the continued orderly operation of the royalty payment system during the pendency of the appeal of the district court's decision and will also assure that, upon completion of the appellate process, cable system operators and copyright owners will have a better means for collecting royalties that were overpaid or underpaid because of the uncertain status of the Copyright Office's regulation defining "gross receipts" during the pendency of the *Cablevision* cases.

These regulations are issued on an interim basis, immediately and without public comment, since they are necessary to the orderly functioning of the cable compulsory license in the emergency situation created by the court's decision in the *Cablevision* cases. Moreover, the regulations are not substantive in nature.

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress and is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative

Procedure Act of June 11, 1946, as amended (title 5, Chapter 5 of the U.S. Code, Subchapter II and Chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.[1]

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has determined that the regulations will have no significant impact on small businesses.

List of Subjects in 37 CFR Part 201

Cable television, Cable compulsory license.

Interim Regulations

PART 201—[AMENDED]

In consideration of the foregoing, Part 201 of 37 CFR, Chapter II is amended on an interim basis in the manner set forth below.

1. The authority citation for Part 201 continues to read as follows:

Authority: Section 702, 90 Stat 2541; 17 U.S.C. 702.

§ 201.17 [Amended]

* * * * *

2. A new paragraph (k) is added to § 201.17 to read as follows:

* * * * *

(k) *Additional declaration of gross receipts.*

(1) Every cable system subject to compulsory licensing under section 111 of title 17 of the United States Code must complete and submit a "Declaration of Gross Receipts" on a form prepared by the Copyright Office. For the first accounting period of 1986, the "Declaration of Gross Receipts" shall be received in Copyright Office within 30 days of its receipt by the cable system. For subsequent accounting periods the declaration shall be received in the Copyright Office no later than the relevant filing deadline for Statements of Account.

(2) Any cable system that excludes from gross receipts those revenues allegedly attributable to nonbroadcast signals when these are offered for a single price in combination with broadcast signals subject to compulsory licensing under section 111 of title 17 of the United States Code must:

(i) Prepare adequate and detailed records that describe each step of the method used to determine gross receipts as reported in the Statements of Account;

(ii) Prepare a complete, written, explanation of the method of allocation used to exclude certain receipts;

(iii) Maintain the records and explanation required by paragraphs (k)(2) (i) and (ii) above for at least five years from the filing deadline for the relevant accounting period, and submit the reports and explanation within 30 days of a request from the Copyright Office for this information; and

(iv) Calculate the gross receipts for the "basic service of providing secondary transmissions of primary broadcast transmitters" in accordance with paragraph (b)(1) of this section and declare the amount on the "Declaration of Gross Receipts" form.

* * * * *

Dated: August 15, 1986.

Ralph Oman,

Register of Copyrights.

Approved.

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 86-19212 Filed 8-22-86; 8:45 am]

BILLING CODE 1410-07-M

[1] The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e., "all actions taken by the Register of Copyrights under this title [17]," except with respect to the making of copies of copyright deposits). [17 U.S.C. 706(b)]. The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA–FOIA requirements.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-211019; FRL 3064-7]

Denial of the Petition To Reconsider and Withdraw the Phase I Test Rule for Mesityl Oxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Notice of Denial of Petition.

SUMMARY: The Chemical Manufacturers Association (CMA) has petitioned EPA under section 21 of the Toxic Substances Control Act (TSCA) to reconsider and withdraw its Phase I test rule for mesityl oxide (MO; CAS No. 141-91-7). The Phase I rule was issued under section 4 of TSCA and requires that MO be tested for certain health effects. This notice announces the decision of the Administrator of EPA to deny CMA's petition.

ADDRESS: A copy of the petition and all related information, under docket number (OPTS-211019), is located in: Environmental Protection Agency, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

This material is available for viewing and copying from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

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

SUPPLEMENTARY INFORMATION: EPA is denying CMA's petition to reconsider and withdraw the testing requirements for mesityl oxide. Industry's claims of exposure reduction are not adequate to support a decision to withdraw the rule.

I. Introduction

Section 21 of TSCA (15 U.S.C. 2620) provides that any person may petition the Administrator of EPA to initiate a proceeding for the issuance, amendment, or repeal of a rule under various sections of the Act. The Administrator may hold a public hearing or may conduct such investigation or proceeding as he deems appropriate in order to determine whether or not the petition should be granted. If the Administrator grants the petition, the Agency must promptly commence an appropriate proceeding. If the Administrator denies the petition, the reasons for denial must be published in the **Federal Register.** The petitioner may commence a civil action in a district court of the United States to compel the Administrator to initiate a proceeding as requested in the petition. Any such civil action shall be filed within 60 days after the Administrator's denial of the petition or, if the Administrator fails to grant or deny the petition within 90 days after the petition is filed, within 60 days following expiration of the 90-day response period.

In the **Federal Register** of December 20, 1985 (50 FR 51857), EPA published a Phase I final rule pursuant to TSCA section 4(a) requiring that manufacturers and processors of MO conduct certain health effects studies. These studies included testing MO for subchronic, mutagenic, and oncogenic effects (if certain mutagenicity tests were positive). The Agency based these requirements on a finding that the manufacture, processing, and distribution in commerce of MO may

present an unreasonable risk of injury to human health. Before industry must initiate the studies, however, EPA must finalize a Phase II rule that will establish the test standards and data submission deadlines (reporting requirements).

On April 30, 1986, EPA received a petition, under section 21 of TSCA, from CMA on behalf of the Ketones Program Panel, comprised of Eastman Kodak Co., Exxon Chemical Americas, Shell Chemical Co., and Union Carbide Corp., sponsors of the testing required by the final Phase I test rule for MO. The petitioners requested that the Administrator reconsider and withdraw the test rule for the following reasons: (1) MO henceforth will be manufactured only as a site-limited, non-isolated intermediate; (2) merchant sales of MO will cease by the end of June, 1986; (3) the total number of exposed workers will be reduced from about 200 to between 109 and 113, and their mean exposure level (8-hour time-weighted average (TWA)) will be generally below 0.03 to 1 part per million (ppm); and (4) the petitioners do not intend to resume MO sales.

Furthermore, in their petition, the manufacturers agreed that EPA should be notified if any terminated activities are reinitiated. They are not opposed to the Agency promulgating a rule under section 5(a)(2) which defines resumption of MO sales as a significant new use. However, they would prefer a section 8(a) reporting rule. They further requested that EPA postpone promulgation of the final test standards for MO pending consideration of their petition.

On June 17, 1986, EPA requested that CMA provide clarification of the information submitted in the section 21 petition as well as additional data to verify industry's claim of low exposures in the manufacture and processing of MO (Ref. 2). CMA submitted supplemental information on July 23, 1986 (Ref. 4) and stated that CMA would not object to EPA's delaying its response to the petition until 30 days after receipt of the supplemental information. The Agency accepted this additional time so that it could fully consider the supplemental information prior to making its decision (Ref. 7).

II. The Administrator's Decision

EPA is denying this petition filed under section 21 of TSCA for the following reasons:

1. The production methods of all the manufacturers have not been fully described nor has the degree of exposure from each different process been adequately quantified to allow EPA to verify industry's claim that its process changes will so reduce exposure to MO as to eliminate the need for evaluating the chemical's toxicity. To the contrary, certain information provided on the revised manufacturing practices indicates that products and streams containing significant levels of MO are isolated and may result in exposure to MO. In at least one facility, the chemical is stored on site in surge tanks, disposed of in waste streams, and vented to the atmosphere under upset conditions. Wastes containing MO are shipped between reactor vessels and disposal facilities. MO also exists as a constituent in other manufactured chemicals which enter commerce. MO, therefore, is not manufactured solely as a non-isolated, transient, site-limited intermediate. It exists as a chemical substance in waste streams, fugitive emissions, and chemicals all of which leave the manufacturing sites. The information provided to the Agency refutes industry's claims that MO is manufactured solely as a non-isolated, transient intermediate.

2. In the past, MO has been isolated from reactor vessel wastes which were shipped from one manufacturer to another for recycling. These wastes are now shipped by tank trucks for disposal. The information provided fails to account for exposure resulting from handling, transport, and/or disposal of such wastes. For each process involving MO, each of the manufacturers was requested to provide a mass balance to account for the amount of MO generated and subsequently converted to methyl isobutyl ketone (MIBK) or lost during production, and the amount of MO associated with any discharges or waste products. Such data were not submitted by all of the manufacturers.

3. Most of the exposure data provided in the petition were previously reviewed during section 4 rulemaking for this chemical. The new data provided in the petition were limited in scope and did not adequately characterize worker exposure to MO resulting from MIBK production (Refs. 3 and 6). The exposure monitoring data in the petition were not accompanied by appropriate quality assurance/quality control (QA/QC) data nor a documented sampling plan to permit evaluation of the representativeness of the exposure monitoring data (Ref. 6). In addition, the analytical methods used in the monitoring studies included undocumented protocols (Ref. 6). Although the submitted data only address inhalation exposure, EPA believes there may also be a potential for dermal contact in many worker activities (such as loading, and unloading tank trucks containing MO waste streams). Furthermore, these data do not represent an adequate (or current) sampling of all activities which may result in significant exposure to MO. There was only minimal information describing the frequency of activities and job categories, such as cleaning and repair of process equipment, waste removal and disposal, and the frequency of upset conditions, such as spills and seal leaks. The nonroutine operations reported were shown to give rise to higher levels of exposure (i.e., levels as high as 87 ppm). In addition, the petition and supplemental information do not provide information on engineering controls used by each of the manufacturers during routine operations or upset conditions.

All of the manufacturers were also requested to provide, but did not submit on a per site basis: A list of the worker job categories (such as field operator, maintenance, and loader); the activities (both routine and non-routine) in each category where workers are potentially exposed to MO; the number of workers represented by that category; the duration (hours/day) and frequency (days/year) of exposure to MO during the activities shown; and the levels of exposure from personal monitoring. Two of the manufacturers did provide some additional data, but these were judged incomplete (Ref. 5). For example, exposure level data expressed as the geometric mean and range of 8-hour TWA data were not provided; nor were raw data which show the level and duration of sampling and the duration of each activity. Peak levels for non-routine activities also were needed when the duration of activity or possible duration of exposure to MO is very short (i.e., less than 15 minutes). Although the most important data are those from monitoring of personnel, data from area monitoring that show the airborne concentrations from fugitive emissions around such equipment as seals, valves and flanges were not provided along with details on the amount of time a worker might be in the vicinity of such emissions as a measure of potential worker exposure. Information was not provided by all the manufacturers on the analytical techniques used to measure the personal and area levels which would document the range of validity and limit of detection of the methods used. In addition, information on the amount of dermal contact expected and the activities where such contact might occur was not provided by all of the manufacturers.

4. Although the exact amounts of MO that will be stockpiled as of June 1986 have been claimed confidential business information (CBI), these quantities are large. Given the volumes of MO stockpiled and its possible uses, the exposure data submitted for processing activities are inadequate to eliminate the Agency's concerns for such exposures as presented in the Phase I final rule.

Industry has failed to submit adequate information and exposure data to substantiate their claims of low exposures to MO. In fact, the information provided in the petition and supplemental submission reinforces the Agency's concern for testing this chemical. Although certain activities giving rise to potential exposure to MO have been modified or eliminated subsequent to EPA's promulgation of the Phase I test rule, the information now available to the Agency continues, in EPA's judgment, to support the section 4(a)(1)(A)(i) finding that the manufacture and processing of MO may present an unreasonable risk to human health. Therefore, the Agency plans to proceed with its Phase II test standards and reporting requirements rulemaking proposed in the **Federal Register** of December 20, 1985 (50 FR 51888).

III. Public Record

EPA has established a record for its response to this petition under section 21 of TSCA (docket number OPTS-211019). The public record contains basic information considered by the Agency in reaching this decision and includes:

(1) This notice and the petition to which it responds.

(2) U.S. Environmental Protection Agency (EPA). Letter from Edwin F. Tinsworth, Acting Office Director, Office of Toxic Substances, Washington, DC 20460, to Geraldine V. Cox, Vice President-Technical Director, Chemical Manufacturers Association, 2501 M St. NW., Washington, DC 20037 (June 17, 1986).

(3) Records of communications between EPA personnel concerning the development of the Agency's response to this petition.

(4) Chemical Manufacturers Association. Supplemental information regarding exposure to MO. Submitted by Geraldine V. Cox, Vice President-Technical Director, Chemical Manufacturers Association, 2501 M St. NW., Washington, DC 20037 (July 22, 1986).

(5) U.S. EPA. Internal memorandum from Kin Wong, Chemical Engineering Branch, to Frank Benenati, Test Rules Development Branch. Review of supplementary information on the mesityl oxide section 21 petition (August 15, 1986).

(6) U.S. EPA. Internal memorandum from Richard Kent, Field Studies Branch, to Frank Benenati, Test Rules Development Branch. Review of supplementary information on the mesityl oxide section 21 petition (August 15, 1986).

(7) U.S. EPA. Letter from Edwin F. Tinsworth, Acting Office Director, Office of Toxic Substances, Washington, DC 20460, to Geraldine V. Cox, Vice President-Technical Director, Chemical Manufacturers Association, 2501 M St. NW., Washington, DC 20037 (July 25, 1986).

(8) Contact reports of telephone conversations.

Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection in the OTS Public Information Office, Rm. NE-G004, 401 M St., SW., Washington, DC 20460, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Authority: 15 U.S.C. 2620.

Dated: August 21, 1986.

Lee M. Thomas,

Administrator.

[FR Doc. 86-19294 Filed 8-21-86; 4:30 pm]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 60590-6090]

Foreign Fishing, Groundfish of the Gulf of Alaska, Extension of Effective Date

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

ACTION: Emergency interim rule; extension of effective date.

SUMMARY: The Secretary of Commerce extends an emergency rule amending regulations implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) in effect through August 20, 1986. This extension is necessary to amend optimum yields (OYs) for five species of groundfish at levels consistent with the best available biological and socioeconomic information, and to make available allocations of Pacific ocean perch (POP) and "other rockfish" to joint venture fisheries, and POP, "other rockfish", and sablefish to foreign fisheries. This action is intended as a conservation measure that responds to the best available biological and socioeconomic information on the status of the groundfish fishery and provides for full development and utilization of the existing Gulf of Alaska groundfish resources.

EFFECTIVE DATE: August 20, 1986 through November 18, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, (Fishery Management Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: Under section 305(e) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary issued an emergency rule effective on May 22, 1986 (51 FR 19203, May 28, 1986) to allow closures as summarized above. The reasons for these actions, which are discussed in the preamble to the emergency rule, still continue and are not repeated here.

When the North Pacific Fishery Management Council voted for the optimum yield amendments and the prohibited species (PSC) limits for "other rockfish" and POP in joint venture and foreign fisheries and also for sablefish in foreign fisheries, it based its decision on the amount of fishing that would be conducted on available stocks for the entire 1986 fishing year. The Council's action is affirmation that this emergency rule be extended through November 18, 1986 under section 305(e)(3)(B) of the Magnuson Act.

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

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

List of Subjects

50 CFR Part 611

Fisheries, Reporting and recordkeeping requirements.

50 CFR Part 672

Fisheries, Reporting requirements.

Dated: August 20, 1986.

Carmen J. Blondin,

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

[FR Doc. 86-19153 Filed 8-20-86; 4:37 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 164
Monday, August 25, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

Navel Oranges Grown in Arizona and Designated Part of California; Reapportionment of Navel Orange Administrative Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This proposal would reapportion the membership on the Navel Orange Administrative Committee to assure equitable representation among the different marketing organizations in the industry.

DATE: Comments due September 9, 1986.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2085, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the Federal Register and will be available for public inspection in the office of the Docket Clerk during regular working hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone: 202/447-5679.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This action would increase the number of members on the Navel Orange Administrative Committee representing other cooperatives from two to three and would decrease the number of members representing independents from three to two. Such allocation of representation reflects the proportional amount of navel oranges handled by the respective types of marketing organizations.

It is estimated that 119 handlers of navel oranges under the marketing order for navel oranges grown in Arizona and a designated part of California would be subject to regulation during the course of the current season and that a great majority of these firms may be classified as small entities. The reapportionment of Navel Orange Administrative Committee members, proposed under this rulemaking, would provide equitable representation of the different marketing groups on the committee, with attendant benefits to producers, handlers, and the industry.

If adopted, this rule will be issued under Marketing Order 907, as amended, regulating the handling of navel oranges grown in Arizona and a designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

On July 15, 1986, the Navel Orange Administrative Committee (NOAC), which administers the marketing order locally, voted to recommend to the Department that membership on the committee be reallocated to more accurately reflect the quantity or oranges handled by the various marketing organizations eligible for membership on the committee. The committee recommended that the number of members in the other cooperative category of membership be increased by one grower member and that the members in the independent or unaffiliated category of membership be decreased by one grower member. Presently, there are two other cooperative member positions (one grower and one handler and their respective alternates) and three independent positions (two growers and one handler and their respective alternates).

The authority for the committee's recommendation is contained in § 907.29(n) of the marketing order which states that the committee is authorized, with the approval of the Secretary, "to reapportion the number of grower members or handler members on the Navel Orange Administrative Committee who are nominated pursuant to § 907.22(c) and (d). Any such reapportionment shall be based, insofar as practicable, upon the proportionate amount of navel oranges handled by the respective types of marketing organizations: Provided, That each of the grower groups described in § 907.22(c) and (d) shall be entitled to nominate at least one grower member and one handler member together with their respective alternates." As of July 24, 1986, for the 1985-86 corp year, other cooperative marketing organizations handled 26.67 percent (12,800,500 cartons) of the navel oranges shipped to fresh domestic markets while independents handled 22.49 percent (10,789,294 cartons).

Therefore, § 907.102 would be revised to reflect the reapportionment of committee members in the other cooperative and independent categories of membership to more accurately reflect industry representation. Miscellaneous non-substantive technical changes are also proposed to § 907.102, including deleting language, to conform the revised section to the provisions of the present § 907.104(a). In addition, paragraph (b) of § 907.104, which provides for selection of committee members, alternates, and additional alternates is proposed to be removed because it is unneccesary. The remaining portion of the section would be redesignated as is appropriate.

Comments on this proposal will be accepted until September 9, 1986. A 15-day comment period is considered adequated because: (1) The final rule should be issued prior to the beginning of the 1986-88 committee term which begins October 1, 1986; (2) the current term of office for committee members will expire on September 30, 1986, and nomination meetings need to be held

prior to that time; (3) a new committee should be appointed prior to the completion of deliberations on the policy for the 1986–87 navel orange season; and (4) § 907.26(n) of the order authorizes the committee, with the approval of the Secretary, to reapportion the number of grower or handler members on the committee; in this instance the proportionate amount of navel oranges handled by the respective types of marketing organizations has shifted enough to require a change in committee represention.

List of Subjects in 7 CFR Part 907

Marketing agreements an orders, California, Arizona, Oranges, Navels.

For the reasons set out in the preamble, Title 7, Chapter IX of the Code of Federal Regulation is proposed to be amended as follows:

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. The authority citation for 7 CFR Part 907 continues to read as follows:

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

2. Section 907.102 is proposed to be amended by revising paragraphs (a)(2), paragraph (a)(3) introductory text, and (a)(3)(viii) to read as follows:

§ 907.102 Nomination procedure.

(a) * * *

(2) All cooperative marketing organizations which are not qualified to nominate member and alternate members pursuant to § 907.22(b), or the growers affiliated therewith, shall nominate two grower members, two alternate grower members, two additional altelrnate grower members, one handler member, one alternate handler member, and one additional alternate handler member of the committee. The vote of each such organization shall be weighted, as provided in § 907.22(e), by the quantity of oranges which it handled during the marketing year in which the nominations are made.

(3) All growers referred to in § 907.22(d) shall nominate one grower member, one alternate grower member, one additional alternate grower member, one handler member, one alternate handler member, and one additional alternate handler member, in accordance with the following procedures: * * *

(viii) The name of the person receiving the highest total number of votes for a particular grower or handler position shall be submitted to the Secretary as the nominees for such positions.

* * * * *

3. Section 907.104 is proposed to be revised to read as follows:

§ 907.104 Selection criteria.

For purposes of this part, the term "cooperative marketing organization" shall mean an association of producers (i.e. growers) that:

(a) Is qualified as a Capper-Volstead cooperative under the provisions of the Act of the Congress of February 18, 1922, known as the "Capper-Volstead Act," (7 U.S.C. 291, 292); and

(b) Markets oranges regulated under this part, or performs handling functions as defined in § 907.10 for the producers thereof.

Dated: August 20, 1986.

Eric M. Forman,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 86–19160 Filed 8–22–86; 9:56 am]

BILLING CODE 3410-02-M

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7 CFR Part 1079

Proposed Temporary Revision of Shipping Percentage; Milk in the Iowa Marketing Area

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal to relax temporarily certain provisions of the Iowa Federal milk order. The proposed action would relax for September, October and November 1986 the supply plant shipping requirements. This action was requested by the operator of a pool supply plant who ships milk to distributing plants regulated by the order.

DATE: Comments are due not later than September 2, 1986.

ADDRESS: Comments (two copies) should be sent to: Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: The Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact on certain milk handlers and would tend to assure that the market would be adequately supplied with milk for fluid use with a smaller proportion of milk shipments from pool supply plants.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1079.7(b)(1) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Iowa marketing area, 7 CFR Part 1079, is being considered for the months of September, October and November 1986.

All persons who desire to submit written data, views or arguments about the proposed revision should send two copies of their views to the Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250, by the 7th day after publication of this notice in the **Federal Register.** The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include September 1986 in the temporary revision.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The provisions proposed to be revised are the supply plant shipping percentages for the months of September, October and November 1986. The proposed action would reduce the shipping requirement 10 percentage points from the present 35 percent to 25 percent.

Pursuant to the provisions of § 1079.7(b)(1), the supply plant shipping percentages set forth in § 1079.7(b) may be increased or decreased by up to 10 percentage points during any month to encourage additional milk shipments to pool distributing plants or to prevent uneconomic shipments.

Beatrice Companies, Inc. (Beatrice), on behalf of Beatrice Cheese, requested this action in order to prevent uneconomic shipments of milk during September, October and November 1986. Beatrice said that marketwide producers receipts during the April through June 1986 period showed an increase each month over the same month of 1985. The monthly increases for this period cited by Beatrice were 8.5, 6.7 and 12.9 percent, respectively. Beatrice indicated that receipts at their

supply plant for this same period have been approximately 8 percent higher than in 1985. Beatrice also indicated that without a downward revision in the supply plant shipping standards, it would have to uneconomically backhaul approximately 3.5 to 3.8 million pounds of milk per month in order to pool this milk.

The petitioners stated that distributing plants could be adequately served if supply plant shipping requirements were lowered to 25 percent. Beatrice said that thus there will be no need for supply plants to ship as much as 35 percent of their producer receipts and that a temporary lowering of the supply plant shipping requirement to a 25 percent shipping standard, is needed to prevent uneconomic shipments of fluid milk.

On July 29, 1986, the Deputy Administrator invited comments on a proposal by Associated Milk Producers, Inc. (AMPI), to suspend the supply plant shipping requirements for September through November. If that action were granted, there would be no need to consider Beatrice's request. However, AMPI has withdrawn the request to suspend the shipping requirements. Therefore, comments are sought concerning whether it may be appropriate to relax the aforementioned provisions of § 1079.7(b) for the months of September, October and November 1986 to prevent uneconomic shipments of milk.

List of Subjects in 7 CFR Part 1079

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1079 continues to read as follow:

Authority: Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674.

Signed at Washington, DC, on August 19, 1986.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 86–19105 Filed 8–22–86; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 86–070]

Change in Disease Status of Belgium Because of African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations concerning the importation into the United States of pork and pork products by removing Belgium from the list of countries regulated because of African swine fever (ASF). It has been determined that ASF has now been eradicated from Belgium. The effect of the adoption of this proposal would be to remove certain restrictions on the importation into the United States of pork and pork products derived from swine of Belgian origin. For example, Belgian processing establishments seeking to export to the United States could use pork of Belgian origin. However, Belgium is not included in the lists of countries declared to be free of rinderpest and foot-and-mouth disease, hog cholera, and swine vesicular disease. Therefore, even if the proposal is adopted, the restrictions imposed because of these diseases would remain in effect for Belgium, and pork and pork products would, among other things, still have to be heat treated or cured as a condition of importation into the United States.

DATE: Written comments must be received on or before October 24, 1986.

ADDRESSES: Written comments should be submitted to Steven R. Poore, Acting Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 86–070. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, Import-Export Animals and Emergency Planning Staff, VS, APHIS, USDA, Room 805, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8499.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 94 (referred to below as the regulations), among other things, regulate the importation into the United States of pork and pork products in order to prevent the introduction into the United States of African swine fever (referred to below as ASF). ASF is potentially the most dangerous and destructive of all communicable swine diseases. The causative virus is highly virulent and may be present in swine, pork, and pork products originating in countries where the disease exists.

Section 94.8 of the regulations restricts the importation into the United States of pork and pork products from listed countries in which ASF exists or the Administrator of the Animal and Plant Health Inspection Service has reason to believe the disease exists because of the following factors:

1. When a country allows the importation of host animals, pork or pork products or vectors of the disease from a country affected with African swine fever under conditions less stringent than those prescribed for importing host animals, pork or pork products or vectors of the disease into the United States from a country affected with African swine fever; or

2. When a country allows the movement or use of African swine fever virus or cultures under conditions less stringent than those prescribed for similar movements or use into or within the United States; or

3. The proximity of a country to another country or countries with known outbreaks of African swine fever; or

4. A country's lack of a disease detection, control or reporting system capable of detecting or controlling the disease and reporting it to the United States in time to allow this country to take appropriate action to prevent the introduction of African swine fever into this country; or

5. Any other factor or circumstance found to exist which constitutes a risk of introduction of the disease into the United States.

The restrictions in § 94.8 on the importation of pork and pork products from listed countries are designed to ensure that the pork or pork products are cooked or heated sufficiently to destroy organisms capable of spreading ASF.

On March 8, 1985, the Department was notified by the International Office of Epizootics that an outbreak of ASF has been diagnosed in swine in Belgium. Belgium was added on March 12, 1985 (50 FR 10752–10753), to the list of countries regulated because of ASF. That same year the government of Belgium began an eradication program which included slaughter of swine confirmed or suspected of having ASF, and cleaning and disinfection of the farms and buildings housing such swine. Based on surveys, it has been determined that the last case of ASF in Belgium was diagnosed May 22, 1985.

The Department recently received a request from the Belgian Ministry of Agriculture that the regulations be amended by removing Belgium from the list of countries regulated because of ASF based on the assertion that ASF no longer exists in Belgium. Based on information furnished by Belgium and a review of Belgium's eradication and reporting methods, it has been determined that there is no reason to

believe that ASF exists in Belgium. Therefore, this document proposes to remove Belgium from the list of countries in which ADF exists or is reasonably believed to exist.

Effect of Adoption of This Proposal

The regulations in § 94.8 currently restrict the importation into the United States of pork and pork products from countries in which ASF exists or countries in which the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, has reason to believe ASF exists.

If the proposal were adopted, pork or pork products from Belgium would no longer be subject to the restrictions in § 94.8. Section 94.8 requires, among other things, that the processing establishment obtain all pork or pork products from countries recognized by the Department as free of African swine fever. However, the importation into the United States of pork and pork products derived from swine of Belgian origin would remain subject to the provisions in Part 94 imposed because of rinderpest and foot-and-mouth disease, hog cholera, and swine vesicular disease. These provisions, among other things, require that pork or pork products from Belgium be heat treated or cured as a condition of importation.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this rule would not have a significant annual effect on the economy; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any 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.

In the year prior to the 1985 outbreak of ASF less than three-tenths of one percent of the pork and pork products imported into the United States came from Belgium. It is, therefore, anticipated that insignificant quantities of pork and pork products would be imported into the United States from Belgium as a result of the adoption of this proposal.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Under the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR 3015, Subpart V).

List of Subjects in 9 CFR Part 94

African swine fever, Animal disease, Exotic Newcastle disease, Foot-and-mouth disease, Fowl pest, Garbage, Hog cholera, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, Rinderpest, Swine vesicular disease.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, it is proposed to amend 9 CFR Part 94 as follows:

1. The authority citation for Part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

§ 94.8 [Amended]

2. The introductory paragraph is § 94.8 would be amended by removing "Belgium."

Done at Washington, D.C., this 19th day of August 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-19106 Filed 8-22-86; 8:45 am]
BILLING CODE 3410-34-M

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9 CFR Part 113

[Docket No. 86-053]

Viruses, Serums, Toxins, and Analogous Products; Standard Requirements for Pasteurella Multocida Bacterin, Avian Isolate

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed amendment would revise the regulations by reducing the number of birds required to conduct the potency test for Pasteurella Multocida Bacterin, Avian Isolates, Types 1, 3, and 4. The regulations currently requires at least 60 birds to complete a potency test for each of the three types. Licensees producing bacterins containing all three types must use 180 birds to complete the potency test for each serial of the product. This proposed amendment would reduce the number of birds in the potency test by 50 percent without reducing the validity of the potency test and with little additional risk of unsatisfactory test results due to an undetected overchallenge.

DATE: Comments must be received on or before October 24, 1986.

ADDRESS: Interested parties are invited to submit written date, views, or arguments regarding the proposed regulations to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, Senior Staff Veterinarian, Veterinary Biologics Staff, VS, APHIS, USDA, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7760.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This proposed rule contains no new or amended recordkeeping, reporting, or application requirements or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This proposed action has been reviewed under USDA procedures established in Department Regulation 1512-1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

The proposed rules would not have a significant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic markets.

Certification Under the Regulatory Flexibility Act

The Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities. Its purpose is to reduce regulatory burdens on the affected industry by reducing the number of birds required to be used in potency tests without compromising the validity and reliability of such tests.

Background

Standard requirements consist of test methods, procedures, and criteria established by Veterinary Services (VS) for evaluating biological products for purity, safety, potency, and efficacy. When standard requirements for Pasteurella Multocida Bacterins, Avian Isolates, Types 1, 3, and 4, were developed, the knowledge available at that time supported the need to employ at least 60 birds in potency test procedures for each of the three types. The potency test currently requires 20 birds to be vaccinated with the test bacterin according to label recommendation; 20 birds to be vaccinated with two doses of a reference bacterin available from Veterinary Services; and, 20 birds to be retained as unvaccinated controls. Therefore, a licensee manufacturing a bacterin containing all three types of isolates must utilize at least 180 birds in potency tests for each serial of product. Each group of test birds is challenged 14 days after the second injection. The 20 birds injected with the reference bacterin act as positive controls in each group. The purpose of the positive controls is to assure that an overchallenge has not occurred.

Manufacturers of these bacterins petitioned the Agency to reduce the number of birds required for the potency tests. In response to this request, the Agency conducted a statistical analysis of data from at least 225 potency tests representing each of the three avian isolate types. Although there were differences in overall test results between firms, the actual rate of failure was very low in each case. The data were also examined to determine the effect of reducing the total number of birds, and the best alternative to reducing the number of birds. From this evaluation it appeared that an acceptable reduction in the number of birds could be achieved by making changes in the two control groups. The results obtained in the negative control groups indicate that each challenge has been at least 80 percent effective in almost every case. The data indicate that there would be little additional risk in meeting the validity requirements with 10 rather than 20 negative controls. Although the reference bacterin occasionally fails to protect at least 12 of the 20 birds, the result is seldom used to declare the test invalid due to an overchallenge. The reason for this is the low incidence of test bacterins failing to protect the required number of vaccinated birds. This suggests that overchallenge is not a significant problem in this test and that the reference bacterin test could be eliminated or made optional. More specifically, this revision of the regulations would provide that the use of the reference would be deleted from the Standard Requirements, but the manufacturer could retain the option to include the reference if desired to validate a test. This option could be retained through provisions in the Outline of Production.

Current knowledge and experience with testing these products are the basis for the Agency proposing these changes. Therefore, by deleting the reference bacterin test which uses 20 birds as positive controls and by reducing the unvaccinated (negative) control group from 20 to 10 birds, the total number of birds currently required would be reduced by 50 percent. This reduction would result in a significant reduction in the cost of testing without significantly affecting the validity of the potency test and with only a minimum risk of unsatisfactory test results due to an undetected overchallenge.

List of Subjects in 9 CFR Part 113

Animal biologics.

PART 113—STANDARD REQUIREMENTS

Accordingly, 9 CFR Part 113 would be amended as follows:

1. The authority citation for Part 113 continues to read as follows:

Authority: 21 U.S.C. 151–158; 7 CFR 2.17, 2.51 and 371.2(d).

2. Section 113.101 would be amended by removing paragraph (c)(7) and revising paragraphs (c)(2) through (c)(6) as follows:

§ 113.101 Pasteurella Multocida Bacterin, Avian Isolate, Type 4.

* * * * *

(c) * * *

(2) *Unvaccinated Controls.* Each of not more than 11 turkeys shall be held as controls.

(3) *Challenge.* Not less than 14 days after the second dose, each of 20 vaccinates, and each of 10 unvaccinated controls shall be challenged intramuscularly with virulent *Pasteurella multocida*, Strain P–1662, Type 4 (Little and Lyons classification) and observed daily for a 14-day postchallenge period. Only dead birds shall be considered in evaluating the product.

(4) *Validity requirements.* Eight or more unvaccinated controls must die for the test to be valid. If this requirement is met, the potency test results are evaluated according to stage one of the following table. The test is inconclusive and may be repeated if the validity requirement is not met, but the serial is unsatisfactory if the test is not repeated.

Stage	Number of vaccinates	Cumulative number of vaccinates	Cumulative total number of dead vaccinates for—	
			Satisfactory serial	Unsatisfactory serial
1	20	20	6 or less	9 or more.
2	20	40	15 or less	16 or more.

(5) The serial shall pass or fail based on the stage one results of the potency test. However, the second stage may be conducted if seven or eight vaccinates die in stage one, but the serial is unsatisfactory if the second stage is not conducted.

(6) The second stage shall be conducted in a manner identical to the first stage. The serial shall be evaluated according to stage two of the table. On the basis of accumulated results from the data of both stage tests, a serial shall either pass or fail the second stage.

2. Second 113.102 would be amended by removing paragraph (c)(7) and revising paragraphs (c)(2) through (c)(6) as follows:

§ 113.102 Pasteurella Multocida Bacterin, Avian Isolate, Type 1.

* * * * *

(c) * * *

(2) *Unvaccinated controls.* Each of not more than 11 chickens shall be held as controls.

(3) *Challenge.* Not less than 14 days after the second injection, each of 20 vaccinates and each of 10 unvaccinated controls shall be challenged intramuscularly with a minimum of 250 colony-forming units of virulent *Pasteurella multocida*, Strain K–78, Type 1 (Little and Lyons Classification)

and observed daily for a 14-day postchallenge period. Only dead birds shall be considered in evaluating the product.

(4) *Validity requirements.* Eight or more unvaccinated controls must die for the test to be valid. If these requirements are met, the potency test results are evaluated according to stage one of the following table. The test is inconclusive and may be repeated if the validity requirements are not met, but the serial is unsatisfactory if the test is not repeated.

Stage	Number of vaccinates	Cummulative total number of vaccinates	Cummulative total number of dead vaccinates for—	
			Satisfactory serial	Unsatisfactory serial
1	20	20	6 or less	9 or more.
2	20	40	15 or less	16 or more.

(5) The serial shall pass or fail based on the stage one results of the potency test. However, the second stage may be conducted if seven or eight vaccinates die in stage one, but the serial is unsatisfactory if the second stage is not conducted.

(6) The second stage shall be conducted in a manner identical to the first stage. The serial shall be evaluated according to stage two of the table. On the basis of accumulated results from the data of both stage tests, a serial shall either pass or fail the second stage.

3. Section 113.103 would be amended by removing paragraph (c)(7) and revising paragraphs (c)(2) through (c)(6) as follows:

§ 113.103 Pasteurella Multocida Bacterin Avian Isolate, Type 3.

* * * * *

(c) * * *

(2) *Unvaccinated controls.* Each of not more than 11 turkeys shall be held as controls.

(3) *Challenge.* Not less than 14 days after the second injection, each of 20 vaccinates, and each of 10 unvaccinated controls shall be challenged intramuscularly with a minimum of 150 colony-forming units of virulent *Pasteurella multocida,* Strain P–1059, Type 3 (Little and Lyons Classification) and observed daily for a 14 day postchallenge period. Only dead birds shall be considered in evaluating the product.

(4) *Validity requirements.* Eight or more unvaccinated controls must die for the test to be valid. If these requirements are met, the potency test results are evaluated according to stage one of the following table. The test is inconclusive and may be repeated if the validity requirements are not met, but the serial is unsatisfactory if the test is not repeated.

Stage	Number of vaccinates	Cummulative total number of vaccinates	Cummulative total number of dead vaccinates for—	
			Satisfactory serial	Unsatisfactory serial
1	20	20	6 or less	9 or more.
2	20	40	15 or less	16 or more.

(5) The serial shall pass or fail based on the stage one results of the potency test. However, the second stage may be conducted if seven or eight vaccinates die in stage one, but the serial is unsatisfactory if the second stage is not conducted.

(6) The second stage shall be conducted in a manner identical to the first stage. The serial shall be evaluated according to stage two of the table. On the basis of accumulated results from the data of both stage tests, a serial shall either pass or fail the second stage.

Done at Washington, DC, this 19th day of August 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86–19107 Filed 8–22–86; 8:45 am]

BILLING CODE 3410–34–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 100

Seismic and Geologic Siting Criteria for Nuclear Power Plants; Reassessment of Current Criteria

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting and request for comments.

SUMMARY: The Nuclear Regulatory Commission is initiating a reassessment of its current seismic and geologic siting criteria for nuclear power plants. The NRC is taking this action in view of the experience gained in applying the current procedures and because of state-of-the-art advance that have been made in earth sciences since the promulgation of the regulations setting forth these criteria.

DATES: Submit written comments by September 22, 1986. Public meetings to be held on October 7, 8, and 9, 1986.

ADDRESSES: Submit written comments to: The Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Public meetings to be held at the Ramada Inn, Route 28 and I–270, Rockville, Maryland. Copies of comments received will be available for inspection in the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Leon Beratan, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443–7671.

SUPPLEMENTARY INFORMATION: The Atomic Energy Commission published Appendix A, "Seismic and Geologic Siting Criteria for Nuclear Power Plants," to 10 CFR Part 100, "Reactor Site Criteria," as a rule in 1973 (C38 FR 2575; November 27, 1973). In view of the experience gained in the application of the procedures and methods set forth therein, and the advancement of the state-of-the-art of earth sciences, the NRC staff has initiated a reassessment of Appendix A to determine the need for its revision.

To aid the staff in this reassessment, all interested persons are invited to submit information, comments, and suggestions. The staff is interested in learning both about the problems that may have been encountered in applying Appendix A and about those portions

that may have been particularly helpful in its application. Commenters are invited to describe these in detail, to suppport their conclusions and, if they can, to recommend corrective actions.

In addition to soliciting written comments on Appendix A, the staff plans to hold a public meeting on this subject to provide all interested parties an opportunity to express their views and present information to the staff. The meeting is scheduled for October 7, 8, and 9, 1986, at the Ramada Inn (Route 28 and I-270), Rockville, Maryland, starting at 8:30. Parties are requested to notify the staff of their intention to speak at the meeting and/or attend the meeting. Specific details for the time and place of the meeting will be provided to all parties requesting the information.

Dated at Rockville, Md. this 19th day of August 1986.

For the Nuclear Regulatory Commission.

Denwood F. Ross, Jr.,

Acting Director, Office of Nuclear Regulatory Research.

[FR Doc. 86-19154 Filed 8-22-86; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 523

[No. 86-853]

Liquidity Requirements; Withdrawal of Proposed Amendment

Date: August 15, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule; withdrawal.

SUMMARY: On April 24, 1986, the Board proposed to amend its regulations governing the liquidity requirements applicable to institutions which are members of the Federal Home Loan Bank system or the accounts of which are insured by the Federal Savings and Loan Insurance Corporation. *See* Board Res. No. 86-428, 51 FR 16536 (May 5, 1986). At that time, the Board invited comment on its liquidity proposal. Many commenters responded with thoughtful letters addressing the issues covered by the proposal and suggesting alterations to some of its provisions, including modifications to simplify the provisions of the proposal.

The Board has decided to study further the issues raised by the commenters before determining whether and in what manner to propose to amend its current liquidity regulations. Accordingly, today the Board is withdrawing in its entirety the proposed amendments to the liquidity regulations contained in its Resolution No. 86-428. The Board does not contemplate taking any further action with respect to liquidity at this time.

DATE: This withdrawal is effective August 15, 1986.

FOR FURTHER INFORMATION CONTACT: Ben F. Dixon, (202) 377-6399, Financial Analyst, Office of Examinations and Supervision; Donald G. Edwards, (202) 377-6914, Director, General Research Division, Office of Policy and Economic Research; or Karen Knopp O'Konski, (202) 377-7240, Attorney, Regulations and Legislation Division, Office of General Counsel; Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-19053 Filed 8-22-86; 8:45 am]

BILLING CODE 6720-01-M

12 CFR Part 563

Loans to One Borrower

Dated: August 15, 1986.

AGENCY: Federal Home Loan Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), proposes to amend its regulation pertaining to loans to one borrower in a number of ways, most significantly to reduce the amount of aggregate loans to one borrower that may be made by an institution the accounts of which are insured by the FSLIC ("insured institution"). The proposal is intended to reduce risk to insured institutions and the FSLIC without depriving institutions of appropriate operational flexibility. To this end, the Board invites comment on all aspects of the proposal, including alternatives to it.

DATE: Comments must be received on or before October 24, 1986.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Michael D. Solomon, Attorney, Regulations and Legislation Division, Office of General Counsel, (202) 377-6432, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: Pursuant to its authority under Title IV of the National Housing Act ("NHA"), 12 U.S.C. 1724-30, to issue regulations relating to safe and sound practices of insured institutions, the Board for many years has imposed limitations on the amount of credit an insured institution may extend to one borrower. The loans-to-one-borrower limitations are currently codified at 12 CFR 563.9-3 ("section 563.9-3"). The Garn-St Germain Depository Institutions Act of 1982 ("Garn-St Germain"), Pub. L. No. 97-320, 96 Stat. 1469, superimposed a new layer of loans-to-one-borrower restrictions on existing Board regulations by providing that Federal associations may not make commercial loans to one borrower in excess of the amount that a national bank with identical total capital and surplus could loan to one borrower. 12 U.S.C. 1464(c)(1)(R). This particular restriction is codified for all insured institutions at § 563.9-3(b)(2).

Among the paramount purposes of Title IV of the NHA and the Federal Home Loan Bank Act, 12 U.S.C. 1421-29, is the development and maintenance of a system of sound and economical home financing. An additional and closely related purpose of the NHA is the protection of the FSLIC fund from undue risk. It has been the Board's longstanding position, supported by legislative history and prior administrative practice, that the NHA authorizes the Board to regulate all insured institutions, whether federally or state-chartered, in furtherance of these two purposes. Section 402(a) of the NHA, 12 U.S.C. 1725(a), empowers the Board to prescribe rules and regulations "for carrying out the purposes of [the Act]."

Since this proposed rulemaking is designed to maintain safe, sound, and economical home financing, as well as to protect the FSLIC fund from undue risk, the proposal carries out the purposes of the NHA and consequently represents a permissible exercise of regulatory authority under section 402(a).

Moreover, under section 407 of the NHA the Board has the authority to terminate insurance coverage entirely, 12 U.S.C. 1730(b), and to initiate cease-and-desist proceedings pursuant to "rules and regulations" promulgated by the Board, 12 U.S.C. 1730(m), in order to prevent "unsafe or unsound practices" that threaten the integrity of insured institutions and, hence, of the FSLIC fund. These powers encompass the less drastic power to prevent unsafe or unsound practices through regulations such as those amendments to the loans-to-one-borrower rule.

On October 17, 1985, the Board amended § 563.9–3, adopting portions of the "common enterprise" test similar to that utilized by the Office of the Comptroller of the Currency to determine when loans to separate borrowers must be combined; clarifying that a second tier of entities is considered "one borrower"; creating an exception from the lending limitations for loans to service corporations; expanding the types of investments that may be made in commercial paper and corporate debt securities of one issuer; and clarifying other miscellaneous matters. Board Res. No. 85–936, 50 FR 45089 (Oct. 30, 1985). That amendment left intact the § 563.9–3(b)(1) authority of an institution to have outstanding aggregate loans to one borrower in an amount equal to the lesser of its net worth or 10 percent of its withdrawable accounts or, if greater than the lesser of these two amounts, $500,000 (adjusted annually to reflect movement in the Consumer Price Index ("CPI")).

The Board believes that the current limitation on aggregate loans to one borrower may no longer adequately restrain unsafe or unsound practices. Specifically, the Board notes that under the current rule even a single disastrous loan by an insured institution could deplete its entire net worth. The Board has long placed great emphasis on the economic premise that prudent portfolio diversification can reduce risk (*see, e.g.*, H.M. Markowitz, *Portfolio Selection*, 7 Journal of Finance 77 (March 1952)), and it believes that the proposed revisions to its loans-to-one-borrower regulation would better address safety and soundness concerns by requiring greater portfolio diversification without increasing credit risk. Both theory and the Board's experience with critical losses to insured institutions and to the FSLIC fund resulting from large loans support the proposal as a reasonable and necessary means of promoting prudent diversification in an institution's portfolio and reducing overall risk.

To protect against the hazard of large loans, and thereby reduce risk to national banks (and, since its creation, their federal insurer, the Federal Deposit Corporation), Congress has, since the 1906 enactment of section 5200 of the Revised Statutes (later codified at 12 U.S.C. 84), imposed a strict limitation upon loans to one borrower by national banks. National banks are prohibited from lending to one borrower more than an amount equal to 25 percent of their unimpaired capital and surplus. As the Board noted above, its current rule incorporates this standard for commerical loans by insured institutions.

Many insured institutions—particularly *de novo* and rapidly growing institutions chartered by the states that have granted them very liberal commercial lending and equity investment powers—have in the recent past pursued investment strategies that may pose credit risk comparable to that associated with the asset portfolios of commercial banks. Therefore, the Board is proposing to extend to thrift institutions the diversification requirement that has applied to national banks for 80 years by reducing from 100 percent to 25 percent of net worth the amount of aggregate loans that an insured institution may make to one borrower.

In placing this proposal before the public, the Board's objective is to initiate a process of comment and analysis that will enable the Board to establish a new loans-to-one-borrower limitation on aggregate loans that will promote safety and soundness without unduly limiting the business discretion of well-managed institutions committed to home financing. This is especially important to the Board because, notwithstanding the shift in investment strategies pursued by many thrifts, most insured institutions continue to have asset portfolios that are significantly committed to home loans, which have historically posed less credit risk than the unsecured commercial loan portfolios of banks. Accordingly, the Board is aware that reducing the aggregate amount of loans to one borrower that an insured institution may make from 100 percent to 25 percent of net worth may well be too severe.

The Board therefore invites suggestions as to whether a lesser reduction in the limitation on aggregate loans to one borrower would better achieve the Board's twin goals of reducing risk to insured institutions and the FSLIC and of preserving for institutions an appropriate degree of operational flexibility. Specifically, the Board seeks comment on (1) whether the proposed 25 percent of net worth aggregate lending authority is too low, (2) whether a separate limitation should be established for loans secured by a single real estate project that is more or less restrictive than the proposed limitation on aggregate loans to one borrower, (3) whether it is feasible to establish criteria—and if so, what criteria—for a waiver, upon appropriate application, of the proposed aggregate limitation, and (4) whether it is feasible to establish a higher maximum aggregate limitation for certain classes of institutions based upon criteria such as their capital strength. In addition, the Board solicits comment as to whether the lending limitations of the rule—whether aggregate or otherwise—should be applied to loans made by service corporation subsidiaries of insured institutions as a means of preventing circumvention of the rule.

The Board also is proposing to eliminate the alternative aggregate amount for loans to one borrower of 10 percent of withdrawable accounts if less than net worth. This alternative amount is only rarely less than net worth and, moreover, it is an inappropriate measure in that withdrawal accounts have no necessary relationship to net worth.

Under the proposed rule all insured institutions would retain the present authority to have outstanding loans to one borrower in an aggregate amount equal to $500,000 if that amount is greater than 25 percent of an institution's net worth. However, the Board proposes to eliminate the annual adjustment of this $500,000 amount to reflect movement in the CPI because the automatic adjustment of this minimum lending authority in the absence of a specific Board determination is inappropriate.

Finally, the Board proposes to modify the rule's definition of the term "outstanding loans" in two respects. First, the Board proposes to clarify that the term "outstanding loans" includes funds an institution is obligated to advance under an executed promisssory note, regardless of whether such funds are accounted for or deemed to be other than a loan (for example, an "investment") for any other purpose, unless the loan is subject to a legally binding overline purchase commitment of another person. Second, the Board proposes to expand the term "outstanding loans" to include the amount of funds "wrapped" as well as advanced by the institution in a "wraparound" loan.

The first proposed change is merely a classification that funds classified as an "investment" pursuant to § 571.17 or other accounting requirements are still a "loan" for purposes of § 563.9–3 if an obligor has executed a note and is responsible for repaying debt to the insured institution. The second proposed change would recognize the institution's true potential exposure on a wraparound loan. Including not only the funds advanced but also the portion wrapped in the total of outstanding loans to one borrower would recognize that in order for an institution to avoid losing its investment in a loan it must

sometimes purchase the liens which are wrapped by its loan.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objectives, and legal basis underlying the proposed rule.* These elements are incorporated above in **SUPPLEMENTARY INFORMATION.**

2. *Small entities to which the proposed rule would apply.* The Small Business Administration defines a small financial institution as "a commercial bank or savings and loan association, the assets of which, for the preceding fiscal year, do not exceed $100 million." 13 CFR 121.13(a). Therefore, the proposed rule would apply to the 1,742 insured institutions that had assets totaling $100 million or less as of December 31, 1985.

3. *Impact of the proposed rule on small entities.* The proposal should not have a significant economic impact on small institutions. The $500,000 floor for aggregate loans to one borrower would remain, although the proposal would reduce this floor from the CPI adjusted amount, which as of November 1985 was $555,960. All institutions—including small ones—should benefit from the safety and soundness resulting from the greater portfolio diversification required by the proposal.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rule.* In the above **SUPPLEMENTARY INFORMATION** the Board is soliciting comment on possible alternatives to the rule as proposed.

List of Subjects in 12 CFR Part 563

Bank deposit insurance, Investments, Reporting and recordkeeping requirements, Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Part 563, Subchapter D, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

Subchapter D—Federal Savings and Loan Insurance Corporation

PART 563—OPERATIONS

1. The authority citation for Part 563 continues to read as follows:

Authority: Sec. 10, 47 Stat. 725, as amended (12 U.S.C. 1421 *et seq.*); sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 4, 80 Stat. 824, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425b and 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 202, 96 Stat. 1489, as amended (12 U.S.C. 1729(f)); secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

§ 563.9–3 [Amended]

2. Section 563.9–3(a)(2) is amended by indenting paragraphs (i) through (v) and by capitalizing the first letter of the first word of each such paragraph; by starting the sentence beginning "The term does not include . . ." flush with the left margin on the next line after the conclusion of paragraph (v); and by revising the last sentence of the section to read as follows: "The amount of an outstanding "wraparound" loan is determined by the sum of the amount of obligations secured by all liens on the security property prior to the institution's lien and the amount of funds advanced by the institution.".

3. Paragraph (a)(2)(ii) of §563.9–3 is revised to read as follows:

§ 563.9–3 Loans to one borrower.

(a) * * *

(2) * * *

(ii) Funds an insured institution has an obligation to advance under an executed promissory note, regardless of whether such funds are accounted for or deemed to be other than a loan for any other purpose, unless the loan is subject to a legally binding overline purchase commitment of another person;

* * * * *

4. Section 563.9–3(b)(1) is revised to read as follows:

§ 563.9–3 Loans to one borrower.

* * * * *

(b) *Limitations.*—(1) *Aggregate loans.* No insured institution shall make any loan to one borrower if the sum of the amount of such loan and the total balances of all outstanding loans owed to such institution and its service corporation affiliates by such borrower exceeds an amount equal to the greater of twenty-five percent of such institution's net worth or $500,000.

* * * * *

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86–19138 Filed 8–22–86; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86–ANM–15]

Proposed Alteration of Federal Airways—Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of several Federal Airways located in the vicinity of Portland, OR, by revoking some segments and renumbering other segments. This action supports the FAA agreement with the International Civil Aviation Organization (ICAO) to eliminate all alternate route designations.

DATE: Comments must be received on or before October 9, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Northwest Mountain Region, Attention: Manager, Air Traffic Division, Docket No. 86–ANM–15, Federal Aviation Administration, 17900 Pacific Highway South, C–68966, Seattle, WA 98168.

The official docket may be examined in the Rule Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

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

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. 86–ANM–15." 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 Rules Docket 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's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. 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 Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of several VOR Federal Airways located in the vicinity of Portland, OR, by deleting all alternate route designations from the National Airspace System. In addition, some airway segments would be revoked and other segments would be renumbered. This action supports the FAA agreement with the International Civil Aviation Organization (ICAO) to eliminate all alternate airway designations from the National Airspace System. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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, VOR Federal airways.

The Proposed Amendment

PART 71—[AMENDED]

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

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V–112 [Amended]

By removing the words "including a S alternate from Portland via the Portland 110° and The Dalles 255° radials to The Dallas;"

V–520 [Amended]

By removing the words "From Portland, OR, via The Dallas, OR;" and by substituting the words "From Portland, OR, via INT Portland 110°T(089°M) and The Dallas, OR, 225°T(234°M) radials; The Dalles;"

V–121 [Amended]

By removing the words "Redmond, OR; including a N alternate via Eugene 069° and Redmond 281° radials;" and by substituting the words "Redmond, OR;"

V–269 [Amended]

By removing the words "to Redmond, OR." and by substituting the words "Redmond, OR; INT Redmond 281°T(261°M) and Eugene, OR, 069°T(049°M) radials; to Eugene.

V–287 [Amended]

By removing the words "Newberg, OR, including a west alternate from North Bend to Newberg via Newport, OR, Portland, OR, including an east alternate via INT Newberg 069° and Portland 196° radials;" and by substituting the words "Newberg, OR; Portland, OR;"

V–182 [Amended]

By removing the words "Portland, OR;" and by substituting the words "North Bend, OR, via Newport, OR; Newberg, OR; INT Newberg 069°T(048°M) and Portland, OR, 196°T(175°M) radials; Portland;"

Issued in Washington, DC, on August 18, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–19074 Filed 8–22–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Parts 71 and 73

[Airspace Docket No. 86–AGL–8]

Proposed Aleration of R–6901 Fort McCoy, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the boundaries and time of designation of Restricted Area R–6901 Fort McCoy, WI. The proposal would delete the southwest corner of the area to remove McCoy Army Airfield from restricted airspace and subdivide the remaining area into two separate restricted areas. In addition, the time of designation of the restricted airspace would be reduced.

DATES: Comments must be received on or before October 9, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 86–AGL–8, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Aeronautical Information Requirements Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration , 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9246.

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 proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. 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. 86–AGL–8." 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 Rules Docket 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's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. 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 amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to modify the boundaries and time of designation of R–6901 and to correct the title of the area in the Continental Control Area. The change would exclude McCoy Army Airfield (AAF) from R–6901, internally subdivide the remaining area into two separate restricted areas, and reduce the time of designation of the airspace. Under the proposal, the southwest corner of R–6901 would be deleted and the remaining area would be subdivided to form two separate restricted areas along a line where Wisconsin State Highway 21 crosses the area. R–6901A would be designated north of the highway and R–6901B would be established south of the highway. Removing McCoy AAF from the restricted area would facilitate the possibility of civil use of the airfield under a joint-use arrangement currently under study. The Department of the Army has determined that the majority of activities conducted in the present R–6901 occur in that portion of the area north of Wisconsin State Highway 21. Only occasional use is made of that section south of the highway. The proposed subdivision would facilitate the activation of only that airspace actually required by the using agency and allow the release of the unused portion for public access. Present and forecast use of the restricted area indicates that a "continuous" time of designation is no longer warranted. The proposed time of designation reduces the amount of time that the airspace is reserved. Specific times would be designated for R–6901A. R–6901B would be subject to only occasional use and therefore would be activated by NOTAM. The new times more accurately depict actual use and make the airspace available for public access when it is not required by the using agency. Sections 71.151 and 73.69 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an estimated 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 Parts 71 and 73

Aviation safety, Continental control area, Restricted areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.151 [Amended]

2. Section 71.151 is amended as follows:

R–6901 Camp McCoy, WI [Removed]
R–6901A Fort MCoy, WI [New]
R–6901B Fort MCoy, WI [New]

PART 73—[AMENDED]

3. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 73.6 [Amended]

4. Section 73.69 is amended as follows:

R–6901 Fort McCoy, WI [Removed]
R–6901A Fort McCoy, WI [New]
Boundaries. Beginning at lat. 44°08'40" N., long. 90°44'20" W.; to lat. 44°08'40" N., long. 90°40'22" W.; to lat. 44°09'36" N., long. 90°40'22" W.; to lat. 44°09'36" N., long. 90°36'50" W.; to lat. 44°00'27" N., long. 90°36'45" W.; west along Wisconsin State Highway 21; to lat. 44°00'03" N., long. 90°43'10" W.; to lat. 44°00'03" N., long. 90°44'40" W.; to lat. 44°02'45" N., long. 90°44'30" W.; to the point of beginning.
Designated altitudes. Surface to 20,000 feet MSL.
Time of designation. May 1 through September 30—Continuous; October 1 through April 30–0800–2200 Monday–Thursday and 0800 Friday–2200 Sunday; other times by NOTAM issued at least 24 hours in advance. Controlling agency. FAA, Minneapolis ARTCC.
Using agency. U.S. Army, Commanding Officer, Fort McCoy, WI.
R–6901B Fort McCoy, WI [New]
Boundaries. Beginning at lat. 44°00'03" N., long. 90°43'10" W.; east along Wisconsin State Highway 21; to lat. 44°00'27" N., long. 90°36'45" W.; to lat. 44°00'02" N., long. 90°36'35" W.; to lat. 44°00'02" N., long. 90°35'15" W.; to lat. 43°56'22" N., long. 90°35'22" W.; to lat. 43°56'22" N., long. 90°39'00" W.; to lat. 43°56'38" N., long. 90°41'00" W.; to lat. 43°56'44" N., long. 90°43'17" W.; to the point of beginning.
Designated altitudes. Surface to 20,000 feet MSL.
Time of designation. By NOTAM issued 24 hours in advance.
Controlling agency. FAA, Minneapolis ARTCC.

Using agency. U.S. Army, Commanding Officer, Fort McCoy, WI.

Issued in Washington, DC, on August 14, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-19073 Filed 8-22-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1917

[Docket No. S-506 B]

Servicing of Single Piece and Multi-Piece Rim Wheels at Marine Terminals

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) proposes to revise the Marine Terminals Standard, 29 CFR Part 1917, to include rules that address the servicing of both single piece and mutli-piece rim wheels.

Section 1917.44(o) of the current Marine Terminals Standards, which was published in 1983, includes rules for servicing multi-piece rim wheels, but not single piece rim wheels. In 1984 OSHA revised its General Industry Standard on multi-piece rim wheels, 1910.177, to add coverage for the servicing of single piece rim wheels. This proposed action will make the requirements of the revised General Industry Standard applicable at marine terminals.

DATE: Comments, objections and requests for hearing must be postmarked by September 24, 1986.

ADDRESS: Comments and requests for hearing should be sent to the Docket Officer, Docket No. S-506 B, U.S. Department of Labor, Room N-3670, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue NW., Washington, DC 20210, Telephone: (202) 523-8151.

SUPPLEMENTARY INFORMATION:

I. Background

On February 3, 1984, OSHA issued a final general industry standard on the servicing of single piece and multi-piece rim wheels (49 FR 4338). That action amended § 1910.177 by making minor revisions to the provisions for multi-piece rim wheels, and by adding provisions for the servicing of single piece rim wheels to the existing provisions for multi-piece rim wheels.

The Marine Terminals Standard, 29 CFR Part 1917, as published in 1983 (48 FR 30886), also included coverage for the servicing of multi-piece rim wheels (1917.44(o)). However, in that the revision of the general industry standard occurred subsequent to issuance of the final rule for marine terminals, single piece rim wheel coverage was not included within the framework of Part 1917. This rulemaking seeks to bridge that existing gap in coverage.

It has been OSHA's intent to undertake this action since the issuance of the Part 1910 single piece/mutli-piece final rule. In the preamble to that rule (49 FR 4342), the Agency stated the following:

> Subsequent to the proposal, OSHA has issued a Final Rule on Marine Terminals (46 FR 30886) which does not address single piece rim wheels. It is planned to include coverage of single piece rim wheels for maritime employment by further rulemaking.

Additionally, OSHA has been petitioned by both labor and management (Exs. 2, 3) to follow up on this intention.

The first of the petitions the Agency received came from Mr. Francis A. Scanlan, General Counsel of the National Maritime Safety Association (NMSA). In their petition, NMSA pointed to the need for addressing the servicing of single piece and multi-piece rim wheels at marine terminals stating: "Parallel requirements (to the general industry rim wheel standards) would eliminate any possible confusion and assure adequate protection regardless of where the servicing operation is being conducted." Further, it was noted that this proposed action is ". . . necessary and appropriate for tire servicing operations at marine terminals."

Similarly, Mr. Rudy Rubio, Vice President of the International Longshoremen's Union, petitioned on his organization's behalf stating: "The potential for injury to longshore maintenance and repair workers servicing single piece rim wheels is no different than that of workers in general industry."

This document proposes to amend Part 1917 by deleting the current multi-piece rim wheel servicing requirements in § 1917.44(o). In its place, OSHA is proposing to place a reference to the general industry standard for the servicing of multi-piece and single piece rim wheels, § 1910.177. As a result of that reference, § 1910.177 would be made applicable to marine terminals, and marine terminal employers would be required to comply with the provisions of that section in the same manner as any other Part 1917 standard. This reference would also be inserted into § 1917.1 and § 1910.16, which contain lists of the limited number of Part 1910 provisions having application at marine terminals. In addition, the proposal would also amend paragraph (a)(2) of § 1910.177, which currently indicates that the general industry standard does not apply to any maritime employment covered by Parts 1915-1918, to reflect that marine terminals covered by Part 1917 would not be covered by § 1910.177.

II. Hazards of Servicing Single Piece Rim Wheels

Based upon a review of available accident and injury data, OSHA has determined that the servicing of single piece rim wheels is a hazardous undertaking. This data (Ex. 4:2-13) compellingly supports OSHA's determination that employees involved in the servicing of single piece rim wheels are exposed to significant risk of serious injury.

A detailed discussion of the hazards associated with the servicing of single piece rim wheels is contained in the preamble to the final rule for general industry (49 FR 4338, February 3, 1984). That discussion, which is equally applicable to the servicing operations that take place at marine terminals, is incorporated by reference into this preamble.

To summarize that discussion, the principal hazard present during the servicing of single piece rim wheels is that the pressurized air contained in the tire may suddenly be released, either by the bead breaking or by the bead slipping over the rim flange. These incidents are caused by mismatching of the wheel and tire, by using damaged components, by failing to restrain the components, by welding on the wheel and/or improperly mounting the tire on the wheel. The resulting air blast is strong enough to hurl an employee who is in close proximity to the rim wheel, and positioned within the trajectory, across the workplace where the employee may suffer serious injury or death. When the pressurized air is released on the side of the rim wheel against a solid surface, the flexure of the tire can also propel the rim wheel itself across the workplace and into an employee in its path, also resulting in injury or death. The force exerted on the rim flange of a single piece wheel by a pressurized tire is comparable to that of

a tire mounted on a multi-piece wheel (e.g., a 10.00 × 20 tire, when inflated to 105 psi creates a force in excess of 40,000 pounds against the rim flange).

As noted above, the force of the pressurized air released from a single piece rim wheel is comparable to that force from a multi-piece rim wheel. The principal differences between accidents involving single piece rim wheels and those involving multi-piece rim wheels center around the reaction to the release of the pressurized air in the tire. In multi-piece rim wheel accidents, the wheel components separate and are released from the rim wheel with violent force. The primary agent of employee injury in multi-piece rim wheel separations is any of the individual components of the wheel, such as the lock ring, which can be propelled toward an employee with explosive force as the wheel components separate. In the single piece rim wheel accident, the air blast itself is another primary agent of injury. The severity of the hazard is not only related to the air pressure but also to the air volume. Employees have been seriously or fatally injured when they were thrown against walls, ceilings, gas pumps or other hard and unyielding objects.

In addition, if the air blast is not released directly toward an employee but against a floor or wall, the unrestrained rim wheel can be hurled across the workplace. Therefore, if the release of air occurs on the side of the wheel that is lying against a solid surface, and the rim wheel is unrestrained, the entire asembly may become a projectile. Such movement is caused primarily by the flexure of the tire as the air escapes. An employee standing in the trajectory can be hit by the rim wheel when the air is released.

The petitioners have contended, and OSHA agrees, that the number of single piece rim wheels transiting marine terminals is on the increase. Based on communications with chassis manufacturers, OSHA has determined that a significant number of new orders for rolling stock placed by chassis owners specify single piece rims. As in general industry, the increased presence of single piece rim wheels in marine terminal environments will inevitably result in an increased need to service such wheels at the terminal setting. OSHA believes that inclusion of the general industry rules for single piece rim wheel servicing is necessary for protection of employees at marine terminals. The need for such comprehensive coverage is made even more evident by the increased use of single piece rim wheels on vehicles operating on these facilities. Therefore, OSHA is proposing to provide marine terminal workers with the same protection from servicing hazards as is provided to workers in general industry.

A complete explanation of the requirements of § 1910.177 and the rationale behind the 1984 amendments to that section may be found in Section 2 of the Final Rule document published in the **Federal Register** on February 3, 1984 (49 FR 4338). The following discussion summarizes the differences between the present multi-piece rim wheel servicing requirements for marine terminals, § 1917.44(o), and the provisions of § 1910.177, which cover both multi-piece and single piece rim wheel servicing. The requirements of § 1910.177 for servicing of multi-piece rim wheels are essentially the same as those currently imposed on marine terminal employers by § 1917.44(o), including provisions for the use of restraining devices which meet speficied strength criteria, training of employees in proper servicing techniques, establishment of safe operating procedures, and the use of rim manuals and matching charts to prevent mismatching of wheel components. The definitions paragraph (paragraph (b)) of § 1910.177 is more extensive than that of the current marine terminals provision, and provides more information as to the terminology used in the standard.

The primary difference between § 1917.44(o) and § 1910.177 is, as noted above, the Part 1910 standard's coverage of single piece rim wheel servicing in addition to servicing of multi-piece rim wheels. In brief, § 1917.177 imposes requirements for single piece rim wheel servicing which parallel those for multi-piece rim wheels, but which reflect the differences in construction and hazards posed by the single piece rim wheel. For example, because the single piece rim wheel does not separate and throw rim components during an explosion, the standard allows servicing to take place without a restraining device if the wheel is securely bolted to the axle during the servicing operation. Similarly, because the primary hazard from a single piece rim wheel explosion is from the air blast and not from the separation of wheel components, a "cage" or other restraining device is not necessary if a suitable barrier is placed between the rim wheel and the servicing employee. Accordingly, the standard provides for the use of such a barrier (defined as a fence, wall, or other structure or object) or a restraining device, either of which must meet the applicable strength requirements in the standard (i.e., it must withstand the maximum force occurring at 150 percent of the maximum tire specification pressure). In addition, since the air blast is capable of propelling the entire wheel assembly across the workplace if the explosion flexes the tire sidewall against a solid surface, the standard also prohibits the inflation of a tire on a single piece rim when a flat, solid surface, including a barrier, is within one foot of the sidewall. As is the case with multi-piece rim wheels, the standard requires that the servicing employee stay out of the trajectory of the rim wheel during tire inflation.

In addition to these requirements, § 1910.177 contains provisions for employee training and safe operating practices for single piece rim wheel servicing. For the most part, these practices are the same as for multi-piece rim wheels. These are several differences which reflect the different construction and hazards of single piece rim wheels. For example, to avoid tire damage, the standard requires that mounting and demounting be done only from the narrow ledge side of the single piece rim wheel. The standard also requires that the tire and wheel bead diameter and width be compatible, to avoid mismatching of tires with single piece rims. Other differences from multi-piece rim wheel servicing include details on the use of tire changing machines to seat the tire bead, and limitations on inflation pressures.

III. Preliminary Regulatory Impact Assessment and Regulatory Flexibility Analysis for Servicing Single Piece Rim Wheels in Marine Terminals

In accordance with Executive Order No. 12291 (46 FR 13193, February 17, 1981), OSHA has assessed the potential economic impact of this proposed standard. Based on the Executive Order criteria, OSHA has determined that this proposal is not a "major" action. Therefore, it does not require a Regulatory Impact Assessment (RIA).

OSHA's determination that the amendment will not have a major impact is based primarily upon four studies. The first study was June 1978 report by Centaur Management Consultants, Inc., for OSHA entitled, "Economic Impact Statement/ Assessment for Multi/Piece Rim Assemblies" [Docket S–005, Ex. 2–33]. The second study was a March 1981 report by Dr. Roger L. McCarthy and Mr. James R. Finnegan of Failure Analysis Associates for the National Wheel and Rim Association (NWRA) entitled, "Large Vehicle Wheel Servicing: Reduction of Risk Through Implementation of an OSHA Standard Governing Multi/Piece and Single/Piece

Rims" [Docket S–010, Ex. 31]. The third study was a March 1981 report prepared for NWRA by Dr. Thomas Gale Moore of the Hoover Institute, entitled "An Economic Evaluation for Proposed OSHA Single Piece Rim Standard" [Docket S–010, Ex. 4]. The fourth study was the August 1983 report by OSHA's Office of Regulatory Analysis entitled, "Regulatory Impact and Regulatory Flexibility Assessment of the Final Standard on Servicing Single/Piece Rim Wheels" [Docket S–010 Ex. 11]. These four studies demonstrated that the single piece wheel servicing standard is technologically feasible in general industry. Consequently, because this proposed amendment to the Marine Terminals Standard covers the exact same activity that is covered by the general industry single piece rim wheel servicing standard, OSHA has concluded that this proposed amendment would also be technologically feasible in marine terminals.

Currently, most, if not all, marine terminals servicing single piece rim wheels also service multi-piece rim wheels. As a result, OSHA has concluded that the promulgation of a single piece rim wheel servicing standard will result in no additional capital costs because the equipment currently required to meet the multi-piece rim wheel servicing provisions will also meet the equipment requirements for single piece rim wheel servicing.

Based on the NWRA Reports, OSHA has determined that the number of large vehicle rim wheels serviced within marine terminals will remain constant over the next 10 years. However, the percentage of single piece rim wheels of all large vehicle rim wheels is expected to increase from about one-third in 1985 to about one-half by 1990. This increase is due largely to greater fuel efficiency of tubeless tires which require, for the most part, the use of single piece rim wheels. Thus, OSHA expects that the number of single piece rim wheels serviced will increase while the number of multipiece rim wheels serviced will decrease. As a result, since equipment currently used to service multi-piece rim wheels can be shifted to servicing single piece rim wheels, no additional equipment will need to be purchased in order to comply with the single piece rim wheels servicing provisions.

Nevertheless, OSHA does expect that there will be some initial and continuing costs of compliance due to the provision requiring employee safety training and to the provision requiring tires on single piece wheels to be inflated at a safe distance from the employee. In the preamble to the general industry rule on servicing single piece rim wheels (49 FR 4338 [Ex. 6]), OSHA had estimated that the present value in 1981 dollars of the costs of compliance to be incurred by general industry during 1981–1990 would be $16.47 million. The average yearly cost for the approximately 102,000 workplaces was about $16. This same $16 average annual cost is projected for each of the approximately 400 affected marine terminals. OSHA seeks information concerning the number of affected marine terminals, the number of employees who will need to be trained at those marine terminals, and the number of tires serviced at those facilities.

In addition, OSHA received no adverse public comments during its marine terminals rulemaking concerning its finding that there were no significant costs of compliance with the multi-piece rim wheel servicing provisions in the marine terminals safety standard. By way of comparison, the estimated costs of general industry compliance with the multi-piece rim wheel servicing standard (**Federal Register**, January 29, 1980, p. 6713) were about twice that of the estimated costs of complying with the single piece rim wheel servicing standard. That same ratio is also likely to be true for marine terminals. Thus, because the multi-piece rim wheel servicing standard did not impose significant costs of compliance upon marine terminals, OSHA has tentatively concluded that the single piece rim wheel servicing standard also would not impose significant costs of compliance upon marine terminals.

OSHA does not now have direct information concerning the injuries and fatalities accurring to marine terminal employees while servicing single piece rim wheels. Nevertheless, the physical hazards associated with servicing single piece rim wheels are the same in both general industry and in marine terminals. Consequently, OSHA assumes that the accident rate per tire serviced would be the same in both sectors. Thus, as incorrect methods of servicing single piece rim wheels were determined to constitute a serious safety hazard in general industry, OSHA has similarly concluded that such servicing methods will also produce a serious safety hazard in marine terminals. OSHA seeks additional information concerning the number of tire changing injuries that have occurred at marine terminals.

OSHA's analysis of the accident data available for single piece rim wheel servicing in general industry indicated that compliance with the provisions of the single piece rim wheel servicing would have prevented nearly all of the reported accidents. As a result, OSHA has concluded that promulgating this general industry standard for marine terminals would also prevent nearly all single piece rim wheel servicing accidents in marine terminals because the causes of the accidents are the same in both sectors. OSHA therefore, concludes that this proposed standard will likely reduce the number of worker deaths and disabilities, will provide net benefits to society and will not have a significant adverse effect on marine terminals.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (Pub. L. 96–353, [5 U.S.C. 601 et seq.]), OSHA has assessed the potential economic impact of this proposed standard on small entities and has examined some of the alternatives to it. Based on this assessment, OSHA certifies that the proposed standard will not have a significant economic effect on small entities.

The only provisions that may impose costs of compliance are those requiring employee safety training and those requiring that tires be inflated at a distance from the employee. The fact that firms must train new employees at the time they are hired largely precludes training many employees at the same time. Consequently, large employers will not garner any significant economies of scale in training and these costs will be largely proportional to the number of employees trained. Similarly, the increased time needed to service each single piece rim wheel, because the employee must move away from the tire to inflate it, is independent of the number of such rim wheels serviced. As the smaller marine terminals would service fewer rim wheels than would the large marine terminals, OSHA believes that these minimal costs of compliance will neither signficantly affect nor create any competitive disadvantages for small entities.

IV. Environmental Impact Assessment—Finding of No Significant Impact

This proposed rule and its major alternatives have been reviewed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (62 U.S.C. 4321, et seq.), the Guidelines of the Council on Environmental Quality (CEQ) (40 CFR Part 1500), and the Department of Labor's NEPA Procedures (29 CFR Part 11). As a result of this review, the Assistant Secretary for OSHA has

determined that the proposed rule will have no significant environmental impact.

The proposed amendment to 29 CFR Parts 1910 and 1917 for servicing multi-piece and single piece rim wheels, covered the same activity as the general industry standard. In other words, the reduction of accidents or injuries is to be achieved by means of work practices and procedures, proper use and handling of equipment, and training. Such procedures do not impact on air, water, or soil quality; or plant or animal life; or on the use of land or other aspects of the environment. These safety-oriented revisions are therefore categorized as excluded actions according to Subpart B, Section 11.10 of the DOL NEPA regulations.

V. Public Participation

Interested persons are invited to submit written data, views and arguments with respect to this proposal. These comments must be postmarked on or before September 24, 1986, and submitted in quadruplicate to the Docket Officer, Docket S–506B, U.S. Department of Labor, Room N3670, Francis Perkins Building, 200 Constitution Avenue NW., Washington, DC 20210. Written submission must clearly identify the specific provisions of the proposal which are addressed and the position taken with regard to each issue.

The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely submissions received will be made a part of the record of this proceeding.

Additionally, under section 6(b)(3) of the Occupational Safety and Health Act, interested persons may file objections to the proposal and request an informal hearing with respect thereto. The objections and hearing requests should be submitted to the address given above and should be filed in accordance with the following conditions.

1. The objections must include the name and address of the objector;

2. The objections must be postmarked on or before September 24, 1986;

3. The objections must specify with particularity the provisions of the proposed rule to which objection is taken and must state the grounds therefor;

4. Each objection must be separately stated and numbered; and

5. The objections must be accompanied by a detailed summary of evidence proposed to be adduced at the requested hearing.

List of Subjects

29 CFR Part 1910

Chemicals, Diving, Electric power, Electric products, Fire prevention, Gases, Hazardous substances, Health records, Noise control, Occupational Safety and Health, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

29 CFR Part 1917

Cargo, Certification, Gear, Intermodal container, Longshoring, Maritime, Occupational safety and health, Safety.

VI. Authority

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Accordingly, under sections 4, 6, and 8 of the Occupational Safety and Health Act, 29 U.S.C. 653, 657; section 41 of the Longshoremen's and Harborworker's Compensation Act, 33 U.S.C. 941; Secretary of Labor's Order 9–83 (48 FR 35736), and 29 CFR Part 1911, 29 CFR Parts 1910 nd 1917 are proposed to be amended, as set forth below.

Signed at Washington, DC, this 20th day of August 7, 1986.

John A. Pendergrass,

Assistant Secretary of Labor.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

29 CFR Part 1910 is proposed to be amended as follows:

1. By revising the authority citation for Subpart B of 29 CFR Part 1910 to read as follows:

Authority: Secs. 4, 6, and 8 of the Occupational Safety and Health Act, 29 U.S.C. 653, 655, 657; Walsh-Healey Act, 41 U.S.C. 35, et seq; Service Contract Act of 1965, 41 U.S.C. 351 et seq; Sec. 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 333; Sec. 41 of the Longshoremen's and Harborworkers Compensation Act, 33 U.S.C. 941; National Foundation on Arts and Humanities Act, 20 U.S.C. 951 et seq; Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736) as applicable; and 29 CFR Part 1911.

2. By adding a new paragraph (b)(2)(ix) to § 1910.16 to read as follows:

§ 1910.16 Longshoring and marine terminals.

* * * * *

(b) * * *

(2) * * *

(ix) Servicing multi-piece and single piece rim wheels. Subpart N, § 1910.177.

* * * * *

3. By revising paragraph (a)(2) of § 1910.177 to read as follows:

§ 1910.177 Servicing multi-piece and single piece rim wheels.

(a) * * *

(2) This section does not apply to employment and places of employment regulated under the Construction Safety Standards, 29 CFR Part 1926; the Agriculture Standards, 29 CFR Part 1928; the Shipyard Standards, 29 CFR Part 1915; or the Longshoring Standards, 29 CFR Part 1918.

* * * * *

PART 1917—MARINE TERMINALS

29 CFR Part 1917 is proposed to be amended as follows:

4. The authority citation for Part 1917 would be revised to read as follows:

Authority: Secs. 4, 6, and 8, of the Occupational Safety and Health Act, 29 U.S.C. 653, 655, 657; Sec. 41, Longshoremen's and Harborworker's Compensation Act, 33 U.S.C. 941; Secretary of Labor's Orders 8–76 (41 FR 25059) or 9–83 (48 FR 35736), as applicable; 29 CFR Part 1911.

5. A new paragraph (a)(2)(ix) would be added to § 1917.1 to read as follows:

§ 1917.1 Scope and applicability.

(a) * * *

(2) * * *

(ix) Servicing multi-piece and single piece rim wheels. Subpart N, § 1910.177.

6. Paragraph (o) of § 1917.44 would be revised to read as follows:

§ 1917.44 General rules applicable to vehicles.

* * * * *

(o) *Servicing of multi-piece and single piece rim wheels.*

Servicing of multi-piece and single piece rim wheels is covered by § 1910.177 of this Chapter.

* * * * *

[FR Doc. 86–19161 Filed 8–22–86; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE TREASURY

31 CFR Part 103

Amendments to Implementing Regulations; the Bank Secrecy Act

AGENCY: Office of the Secretary, Treasury.

ACTION: Proposed rule.

SUMMARY: The Bank Secrecy Act, Pub. L. No. 91–508 (permanently codified at 12 U.S.C. 1829b, 12 U.S.C. 1951 *et seq.* and at 31 U.S.C. 5311 *et seq.*), empowers the Secretary of the Treasury to require

financial institutions to keep records and file reports that the Secretary determines have a high degree of usefulness in criminal, tax and regulatory matters. At present, Treasury regulations implementing the Act require a variety of financial institutions to file reports of large currency transactions. The Secretary also can direct designated institutions to file reports regarding specified transactions with foreign financial agencies. Financial institutions also are required to maintain records necessary to trace transactions through the nation's banking system.

The Department's experience in enforcing the Act in recent years has indicated that the following proposed substantive regulatory changes are needed to strengthen enforcement of the Act. In particular, recent judicial decisions, such as *United States* v. *Anzalone*, 766 F.2d 676 (1st Cir. 1985), have drawn attention to the fact that the regulations may be inadequate to sustain prosecutions for failing to report transactions that have been structured to evade the current reporting requirements. In light of cases such as *Anzalone*, the Department of Justice believes that certain changes to the currency transaction reporting requirements are needed to expand the coverage of the Act to ensure the collection of needed information, and to strengthen enforcement of the Act.

DATE: Comments must be received on or before November 24, 1986.

ADDRESS: Address written comments to Jonathan J. Rusch, Acting Director, Office of Financial Enforcement, Office of the Assistant Secretary (Enforcement), Department of the Treasury, Room 1458, 1500 Pennsylvania Ave., NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Linda Noonan, Attorney Advisor, Office of the Assistant General Counsel (Enforcement), Department of the Treasury, Room 2000, 1500 Pennsylvania Ave., NW., Washington, DC 20220 (202/566–2941).

SUPPLEMENTARY INFORMATION:

Background

The following amendments are made to strengthen enforcement of the Bank Secrecy Act and to make clarifications to the existing regulations, as noted:

(1) *Expand the definition of "bank" to include Edge Act corporations:* An "Edge" or "Agreement" corporation, as defined by 12 U.S.C. 611 *et seq.*, is a corporation organized in the United States for the purpose of engaging in international or foreign banking, or other foreign financial operations; such institutions are supervised by the Board of Governors of the Federal Reserve System. This amendment to expand coverage of the regulations to include these entities is justified by the rapidly expanding roles played by such financial entities in the banking system and the need to maintain a comprehensive scheme of reporting and recordkeeping requirements. See regulatory proposal #2.

(2) *Add a new definition of "common carrier":* This new definition is intended to clarify the reporting responsibilities for currency and monetary instruments that are transported into or out of the United States. See regulatory proposal #2.

(3) *Revise the definition of "financial institution" in light of recent case law, and to include certain selling agents of traveler's checks, money orders and similar instruments:* This revision modifies the definition to comport with recent case law defining financial institutions for Bank Secrecy Act purposes. It also expands the definitions of "financial institution" to include certain selling agents of certain monetary instruments and all transmitters of funds. Coverage of these additional entities is justified by the rapidly expanding roles played by such financial institutions in the banking system and the need to maintain a comprehensive scheme of reporting and recordkeeping requirements. See regulatory proposal #2.

(4) *Clarify and expand the definition of "monetary instruments" to include promissory notes, checks made out to fictitious payees and certain other types of checks:* These substantive changes are warranted by enforcement experience, which indicates that casino markers, certain cashier's checks and checks made out to fictitious payees are being used for money laundering, but arguably are not subject to current reporting requirements. Other amendments to the definition are intended to clarify the regulations. See regulatory proposal #2.

(5) *Add a new definition for "transaction account" and insert it in place of the deleted term "demand deposit account" wherever it appears in the Part:* This new term combines currently covered demand deposit accounts with recently developed money market and NOW accounts, which have many of the same characteristics as demand deposit accounts. See regulatory proposals #2 & 3.

(6) *Add a new definition for "business day".* This amendment provides that the term "business day" for banks means banking day. See regulatory proposal #2.

(7) *Clarify that financial institutions must report multiple, same-day currency transactions of which they are aware that total more than $10,000:* This amendment codifies the CTR Form 4789 instruction that currently requires financial institutions to report multiple, same-day transactions of which they are aware that are by or on behalf of any person and total more than $10,000. It does not impose any new burden on financial institutions to adopt systems to reveal the existence of multiple, same-day transactions. See regulatory proposal #4.

(8) *Require financial institutions to report cash purchases exceeding $3,000 of monetary instruments, such as cashier's checks, money orders or traveler's checks, where the aggregate of all such same-day purchase exceeds $10,000:* The Department of Justice is concerned that unreported money laundering is being conducted through "smurfing" organizations that employ numerous agents to launder large amounts of cash by conducting repetitive transactions with numerous financial institutions, each involving less than $10,000 in currency. Treasury has found that unreported money laundering is being conducted through the use of various negotiable instruments, especially cashier's checks. For example, "smurfs" use multiple, same-day cash purchases of cashier's checks to convert large amounts of cash into a more compact form without currently triggering the filing of a report with the Treasury Department of leaving an audit trail that investigators can readily detect. The Department of Justice recommends this regulatory approach, which addresses the problem of reporting aggregate transactions by placing a certification requirement on the individual conducting the transactions. If an individual misrepresents to the financial institution either the existence or aggregate amount of the transactions, the financial institution will have no duty to report unless it has actual knowledge of the transactions. Such a misrepresentation would, however, be a criminal offense on the part of the individual responsible for it. See regulatory proposal #4.

(9) *Require banks to obtain signed statements from their customers attesting to the basis for their exemption from the currency transaction reporting requirements:* Recent enforcement experience suggests that many banks are not paying sufficient attention to compliance with the requirements for granting reporting exemptions pursuant

to the authority set out in § 103.22. This amendment seeks to ensure that banks are more diligent in controlling their exempt lists while, at the same time, making customers accountable for their representations to banks that justify such reporting exemptions. See regulatory proposal #4.

(10) *Permit banks to exempt from the currency transaction reporting requirement deposits by certain public utilities and commercial passenger carriers:* This proposed amendment to the exemption procedure would permit banks to exempt cash deposits by certain public utilities and commercial passenger carriers. See regulatory proposal #4.

(11) *Clarify the prohibition on exempting automobile, boat and airplane dealerships:* This proposed amendment makes clear that no motor vehicle dealership may be exempted from the currency reporting requirements. This includes, but is not limited to, motorcycle, recreational vehicle, and farm equipment dealers. See regulatory proposal #4.

(12) *Revise the procedures for filing all reports and for recording foreign financial accounts:* This amendment updates and clarifies the procedures for filing all reports, and for keeping records of interests in foreign financial accounts. All reports previously subject to filing within 30 days would be filed within 15 days of the reportable event or the request for the report, whichever is applicable. See regulatory proposals #5, 6 & 8.

(13) *Require that customer identification be verified by document examination:* This amendment addresses a compliance problem Treasury has identified with financial institutions that report insufficient information on Forms 4789 to show proper identification of customers. Many financial institutions have opened bank accounts for individuals based on inadequate identifications, and then have relied on the signature cards for those accounts to satisfy the current identification requirement. This amendment requires financial institutions to exercise no less care in identifying the individuals conducting reportable transactions than they do when identifying nondepositors cashing checks. Signature cards alone would not satisfy the identification requirement. This regulation would make the instruction for the completion of item 12 on the existing Currency Transaction Report partially obsolete. See regulatory proposal #7.

(14) *Limit financial institution recordkeeping requirements to extensions of credit exceeding $10,000 instead of $5,000:* This amendment modifies recordkeeping requirements to eliminate recordkeeping that is no longer justified by the usefulness of the information retained. See regulatory proposal #9.

(15) *Expand financial institution recordkeeping requirements to include incoming as well as outgoing transactions with persons, accounts or places outside the United States:* This amendment responds to increasingly sophisticated international financial schemes, and simply requires that recordkeeping cover incoming as well as outgoing transactions, including transactions that are later cancelled or not completed for any reason. See regulatory proposal #9.

(16) *Require records to be kept on certain purchases of more than $3,000 in monetary instruments:* In concert with the proposed reporting requirement for monetary instrument purchases, this recordkeeping requirement would ensure that information in addition to that provided on the reports would be retained as part of the normal business records of the financial institution. Such information would provide a paper trail that would be available to investigators pursuant to traditional forms of legal process. See regulatory proposal #9.

(17) *Revise additional recordkeeping requirements for banks, casinos and brokers or dealers in securities to simplify the procedures for recording taxpayer identification numbers, and require those financial institutions to keep lists of all persons from whom taxpayer identification numbers have not been obtained:* This amendment replaces the current lengthy exemption provisions in §§ 103.34, 103.35 and 103.36 regarding taxpayer identification numbers with a simpler requirement in § 103.38(c) that a list be maintained of all persons from whom a taxpayer identification number is not obtained. This procedure also is incorporated in the new additional recordkeeping requirements for foreign currency exchanges. See regulatory proposals #10, 12, 13, 14, & 15.

(18) *Clarify that additional recordkeeping requirements for banks include deposit slips and credit tickets:* This amendment to the additional recordkeeping requirement for banks makes clear that deposit slips and credit tickets should be retained as part of the paper trail already required by § 103.34 to be recorded and that such records must stipulate whether transactions involve currency. See regulatory proposal #11.

(19) *Require foreign currency dealers to keep certain additional records:* Treasury's enforcement experience indicates that foreign currency dealers are an increasingly important component of sophisticated money laundering and tax evasion schemes. The rapid evolution of international financial activity in recent years makes the imposition of recordkeeping requirements on foreign currency dealers appropriate at this time. Foreign currency dealers currently are subject to little or no oversight other than under the Bank Secrecy Act. These recordkeeping requirements serve to place foreign currency dealers on a par with brokers or dealers in securities, casinos and banks in retaining additional records that the Secretary finds have a high degree of usefulness in criminal, tax and regulatory matters. See regulatory proposal #14.

(20) *Establish a uniform minimum retention period for transaction account records:* Under present regulations, bank records required to reconstruct deposits to demand deposit accounts can be destroyed two years after the transaction. These records normally consist of deposit slips, proof tapes, copies of checks deposited, and related records. Since deposits reflect income, these types of records are the most important bank records for documenting unreported income in, for example, a criminal tax investigation. However, the constraints placed on the Department by the two-year retention period make it extremely difficult to document violations for more than one year with deposit records. Since tax and related financial crimes may not be discovered until several years after they occur, the deposit records needed to reconstruct income often may be destroyed before the investigation starts. Without records to reconstruct income, an investigation may not be initiated or may have to be discontinued. This proposed amendment to the record retention period would alleviate this problem and standardize the retention requirement for all records covered under the Act. See regulatory proposal #15.

(21) *Clarify the overall Bank Secrecy Act enforcement and compliance authority of the Assistant Secretary (Enforcement):* This amendment restates the overall responsibility of the Assistant Secretary for implementation and administration of Bank Secrecy Act reporting and recordkeeping requirements. It also updates regulatory language to reflect the recent change in the Assistant Secretary's title from "(Enforcement & Operations)" to "(Enforcement)". See regulatory proposal #16.

(22) *Replace references to "Administrator" of the NCUA with*

"Chairman of the Board": This amendment corrects a technical error in the delegations of Bank Secrecy Act compliance responsibility. See regulatory proposal #16.

(23) *Delegate enforcement responsibility to the Commissioner, Internal Revenue Service:* This amendment delegates to the Commissioner of Internal Revenue responsibility for the criminal investigation of all violations of Part 103 other than § 103.23. See regulatory proposal #16.

(24) *Specify the criminal investigatory responsibilities of the Commissioners of Customs and Internal Revenue:* This amendment states existing delegations of investigatory responsibility. See regulatory proposal #16.

(25) *Specify the requirement for periodic reports to the Assistant Secretary (Enforcement):* This amendment restates the requirement of periodic reports to the Assistant Secretary by agencies to which BSA compliance responsibility has been delegated. The amendment also provides that the reports will be made in such form and at such intervals as the Assistant Secretary directs. See regulatory proposal #16.

(26) *Correct the civil penalty amount that can be assessed for willful violations of the recordkeeping requirements of this Part:* This amendment corrects a technical error in the regulations that implemented the increase in civil penalty amount made by the Comprehensive Crime Control Act of 1984. That statutory change applied only to the reporting and recordkeeping requirements imposed by the provisions of the Bank Secrecy Act codified at 31 U.S.C. 5311 *et seq.* The recordkeeping provisions for financial institutions contained in 12 U.S.C. 1829b and 12 U.S.C. 1951 *et seq.* have not been amended. See regulatory proposal #17.

Executive Order 12291

This proposed rule is not a major rule for purposes of Executive Order 12291. It is not anticipated to have an annual effect on the economy of $100 million or more. It will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not have any 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 foreign markets. A Regulatory Impact Analysis therefore is not required.

Regulatory Flexibility Act

It is hereby certified that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. Most of the recordkeeping and reporting requirements imposed by this proposed regulation concern information already found in routine business records. To the extent an affected financial institution has prudent record retention practices, it will already be retaining a substantial portion of the information identified in this proposed regulation. The Department, however, specifically requests comments concerning the effect of this proposal on affected small financial institutions.

Paperwork Reduction Act

The collection of information requirements contained in this Notice of Proposed Rulemaking have been submitted to the Office of Management and Budget pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Comments on these requirements should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, attention: Desk Officer for the Office of the Secretary, Department of the Treasury. Copies of such comments should also be submitted to the Department at the address previously specified.

Comments

Treasury requests comments from all interested persons concerning the proposed amendments. Treasury specifically requests comments from financial institutions and associations of financial institutions whose members would be affected by the proposed amendments. Treasury is particularly interested in the effect the proposed amendments would have on their overall operations, and what, if any, additional records would have to be maintained as a result of the proposed amendments.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future action. The Treasury Department will not recognize any material or comments, including the name of any person submitting comments, as confidential. Any material not intended to be disclosed to the public should not be included in comments. All comments submitted will be available for public inspection during regular business hours at the Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Ave., NW., Washington, DC 20220.

Drafting Information

The principal author of this document is the Office of the Assistant General Counsel (Enforcement), Department of the Treasury. However, personnel from the Department of Justice and other Treasury offices participated in its development.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks and banking, Currency, Foreign banking, Investigations, Law enforcement, Reporting and recordkeeping requirements, Taxes.

Amendment

It is proposed to amend 31 CFR Part 103 as set forth below:

PART 103—[AMENDED]

1. The authority citation for Part 103 is revised to read as follows:

Authority: Sec. 21 of the Federal Deposit Insurance Act, Pub. L. 91–508, Title I, 84 Stat. 1114, 1116 (12 U.S.C. 1829b, 1951–9); and the Currency and Foreign Transactions Reporting Act, Pub. L. No. 91–508, Title II, 84 Stat. 1118, as amended (31 U.S.C. 5311–23).

2. It is proposed to revise § 103.11 to read as follows:

§ 103.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section.

(a) *Bank.* Each agent, agency, branch or office within the United States of any person doing business in one or more of the capacities listed below:

(1) A commercial bank or trust company organized under the laws of any State or of the United States;

(2) A private bank;

(3) A savings and loan association or a building and loan association organized under the laws of any State or of the United States;

(4) An insured institution as defined in section 401 of the National Housing Act;

(5) A savings bank, industrial bank or other thrift institution;

(6) A credit union organized under the laws of any State or of the United States; and

(7) Any other organization chartered under the banking laws of any State and subject to the supervision of the bank supervisory authorities of a State.

(8) a bank organized under foreign law.

(9) Any national banking association or corporation acting under the provisions of section 25(a) of the Act of Dec. 23, 1913, as added by the Act of Dec. 24, 1919, ch. 18, 41 Stat. 378, as amended (12 U.S.C. 611–32).

(b) *Broker or dealer in securities.* A broker or dealer in securities, registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934.

(c) *Common carrier.* Any person engaged as a public employment in the business of transporting individuals or goods for a fee who holds himself out as ready to engage in such transportation for hire and who undertakes to do so indiscriminately for all persons.

(d) *Currency.* The coin and paper money of the United States or of any other country that is designated as legal tender and that circulates and is customarily used and accepted as a medium of exchange in the country of issuance. Currency includes U.S. silver certificates, U.S. notes and Federal Reserve notes. Currency also includes official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country.

(e) *Domestic.* When used herein, refers to the doing of business within the United States, and limits the applicability of the provision where it appears to the performance by such institutions or agencies of functions within the United States.

(f) *Financial institutions.* Each agent, agency, branch, or office within the United States of any person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the capacities listed below:

(1) A bank (except bank credit card systems);

(2) A broker or dealer in securities;

(3) A currency dealer or exchanger, including a check casher;

(4) An issuer, seller, or redeemer of traveler's checks, money orders, or similar instruments, except as a selling agent exclusively who sells less than $150,000 of such instruments within any given 30-day period;

(5) A transmitter of funds, including telegraph companies;

(6)(i) A casino or gambling casino licensed as a casino or gambling casino by a State or local government and having gross annual gaming revenue in excess of $1,000,000.

(ii) A casino or gambling casino includes the principal headquarters and any branch or place of business of the casino or gambling casino.

(7) A person subject to supervision by any state or federal bank supervisory authority.

(g) *Foreign bank.* A bank organized under foreign law, or an agency, branch or office located outside the United States of a bank. The term does not include an agent, agency, branch or office within the United States of a bank organized under foreign law.

(h) *Foreign financial agency.* A person acting outside the United States for a person (except for a country, a monetary or financial authority acting as a monetary or financial authority, or an international financial institution of which the United States Government is a member) as a financial institution, bailee, depository trustee, or agent, or acting in a similar way related to money, credit, securities, gold, or a transaction in money, credit, securities, or gold.

(i) *Investment security.* An instrument which:

(1) Is issued in bearer or registered form;

(2) Is of a type commonly dealt in upon securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment;

(3) Is either one of a class or series or by its terms is divisible into a class or series of instruments; and

(4) Evidences a share, participation or other interest in property or in an enterprise or evidences an obligation of the issuer.

(j) *Monetary instruments.*

(1) Monetary instruments include:

(i) Currency;

(ii) All negotiable instruments (including personal checks, business checks, official bank checks, cashier's checks, third-party checks, promissory notes, traveler's checks, money orders and other similar instruments) that are either in bearer form, endorsed without restriction, signed but with the payee's name omitted, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery; and

(iii) securities or stock in bearer form or otherwise in such form that title thereto passes upon delivery.

(2) Monetary instruments do not include warehouse receipts or bills of lading.

(k) *Person.* An individual, a corporation, a partnership, a trust or estate, a joint stock company, association, a syndicate, joint venture, or other unincorporated organization or group, and all entities cognizable as legal personalities.

(l) *Secretary.* The Secretary of the Treasury or any person duly authorized by the Secretary to perform the function mentioned.

(m) *Transaction account.* Transaction accounts include those accounts described in 12 U.S.C. 461(b)(1)(C), money market accounts and similiar accounts that take deposits and are subject to withdrawal by check or other negotiable order.

(n) *Transaction in currency.* A transaction involving the physical transfer of currency from one person to another. A transaction which is a transfer of funds by means of bank check, bank draft, wire transfer, or other written order, and which does not include the physical transfer of currency is not a transaction in currency within the meaning of this part.

(o) *United States.* The various States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(p) *Business day.* Business day, as used in this Part with respect to banks, means banking day.

3. It is proposed to amend Part 103 by removing the phrase "demand deposit account" wherever it appears and inserting in its place the phrase "transaction account".

4. It is proposed to revise § 103.22 to read as follows:

§ 103.22 Reports of currency transactions.

(a)(1) Each financial institution other than a casino shall file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution which involves a transaction in currency of more than $10,000. Multiple currency transactions shall be treated as a single transaction if the financial institution is aware that they are by or on behalf of any person and result in either cash in or cash out totalling more than $10,000 during any one business day. Deposits made at night or over a weekend or holiday shall be treated as if received on the next business day following the deposit.

(2) Each casino shall file a report of each deposit, withdrawal, exchange of currency, gambling tokens or chips, or other payment or transfer, by, through, or to such casino which involves a transaction in currency of more than $10,000. Multiple currency transactions shall be treated as a single transaction if the casino is aware that they are by or on behalf of any person and result in either cash in or cash out totalling more than $10,000 during any twenty-four hour period.

(3) Each financial institution shall obtain and retain a report from each

purchaser of any official bank check, cashier's check, money order or traveler's check, or combination thereof, where the purchase involves a transaction in currency of more than $3,000. Each such report shall be signed by the purchaser and shall certify whether or not the purchaser, or person on whose behalf the purchase is made, has transacted during that same business day other such cash purchases with the same or any other financial institution where the aggregate value of all such purchases exceeds $10,000. The selling financial institution shall treat any affirmative certification, or refusal or failure to file a full and complete report as required by this subparagraph, as a reportable transaction under subparagraph (a)(1), and shall file a report as required by subparagraph (a)(1), along with the report obtained from the purchaser pursuant to this subparagraph.

(4) A financial institution includes all of its domestic branch offices for the purpose of this paragraph's reporting requirements.

(b) Except as otherwise directed in writing by the Assistant Secretary (Enforcement) or the Commissioner of Internal Revenue:

(1) This section shall not require reports:

(i) Of transactions with Federal Reserve Banks or Federal Home Loan banks;

(ii) of transactions between domestic banks; or

(iii) By nonbank financial institutions of transactions with commercial banks. Commercial banks must report covered transactions with nonbank financial institutions.

(2) A bank may exempt from the reporting requirement of paragraph (a) of this section the following:

(i) Deposits or withdrawals of currency from an existing account by an established depositor who is a United States resident and operates a retail type of business in the United States. For the purpose of this subsection, a retail type of business is a business primarily engaged in providing goods to ultimate consumers and for which the business is paid in substantial portions by currency, except that dealerships which buy or sell motor vehicles, vessels, conveyances or aircraft are not included and their transactions may not be exempted from the reporting requirements of this section.

(ii) Deposits or withdrawals of currency from an existing account by an established depositor who is a United States resident and operates a sports arena, race track, amusement park, bar, restaurant, hotel, check cashing service licensed by state or local governments, vending machine company, theater, regularly scheduled passenger carrier whose stock is publicly traded, or any public utility company supervised by a state or federal regulatory agency.

(iii) Deposits or withdrawals, exchanges of currency or other payments and transfers by local or state governments, or the United States or any of its agencies or instrumentalities.

(iv) Withdrawals for payroll purposes from an existing account by an established depositor who is a United States resident and operates a firm that regularly withdraws more than $10,000 in order to pay its employees in currency.

(c) In each instance the transactions exempted under paragraph (b) of this section must be in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the lawful, domestic business or that customer, or in the case of transactions with a local or state government or the United States or any of its agencies or instrumentalities, in amounts which are customary and commensurate with the authorized activities or the agency or instrumentality. This section does not permit a bank to exempt its transactions with nonbank financial institutions, nor will additional exemption authority be granted for such transactions.

(d) After [insert effective date of regulations], a bank may not place any customer on its exempt list without first obtaining a written statement, on a form prescribed by the Secretary and signed by the customer, attesting to the customary conduct of the lawful, domestic business of that customer that justifies the exemption. The statement shall include the name, address, nature of business, taxpayer identification number, and account number of the customer being exempted. The bank shall indicate on the form whether the exemption covers withdrawals, deposits, or both, as well as the dollar limit of the exemption both for deposits and withdrawals. In each instance the exempted transactions must be in amounts that the banks may reasonably conclude do not exceed amounts commensurate with the customary conduct of the lawful, domestic business of that customer. Each statement obtained by a bank pursuant to this subparagraph must be retained by the bank for a period of five years following removal of the customer from the bank's exempt list.

(e) A bank may apply to the Commissioner of Internal Revenue for additional authority to grant an exemption to the reporting requirement, not otherwise provided for under paragraph (b), if the bank believes that circumstances warrant such an exemption. Such requests shall be addressed to: Chief, Currency and Banking Reports Branch, Exemption Review Staff, IRS Data Center, Post Office Box 32063, Detroit, Michigan 48232, and must be accompanied by a statement of the circumstances that warrant special exemption treatment and a copy of the form completed pursuant to paragraph (d).

(f) A record of each exemption granted under this section and the reason therefor must be kept in a centralized list. The record shall include the names and addresses of all banks referred to in paragraph (b)(1)(ii) of this section, as well as the name, address, business, taxpayer identification number and account number of each depositor that has engaged in currency transactions which have not been reported because of the exemption provided in paragraph (b)(2) of this section. The record concerning the group of depositors exempted under the provisions of paragraph (b)(2) of this section shall also indicate whether the exemption covers withdrawals, deposits, or both, as well as the dollar limit of the exemption.

(g) Upon the request of the Assistant Secretary (Enforcement) or the Commissioner of Internal Revenue, a bank shall provide a report containing the list of the bank's customers whose transactions have been exempted under this section and such related information as the Assistant Secretary or Commissioner shall require, including copies of the forms required in paragraph (d). The report must be provided within 15 days of the request. Any exemption may be rescinded at the discretion of the requesting official, who may require the bank to file reports required by paragraph (a) of this section with respect to future transactions of any customer whose transactions previously were exempted.

5. It is proposed to revise the first sentence of § 103.24 to read as follows:

§ 103.24 Reports of foreign financial accounts.

Each person subject to the jurisdiction of the United States (except a foreign subsidiary of a U.S. person) having a financial interest in, or signature or other authority over, a bank, securities or other financial account in a foreign country shall report such relationship to the Commissioner of the Internal Revenue for each year in which such relationship exists, and shall provide such information as shall be specified in

a reporting form prescribed by the Secretary to be filed by such persons.
* * *

6. It is proposed to revise § 103.26 to read as follows:

§ 103.26 Filing of reports.

(a)(1) A report required by § 103.22(a) shall be filed by the financial institution within 15 days following the day on which the reportable transaction occurred.

(2) A report required by § 103.22(g) shall be filed by the bank within 15 days after receiving a request for the report.

(3) A copy of each report filed pursuant to § 103.22 shall be retained by the financial institution for a period of five years from the date of the report. The original report submitted by the purchaser pursuant to § 103.22(a)(3) shall be retained by the financial institution for a period of five years from the date of the reported transaction unless required to be submitted with a report under § 103.22(a)(1).

(4) All reports required to be filed by § 103.22 shall be filed with the Commissioner of Internal Revenue, unless otherwise specified.

(b)(1) A report required by § 103.23(a) shall be filed at the time of entry into the United States or at the time of departure, mailing or shipping from the United States, unless otherwise specified by the Commissioner of Customs.

(2) A report required by § 103.23(b) shall be filed within 15 days after receipt of the currency or other monetary instruments.

(3) All reports required by § 103.23 shall be filed with the Customs officer in charge at any port of entry or departure, or as otherwise specified by the Commissioner of Customs. Reports required by § 103.23(a) for currency or other monetary instruments not physically accompanying a person entering or departing from the United States, may be filed by mail on or before the date of entry, departure, mailing or shipping. All reports required by § 103.23(b) may also be filed by mail. Reports filed by mail shall be addressed to the Commissioner of Customs, Attention: Currency Transportation Reports, Washington, DC 20226.

(c) Reports required to be filed by § 103.24 shall be filed with the Commissioner of Internal Revenue on or before June 30 each calendar year with respect to foreign financial accounts exceeding $10,000 maintained during the previous calendar year.

(d) Reports required by §§ 103.22, 103.23 or 103.24 shall be filed on forms prescribed by the Secretary. All information called for in such forms shall be furnished.

(e) Forms to be used in making the reports required by §§ 103.22 and 103.24 may be obtained from the Internal Revenue Service. Forms to be used in making the reports required by § 103.23 may be obtained from the U.S. Customs Service.

7. It is proposed to revise § 103.27 to read as follows:

§ 103.27 Identification required.

Before effecting any transaction with respect to which a report is or may be required under § 103.22, a financial institution shall verify and record the name and address of the individual presenting a transaction, as well as record the identity, account number, and the social security or taxpayer identification number, if any, of any person or entity for whose or which account such transaction is to be effected. Verification of the identity of an individual who indicates that he or she is an alien or is not a resident of the United States must be made by passport, alien identification card, or other official document evidencing nationality or residence. Verification of identity in any other case shall be made by examination of a document, other than a bank signature card, that is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors (*e.g.*, a driver's license or credit card). In each instance, the method used in verifying the identity of the customer shall be recorded on the report.

8. It is proposed to revise the first sentence of § 103.32 to read as follows:

§ 103.32 Records to be made and retained by persons having financial interests in foreign financial accounts.

Records of accounts required by § 103.24 to be reported to the Commissioner of Internal Revenue shall be retained by each person having a financial interest in or signature or other authority over any such account. * * *

9. It is proposed to revise § 103.33 to read as follows:

§ 103.33 Records to be made and retained by financial institutions.

Each financial institution shall retain either the original or a microfilm or other copy or reproduction of each of the following:

(a) A record of each extension of credit in an amount in excess of $10,000, except an extension of credit secured by an interest in real property, which record shall contain the name and address of the person to whom the extension of credit is made, the amount thereof, the nature or purpose thereof, and the date thereof;

(b) A record of each advice, request, or instruction received or given regarding any transaction resulting (or intended to result and later cancelled) in the transfer of currency or other monetary instruments, funds, checks, investment securities, or credit, of more than $10,000 to or from any person, account, or place outside the United States.

(c) A purchaser's application or other similar record of the sale of each official bank check, cashier's check, traveler's check or money order of more than $3,000. Multiple purchases shall be treated as a single purchase if the financial institution is aware that they are by or on behalf of any person and result in either cash in or cash out totalling more than $3,000 during any one business day. Such records shall contain the following information:

(i) Date, amount, number and type of instrument being purchased;

(ii) Method of payment;

(iii) Name of payee;

(iv) Purchaser name, signature and such other information as is described in § 103.27.

10. It is proposed to revise § 103.34(a) to read as follows:

§ 103.34 Additional records to be made and retained by banks.

(a)(1) Each bank shall secure and maintain a record of the taxpayer identification number of each customer purchasing or redeeming a certificate of deposit, or opening a deposit or share account. Where the account or certificate is in the names of two or more persons, the bank shall secure the taxpayer identification number of each person having a financial interest in the certificate or account. Where a person is a non-resident alien, the bank shall also record the person's passport number or a description of some other government document used to verify his identity.

(2) A bank acting as an agent for another person in the purchase or redemption of a certificate of deposit issued by another bank is responsible for obtaining and recording the required taxpayer identification, as well as for maintaining the records referred to in paragraphs (b)(11) and (12) of this section. The issuing bank can satisfy the recordkeeping requirement by recording the name and address of the agent together with a description of the instrument and the date of the transaction.

11. It is proposed to add a new paragraph (b)(13) to § 103.34 to read as follows:

§ 103.34 Additional records to be made and retained by banks.

* * * * *

(b) * * *

(13) Each deposit slip or credit ticket reflecting a transaction in excess of $100 or the equivalent record for direct deposit or other wire transfer deposit transactions. The slip or ticket shall record the amount of any currency involved and list the individual deposited items that accompanied the slip or ticket.

12. It is proposed to revise paragraph (a) of § 103.35 to read as follows:

§ 103.35 Additional records to be made and retained by brokers or dealers in securities.

(a) Each broker or dealer in securities shall secure and maintain a record of the taxpayer identification number of each person opening a brokerage account and who either resides, is a citizen of, or does business in, the United States. Where the account is in the names of two or more persons, the broker or dealer in securities shall secure the taxpayer identification number of each person having a financial interest in the account. Where a person is a non-resident alien, the broker or dealer in securities shall also record the person's passport number or a description of some other government document used to verify his identity.

* * * * *

13. It is proposed to revise paragraph (a) of § 103.36 to read as follows:

§ 103.36 Additional records to be made and retained by casinos.

(a) Each casino shall secure and maintain a record of the taxpayer identification number of each person depositing funds, or for whom an account is opened or a line of credit is extended. Where the deposit, account or credit line is in the names of two or more persons, the casino shall secure the taxpayer identification number of each person having a financial interest in the deposit, account or credit line. Where a person is a nonresident alien, the casino shall also record the person's passport number or a description of some other government document used to verify his identity.

* * * * *

14. It is proposed to redesignate §§ 103.37 and 103.38 as 103.38 and 103.39, and to add new a § 103.37 to read as follows:

§ 103.37 Additional records to be made and retained by dealers in foreign currency.

(a) Each dealer in foreign currency shall secure and maintain a record of the taxpayer identification number of each person for whom a transaction account is opened or a line of credit is extended after [insert effective date of regulations]. Where the account or credit line is in the names of two or more persons, the dealer in foreign currency shall secure the taxpayer identification number of each person having a financial interest in the account or credit line. Where a person is a non-resident alien, the dealer in foreign currency shall also record the person's passport number of a description of some other government document used to verify his identify.

(b) Each dealer in foreign currency shall retain either the original or a microfilm or other copy or reproduction of each of the following:

(1) Statements of accounts from banks, including paid checks, charges or other debit entry memoranda, deposit slips and other credit memoranda representing the entries reflected on such statements;

(2) Daily work records, including purchase and sales slips or other memoranda needed to identify and reconstruct currency transaction with customers and foreign banks;

(3) A record of each exchange of currency involving transactions in excess of $500, including the name and address of the customer (and passport number or taxpayer identification number unless received by mail or air express), date and amount of the transaction and currency name, country, and total amount of each foreign currency;

(4) Signature cards or other documents evidencing signature authority over each deposit or security account, containing the name of the depositor, street address, taxpayer identification number (TIN) or employer identification number (EIN) and the signature of the depositor or of a person authorized to sign on the account (if customer accounts are maintained in a code name, a record of the actual owner of the account);

(5) Each item, including checks, drafts, or transfers of credit, or more than $10,000 remitted or transferred to a person, account or place outside the United States

(6) A record of each receipt of currency, other monetary instruments, investment securities and checks, and of each transfer of funds or credit, of more than $10,000 received on any one occasion directly and not through a domestic financial institution, from any person, account or place outside the United States;

(7) Records prepared or received by a dealer in the ordinary course of business, that would be needed to reconstruct an account and trace a check in excess of $100 deposited in such account through its internal recordkeeping system to its depositary institution, or to supply a description of a deposited check in excess of $100;

(8) A record maintaining the name, address and taxpayer identification number, if available, of any person presenting a certificate of deposit for payment, as well as a description of the instrument and date of transaction;

(9) A system of books and records that will enable the dealer in foreign currency to prepare an accurate balance sheet and income statement.

15. It is proposed to redesignate paragraph (c) of newly redesignated § 103.38 as (d), add a new paragraph (c), and revise newly renumbered paragraph (d) to read as follows:

§ 103.38 Nature of records and retention period.

* * * * *

(c)(1) In the event that a bank, broker or dealer in securities, casino, or dealer in foreign currency has been unable to secure the taxpayer identification number required by §§ 103.34, 103.35, 103.36, or 103.37 it shall not be a violation of that respective section if the recordkeeper (i) has made a reasonable effort to secure the taxpayer identification number, and (ii) maintains a list containing the names, permanent addresses, and account numbers, where applicable, of those persons from whom it has been unable to secure such identification, and makes the names, addresses, and account numbers of those persons available to the Secretary upon request.

(2) The rules and regulations issued by the Internal Revenue Service under 26 U.S.C. 6109 determine what constitutes a taxpayer identification number and whose number shall be obtained in the case of an account maintained by one or more persons.

(d) All records that are required to be retained by this Part shall be retained for a period of five years. All such records shall be filed or stored in such a way as to be accessible within a reasonable period of time, taking into consideration the nature of the record, and the amount of time expired since the record was made.

16. It is proposed to amend § 103.46, by removing paragraph (b), by redesignating paragraph (a) as paragraph (b), by revising the introductory text of newly redesignated (b) and by revising (b)(5) and (b)(8), and by adding new paragraphs (a), (c) and (d), to read as follows:

§ 103.46 Enforcement.

(a) Overall authority for enforcement and compliance, including coordination and direction of procedures and activities of all other agencies exercising delegated authority under this Part, is delegated to the Assistant Secretary (Enforcement).

(b) Authority for assuring compliance with the requirements of this Part is delegated as follows:

* * * * *

(5) To the Chairman of the Board of the National Credit Union Association with respect to those financial institutions regularly examined for safety and soundness by NCUA examiners.

* * * * *

(8) To the Commissioner of Internal Revenue with respect to all financial institutions, except brokers or dealers in securities, not currently examined by Federal bank supervisory agencies for soundness and safety.

(c) Authority for investigatory criminal violations of this Part is delegated as follows:

(1) To the Commissioner of Customs with respect to § 103.23;

(2) To the Commissioner of Internal Revenue except with respect to § 103.23.

(d) Periodic reports shall be made to the Assistant Secretary by each agency to which compliance authority has been delegated under paragraph (b) of this subsection. These reports shall be in such a form and submitted at such intervals as the Assistant Secretary may direct.

17. It is proposed to redesignate paragraph (b) of § 103.47 as (c), revise paragraph (a) and insert a new paragraph (b) to read as follows:

§ 103.47 Civil penalty.

(a) For any willful violations of any reporting requirement for financial institutions under this part or of the recordkeeping requirements of § 103.32, the Secretary may assess upon any domestic financial institution, and upon any partner, director, officer or employee thereof who willfully participates in the violation, a civil penalty not to exceed $10,000.

(b) For any willful violation of any recordkeeping requirement for financial institutions, except violations of § 103.32, under this part, the Secretary may assess upon any domestic financial institution, and upon any partner, director, officer or employee thereof who willfully participates in the violation, a civil penalty not to exceed $1,000.

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Dated: August 20, 1986.

Michael H. Lane,

Acting Assistant Secretary (Enforcement).

[FR Doc. 86-18955 Filed 8-22-86; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 150

[CGD 84-025]

Incinerator Vessels; Safety Rules

AGENCY: Coast Guard.

ACTION: Proposed rules.

SUMMARY: This notice proposes safety rules for incinerator vessels carrying bulk hazardous wastes for the purpose of incineration at sea. The rules incorporate standards in Chapter 19 of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (International Bulk Chemical Code) of the International Maritime Organization (IMO) as well as standards in existing safety regulations that apply to chemical tank vessels. These rules would apply to vessels required to obtain an ocean incineration permit from the Environmental Protection Agency (EPA). EPA has recently proposed rules for obtaining a permit.

DATE: Comments must be received on or before October 24, 1986.

ADDRESSES: (1) Comments should be mailed to the Commandant (G-CMC/21) (CGD 84-025), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593. Comments may be delivered to and will be available for inspection and copying at the Marine Safety Council (G-CMC/21), Room 2110, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC between the hours of 8:00 A.M. and 4:00 P.M., Monday through Friday.

(2) A draft regulatory evaluation has been included in the public docket for this rulemaking, and may be inspected and copied at the Marine Safety Council (G-CMC/21) at the address listed above.

FOR FURTHER INFORMATION CONTACT: LCDR David B. Crawford, Office of Marine Safety, Security, and Environmental Protection (202) 267-1217.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking (NPRM) by submitting written views, data, or arguments. Comments should include the names and addresses of persons making them, identify this NPRM (CGD 84-025) and the specific section or paragraph of the NPRM to which each comment applies, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The regulations may 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 a written request for a hearing is received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal drafters of these regulations were LCDR David B. Crawford, Office of Marine Safety, Security, and Environmental Protection, and William R. Register, Office of the Chief Counsel.

Discussion of Proposed Rulemaking

(a) Background Information

Ocean incineration is a process for disposing of hazardous waste by high temperature destruction at sea. In a typical disposal operation, a tank vessel which has one or more specially designed incinerators receives hazardous waste at a port, transits to a designated burn site, burns the waste at the site, and then returns.

The Coast Guard, under 46 U.S.C. 3703, has responsibility for prescribing regulations for incinerator vessels as may be necessary for navigation, vessel safety, and safety of vessel personnel as well as for enhanced protection of the marine environment. These regulations may include, among other things, requirements for the design, construction, equipment, and operation of incinerator vessels. The Environmental Protection Agency (EPA) has general responsibilities relating to ocean incineration activities. These responsibilities include setting standards for incinerator emissions, issuance of ocean incineration permits, and the designation and management of ocean incineration sites. The EPA published a comprehensive proposal for obtaining ocean incineration permits in the **Federal Register** of February 28, 1985, at page 8222 (50 FR 8222).

Technology concerning ocean incineration of hazardous waste originated in Europe in the early 1970's. As it developed, a need for specific requirements for incinerator vessels became increasingly apparent. Existing vessel safety requirements for tank

vessels did not specifically address hazards associated with incinerators and incinerator spaces, the sources of ignition in these spaces, and the potential for release of hazardous wastes in these spaces during transfer from vessel cargo tanks to an incinerator. The International Maritime Organization (IMO) in recognizing and responding to this need, developed a set of comprehensive incinerator vessel requirements which have been included in Chapter 19 of the International Bulk Chemical Code (IBC). The Coast Guard actively participated in the development of Chapter 19. Input was also obtained from the U.S. Working Group on Bulk Chemicals of the Subcommittee on Safety of Life at Sea of the Shipping Coordinating Committee. The standards in Chapter 19 are widely accepted as the best, most practicable safety standards available for incinerator vessels.

The IBC, including Chapter 19, becomes mandatory for states signatory to the 1974 International Convention for the Safety of Life at Sea, including the United States, on July 1, 1986. Chapter 19 contains detailed requirements relating to incinerator vessels and also incorporates applicable requirements of Chapters 1–16 of the IBC that apply generally to all chemical tank vessels. The requirements of Chapters 1–16 in turn incorporate provisions of the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (Bulk Chemical Code) which was originally adopted in 1971 as a recommended international standard for all chemical tank vessels. The Coast Guard incorporated the Bulk Chemical Code into United States regulations in 1977. These requirements are currently published in 46 CFR Part 153.

The proposed rules in this document incorporate the provisions of Chapter 19 of the IBC into U.S. regulations. They are being proposed as measures to provide for the safety of incinerator vessels and their crews and for the protection of the marine environment when transporting hazardous wastes and while operating at an incineration site.

At present, there is one United States flag incinerator vessel, APOLLO I. Another, APOLLO II, is currently under construction. The plans for both of these vessels have been approved by the Coast Guard and they will meet the level of safety provided by Chapter 19 of the IBC and these proposed regulations. Also, several inquiries have been received from prospective builders of other incinerator vessels.

Two foreign flag incinerator vessels, VULCANUS I and VULCANUS II, have requested EPA authorization to burn U.S. generated hazardous wastes. Both of these vessels are required by Public Law 97–389 (96 Stat. 1954, 46 U.S.C. 883) to undergo full inspection, including drydock inspections and internal examinations of the tanks and void spaces, and meet the same standards as U.S. vessels. The VULCANUS II was recently certified by the Coast Guard in accordance with Public Law 97–389 and was found to comply with the principal requirements proposed in this notice, and the second vessel has applied for a certification. Public Law 97–389 also prohibits other foreign vessels (*i.e.*, foreign vessels not owned or under construction on May 1, 1982, by a corporation wholly owned by a citizen of the U.S.) from loading bulk hazardous wastes from U.S. ports for the purpose of incineration at sea.

(b) Description of Proposed Rules

(1) Activities to be Regulated

Incinerator vessels conduct two primary activities both of which are addressed in these proposed regulations. The first activity is to transport hazardous waste to an ocean incineration site. In this respect an incinerator vessel's operation is similar to any other tank vessel. The second activity involves the actual process of incineration. Incinerators pose hazards similar to other fired units onboard ship such as boilers. In addition, the operation of transferring hazardous waste which may be flammable and toxic from the incinerator vessel's cargo tanks to an incinerator is an operation unique to incinerator vessels.

(2) Proposed Regulatory Approach

(a) *Transportation of Waste Material.* The proposed regulatory approach for shipboard transportation of hazardous waste to an incineration site is to apply, where appropriate, the existing requirements for chemical tank vessels that carry hazardous materials in bulk. The standards necessary to safely transport hazardous waste materials are essentially the same as those applied to the carriage of hazardous materials as cargo in bulk.

The principal safety regulations for all tank vessels are in Subchapter D of Title 46, Code of Federal Regulations. Examples of these requirements include: firefighting systems, structural fire protection, lifesaving equipment, cargo venting systems, and ventilation systems. For chemical tank vessels, the Subchapter D requirements are supplemented by requirements in Part 153 of Subchapter O of Title 46, Code of Federal Regulations. As stated above, these supplemental requirements incorporate the provisions of the Bulk Chemical Code which are carried forward into Chapters 1–16 of the IBC. Examples of these requirements are: vessel arrangements, cargo containment systems, cargo tank gauging, cargo pumps and pumprooms, monitors, alarms, and control systems, toxic vapor protection, emergency shutdown, and various operational procedures and controls. In addition to the existing requirements in Subchapters D and O, specific requirements are also necessary to address construction and arrangement features concerning incinerators and incinerator spaces. These additional requirements are found in Chapter 19 of the IBC.

(b) *Incineration of Wastes.* The proposed regulatory approach for incineration of hazardous waste is to apply requirements from 46 CFR Part 63 which relate to large water heating equipment and other large fired units on board ship. The hazards involved in using this equipment are essentially the same as those associated with shipboard incinerators. The principal purposes of the Part 153 requirements are to preclude the introduction of fuel or hazardous waste into an incinerator in the absence of an ignition source and to preclude the ignition of flammable vapor in amounts that would damage an incinerator or cause an explosion.

The proposal also includes requirements from Chapter 19 of the IBC as measures to minimize hazards resulting from an accidental release of hazardous wastes from cargo piping during transfer to an incinerator. These additional requirements include automatic shutdown systems, electrical equipment requirements for equipment located in compartments containing cargo piping, ventilation requirements for spaces surrounding the incinerators, and special pumproom requirements.

Design and operating features necessary to meet EPA emission standards for incinerators are addressed in EPA's proposed rules of February 28, 1985 (40 FR 8222) principally in proposed §§ 234.11, 234.12, 234.47, and 234.48.

(3) Specific Application

The proposed regulations would apply to all vessels, both ships and seagoing barges, engaged in the incineration of bulk hazardous wastes at sea. As provided in § 150.215, an incinerator barge would also be required to meet specific requirements in addition to those proposed in this NPRM if determined by the Coast Guard to be necessary because of unique features involving the construction, arrangement, or operation of these vessels.

The hazardous wastes to be covered by the proposed regulations would include both liquid and solid wastes. As provided in proposed § 150.230, requirements in addition to or in lieu of those in this NPRM may be necessary with respect to solid wastes depending upon specific hazards presented by transporting and burning these wastes. As provided in proposed § 150.205(c), liquid wastes to be covered would include both flammable and combustible liquids as defined in Subchapter D of Title 46 as well as hazardous materials included under Department of Transportation regulations in Title 49, Parts 171 and 172.

(4) Additional Limitations and Controls.

The Coast Guard anticipates that the requirements in this NPRM would be supplemented on a case by case basis with specific operational limitations and controls that may be needed with respect to vessel loading and port transit of bulk hazardous wastes. The types of operational controls and limitations to be imposed would depend on the hazard of the cargo being carried and would take into account local port conditions. The Coast Guard has broad authority in 33 CFR Parts 126, 154–156, and 160–165 to impose these limitations and controls. As provided in EPA's proposed regulations, (proposed 40 CFR § 234.52), the ocean incineration permit issued to an incinerator vessel would be conditioned in part upon limitations and controls determined to be necessary after consultation with the Coast Guard. Examples of port transit limitations and controls may include where appropriate: establishment of a moving safety zone, requirements for Coast Guard escort vessels, restriction of operations to daylight hours, weather and visibility restrictions, requirements for tug assistance, and a requirement to provide at least 24 hours advance notice before transferring hazardous waste to an incinerator vessel.

(5) Hull Construction

In order to comply with the proposed requirements, and particularly the proposed construction and arrangement provisions, incinerator vessels will need at least a type II hull (double hull construction) to reduce the potential for discharges caused by collisions and groundings and meet a two compartment damage stability standard. Appendix I to the Draft Evaluation, which is discussed in more detail below, contains a detailed discussion of requirements concerning type II construction.

These proposed regulations do not include provisions allowing carriage of hazardous wastes on incinerator vessels that have type III hulls. Specific provisions are not being proposed for type III vessels since they cannot safely carry many of the hazardous wastes that the Coast Guard anticipates will be routinely transported, and, when the provisions of Annex II of the International Convention for the Prevention of Pollution from Ships becomes effective in April 1987, type II vessels will be required. As explained in Appendix I to the Draft Evaluation, vessels that have a type III hull are not required to meet certain standards required for type II construction.

(c) Source of Proposed Regulations.

The proposed regulations incorporate the provisions of Chapter 19 of the IBC Code. The proposed regulations also include provisions from 46 CFR Part 153 which correspond to provisions in the Bulk Chemical Code and Chapters 1–16 of the IBC Code, and provisions from 46 CFR Part 63 which in part include requirements for large heating plants on vessels as well as other safety features applicable to incinerators. The Part 63 requirements have been revised and published in a new proposed 46 CFR Part 62, entitled "Automated Vital Systems". Proposed 46 CFR Part 62 was recently published in the **Federal Register** of September 23, 1985 (50 FR 38608). The Part 153 provisions upon which the proposed regulations are based also include amendments to Part 153 published in the **Federal Register** of May 22, 1985 (50 FR 21166).

Table I below lists the source of each regulation in this NPRM. Because many of the proposed regulations are the same as or similar to a corresponding regulation in 46 CFR Part 153 or proposed Part 62, a citation to Part 153 or proposed Part 62 is given as the source. Several of the regulations derived from Part 153 also are included in Chapter 19 of the IBC Code. In drafting the text of the proposed regulations, the same words appearing in Part 153 or in proposed Part 62 have been used whenever possible to provide consistency with those regulations and to facilitate the understanding of readers familiar with them.

Proposed regulations in Table I which are derived solely from Chapter 19 of the IBC are assigned an "IMO" notation. The few proposed regulations designated as "NEW" have been developed for the most part on the basis of Coast Guard experience in the certification process of the APOLLO and VULCANUS incinerator vessels.

TABLE I

Proposed regulations	Source
150.200	NEW
150.205	153.2, except as noted below
"Cargo"	NEW
"Incinerator"	NEW
"Incinerator blower space"	IMO 19.1.3.2
"Incinerator control room"	IMO 19.3.9
"incinerator space"	IMO 19.1.3.1
"incinerator vessel"	NEW
150.210	153.940
150.215	NEW
150.220	153.8, 153.900
150.225(a)	153.900(a)
150.225(b)	153.8(e)
150.225(c)	153.5(b) 153.900
150.225(d)	153.15
150.225(e)	153.8(b)
150.230	153.5(b)
150.235(a)	153.12(a)(2)
150.235(b)	153.12(a)
150.235(c)	153.12(b)
150.240	153.10
150.245(a)	153.19
150.245(b)	Table I,Part 153
150.250(a)	153.486
150.250(b)	IMO 19.9
150.255(a)	153.231
150.255(b)	153.235
150.255(c)	IMO 19.5.3
150.255(d)	153.525
150.255(e)	153.525
150.255(f)	153.525
150.255(g)	IMO 19.3.2
150.255(h)	153.365
150.255(i)	153.251, 153.281
150.255(j)	IMO 19.5.2
150.255(k)	IMO 19.4.1
150.255(l)	153.254
150.255(m)	153.254
150.255(n)	153.254
150.255(o)	153.256
150.255(p)	153.236
150.260	153.233
150.265	153.234(b)
150.270(a)	153.234(a)
150.270(b)	153.201(a)
150.270(c)	153.201(b)
150.270(d)	IMO 3.2.3
150.270(e)	IMO 3.2.2
150.270(f)	IMO 3.2.3
150.270(g)	IMO 19.3.2, IMO 19.3.3
150.270(h)	IMO 19.3.2,
150.270(i)	IMO 19.3.4
150.270(j)	IMO 19.3.8, IMO 19.4.2
150.275	153.208
150.280	153.209
150.285	153.217
150.290	153.219
150.295(a)	153.350
150.295(b)	153.352
150.295(c)	153.353
150.295(d)	153.354
150.295(e)	153.355
150.295(f)	153.356(a)
150.295(g)	153.356(b)
150.295(h)	153.360
150.295(i)	153.362
150.295(j)	153.364
150.295(k)	153.366(b)
150.295(l)	153.372
150.295(m)	IMO 19.7.1
150.300(a)	153.404, 153.408
150.300(b)	153.408(a)
150.300(c)	153.408(b)
150.300(d)	153.408(c)
150.300(e)	153.408(d)
150.300(f)	153.408(e)
150.300(g)	153.408(f)
150.305	153.330
150.310	153.332
150.315	153.333
150.320(a,b)	153.334
150.320(c)	IMO 19.5.2
150.325	153.336
150.330(a)	IMO 19.4.4
150.330(b)	IMO 19.4.3
150.335(a)	62.35–20(a)
150.335(b)	62.25–1(c)
150.335(c)	62.25–5(d)
150.335(d)	62.25–25(a)

TABLE I—Continued

Proposed regulations	Source
150.335(e)	62.25-25(b)
150.335(f)	62.25-30(a)
150.335(g)	63.05-20(b)
150.335(h)	62.25-15(e)(2)
150.335(i)	62.35-20(e),(f) and (g)
150.340(a)	62.25-15(c)
150.340(b)	62.25-20(b)(1)
150.340(c)	62.25-20(e)(2)
150.340(d)	62.25-20(c)
150.340(e)	62.25-20(d)(6)
150.340(f)	IMO 19.4.5
150.340(g)	IMO 19.4.5
150.340(h)	62.25-20(e)(1)
150.345(a)	62.35-20(c)
150.345(b)	153.10
150.350	62.35-20(d)
150.355(a)(b)(1-4)	62.35-20(h)
150.355(b)(5)	63.05-35(a)
150.360(a-d)	62.35-20(i)
150.360(g)	62.30-1(b)
150.365(a)	62.25-1(b)
150.365(b)	61.40
150.370(a)	153.310
150.370(b)(1-4, 6,7)	153.312
150.370(b)(5)	153.316
150.370(c) and (d)	IMO 19.11
150.375(a)	153.314(a)
150.375(b)	153.314(b)
150.380	IMO 19.3.9
150.385	IMO 19.3.9
150.390(a)	153.296(a)
150.390(b)	153.296(b)
150.390(c)	IMO 19.5.4
150.390(d)	IMO 19.5.4
150.390(e)	153.296(g)
150.395(a)	153.214(a),(b)
150.395(b)	153.215(a)
150.395(c)	153.215(b)
150.395(d)	153.215(c)
150.395(e)	153.215(d)
150.395(f)	153.216
150.395(g)	153.527
150.395(h)	Proposed 33 CFR 142.39 (49 FR 1083)
150.400(a)	153.460
150.400(b)	IMO 19.10.1
150.400(c)	153.460
150.405(a)	IMO 19.8.1
150.405(b)	IMO 19.8.2
150.410	153.500 (a-d)
150.415	153.901
150.420	153.904
150.425	153.905
150.430	153.907
150.435	153.910
150.440	153.920
150.445	153.923
150.450(a)	153.932(a)
150.450(b)	153.932(b)
150.455	153.933 and 153.932(c)
150.460(a)	153.934
150.460(b)	153.934
150.465	153.935
150.470	153.935
150.475	153.936
150.480	153.940
150.485	153.953
150.490	153.955
150.495(a)	153.957
150.495(b)	153.959
150.500	153.968
150.505	153.806
150.510	153.970
150.515	153.972
150.520	153.975
150.525	153.976
150.530(a)-(c)	153.977
150.530(d)	153.981
150.535	153.980
150.540	153.983
150.545	153.1504
150.550	33 CFR 153.203

NOTE:—(1) Unless otherwise specified, section numbers listed above refer to section numbers in 46 CFR Part 153, or Proposed Part 62.
(2) "IMO" refers to Chapter 19 of IMO's International Bulk Chemical Code.

Draft Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291 and significant under Department of Transportation 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 and copied at the address listed above under **ADDRESSES.** Copies may also be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

The draft evaluation provides a detailed explanation of the estimated costs of these proposed regulations. The estimated costs are approximately $3 million per vessel with an expectation of a maximum of 3 incinerator vessels being built per year for the next 10–11 years.

These costs take into account a potential savings to prospective shipowners of as great as $1 million per vessel over the $4 million cost per vessel required to meet current Coast Guard conditions for certification as an incinerator vessel. The savings would result from reducing the time needed for Coast Guard concept plan review in the certification process. The savings would be considerably reduced if several vessels were built to the same plans; however, this is not the usual practice.

Due to a lack of operational experience for incinerator vessels, it is impossible to quantify the extent to which the proposed regulations will affect the risk of explosion and fire aboard ships during the incineration process and the potential for exposure of the crew to toxic wastes; however, all known hazards are addressed by the proposed regulations and these risks should be minimal.

These regulations, in conjunction with the EPA proposed permit requirements, would result in an essentially negligible potential for harmful releases affecting coastal areas as a consequence of a vessel casualty.

Based upon the information in the draft evaluation, as discussed above, the Coast Guard certifies that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rulemaking includes information collection requirements that have already been approved for all chemical tank vessels. These requirements are in § 150.225(b) and (e), § 150.235(b), § 150.240(b), § 150.365(a), § 150.415, § 150.430, § 150.435, and § 150.480 and are approved under OMB Approval No. 2115–0089. Other information collection requirements are in § 150.460 approved under OMB Approval No. 2115–0071, § 150.550 under OMB Approval No. 2115–0518, 150.365(b) under OMB Approval No. 2115–0548, and §§ 150.490 and 150.505 are approved under OMB Approval No. 2115–0078.

The information collection requirements in this rulemaking and their corresponding control numbers will be listed in 46 CFR § 150.105 concurrently with the publication of final rules.

List of Subjects 46 CFR Part 150

Hazardous materials transportation, Marine safety, incinerator vessels.

In accordance with the foregoing, the Coast Guard proposes to amend Title 46 of the Code of Federal Regulations as follows:

1. The authority citation for Part 150 continues to read as follows:

Authority: 46 U.S.C. 3703; 49 CFR 1.46.

2. A new Subpart B is added to read as follows:

Subpart B—Requirements for Vessels Engaged in Bulk Hazardous Waste Incineration at Sea

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150.360 Incinerator safety trip control.
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150.440 Cargo quantity limitations.
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150.460 Entry into spaces containing cargo vapor.
150.465 Opening of tanks and cargo sampling.
150.470 Storage of cargo samples.
150.475 Illness, alcohol, drugs.
150.480 Standards for marking of cargo hose.
150.485 Signals during cargo transfer.
150.490 Warning signs during cargo transfer.
150.495 Person in charge of cargo transfer.
150.500 Cargo transfer conference.
150.505 Loading information.
150.510 Cargo transfer piping.
150.515 Connecting a cargo hose.
150.520 Preparation for cargo transfer.
150.525 Transfer of ship stores.
150.530 Supervision of cargo transfer.
150.535 Isolation of automatic closing valves.
150.540 Terminal procedures.
150.545 Inspection of personnel emergency and safety equipment.
150.550 Reporting discharges of cargo.

General

§ 150.200 Applicability.

This subpart prescribes rules that apply to vessels engaged in the incineration of bulk hazardous waste at sea.

Note.—Regulations in 40 CFR Part 234 require these vessels to obtain an ocean incineration permit from the Environmental Protection Agency.

§ 150.205 Definitions.

In this subpart:

"Accommodation spaces" means halls, dining rooms, lounges, lavatories, cabins, staterooms, office, hospitals, cinemas, game and hobby rooms, pantries containing no cooking appliances, and similar permanently enclosed spaces.

"B" means the breadth of the vessel and is defined in § 42.13–15(d) of this chapter.

"Cargo" means liquid hazardous waste that is carried in bulk for the purpose of incineration at sea and that is—

(1) A hazardous material as defined in 49 CFR 171.8 and has a vapor pressure of less than 172 kPa (25 psig) at 37.8 °C (100 °F); or,

(2) A flammable or combustible liquid as defined in Subpart 30.10 of this chapter.

"Cargo area" means that part of a vessel that includes the cargo tanks, spaces adjacent to the cargo tanks, and the part of the deck over the cargo tanks and adjacent spaces.

"Cargo containment system" means a cargo tank, its cargo piping system, its venting system, and its gauging system.

"Cargo handling space" means an enclosed space that must be entered during a routine loading, carriage, or burning of cargo and that contains an element of the cargo containment system having a seal or packing to prevent the escape of cargo such as a valve or cargo pump.

"Cargo piping system" means an incinerator vessel's permanently installed piping arrangement, including any valves and pumps, that carries cargo to or from a cargo tank.

"Closed gauging system" means an arrangement for gauging the amount of cargo in a tank, such as a float and tape, a magnetically coupled float and indicator, or a radar system that does not have any opening through which cargo vapor or liquid can escape.

"Commandant" means Commandant of the U.S. Coast Guard. The term is often followed by a mailing code in parentheses. The mailing address should include any mailing code and should be written as follows: Commandant (mailing code), U.S. Coast Guard, Washington, DC 20593.

"Control space" is defined in § 30.10–19a of this chapter.

"IMO" means the International Maritime Organization.

"IMO Certificate" means a Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk issued under the IMO Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk, Resolution A.212(VII), 1971, as amended, or issued under the IMO International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (International Bulk Chemical Code).

"Incinerator" means an enclosed device used to thermally break down hazardous waste.

"Incinerator blower space" means an enclosed space containing a blower that supplies combustion air to an incinerator.

"Incinerator control room" means the space where controls, alarms, and monitoring systems for the incinerator operation are located.

"Incinerator space" means a cargo handling space surrounding the portion of an incinerator where waste is introduced into it.

"Incinerator vessel" means a tank vessel constructed or converted to carry and burn hazardous waste at sea.

"Independent," as applied to a cargo piping, venting, or heating system means that the system is connected to no other system, and has no means available for connection to another system.

"Independent tank" means a cargo tank that is permanently affixed to the vessel, that is self-supporting, that incorporates no part of the vessel's hull and that is not essential to the integrity of the hull.

"Integral tank" means a cargo tank that also is part of or is formed in part by the vessel's hull structure so that the tank and the hull may be stressed by the same loads.

"L" means the length of the vessel and is defined in § 42.13–15(a) of this chapter.

"OCMI" means "Officer in Charge, Marine Inspection, as defined in § 1.05(b) of this chapter.

"Pressure-vacuum (PV) valve" means a valve that is normally closed and which opens under a preset positive pressure or a vacuum.

"Separate" and "separated," as applied to a cargo piping, venting, heating or cooling system, means either an independent system or one that may be disconnected from all other systems by—

(1) Removing spool pieces or valves and blanking the open pipes ends; or

(2) Blocking each system interconnection with two blind flanges in series and providing a means of detecting leakage into the pipe section between the flanges.

"Service space" means a space outside the cargo area used for galleys, pantries containing cooking appliances, lockers, store rooms, workshops other than those forming part of the

machinery spaces, and trunks to such spaces.

"Venting System" means a permanent piping arrangement leading from a cargo tank and used to control the flow of vapor to and from the tank.

§ 150.210 Incorporation by reference.

(a) Certain materials are incorporated by reference into this subpart with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table is found citations to the particular sections of this part where the material is incorporated. To enforce any edition other than the one listed in paragraph (b) of this section, notice of the change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, Washington, DC 20408, and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division (G-MTH), Washington, DC 20593.

(b) The materials approved for incorporation by reference in this subpart are:

American National Standards Institute, 1430 Broadway, NY, NY 10018

ANSI B16.31-71, Non-Ferrous Pipe Flanges.
ANSI Z87.1-79, Practice for Occupational and Educational Eye and Face Protection.
ANSI Z88.2-80, Practices for Respiratory Protection.
ANSI/NFPA 306, Control of Gas Hazards on Vessels.

§ 150.215 Non-self-propelled vessels.

Each non-self-propelled incinerator vessel must meet the requirements of this subpart and any additional requirements that the Commandant (G-MTH) may prescribe.

§ 150.220 Inspection for Certificate of Inspection.

Each incinerator vessel must be certificated under Subchapter D of this chapter.

§ 150.225 Required endorsement.

(a) Each incinerator vessel must have its Certificate of Inspection endorsed as follows:

(1) "Inspected and approved for the carriage of Grade A and lower flammable or combustible liquids and hazardous waste for incineration"

(2) "Maximum specific gravity allowable: ———".

Note.—Specific gravity is calculated in accordance with § 150.255(g).

(b) Each request for the endorsements required by this section must be submitted to one of the Coast Guard offices described in § 91.55-15 of this chapter.

(c) No incinerator vessel may load or carry cargo unless it has the endorsement required by this section.

(d) No endorsement will be issued unless the vessel meets the requirements of this subpart.

(e) The person requesting an endorsement under paragraph (a) of this section must also transmit to the Coast Guard when requested—

(1) Hull type calculations;

(2) The test procedure prescribed in § 150.370(b);

(3) The plans and information listed in § 150.295(g) and in § 54.01-18, § 56.01-10, § 91.55-5 (a), (b), (d), (g), and (h), and § 110.25-1 of this chapter; and

(4) Any other vessel information, such as plans, design calculations, test results, certificates, and manufacturer's data needed to determine whether the vessel meets the requirements of this subpart.

§ 150.230 Carriage of bulk solid hazardous waste.

Bulk solid hazardous waste may not be carried on board an incinerator vessel unless specific requirements that the Commandant (G-MTH) may prescribe in addition to or in lieu of requirements of this subpart are met.

§ 150.235 IMO Certificates for U.S. flag vessels.

(a) Subject to any amendments to the International Bulk Chemical Code, vessels that meet the requirements of this subpart are considered to meet the International Bulk Chemical Code requirements for obtaining an IMO Certificate of Fitness.

(b) Upon request made to the OCMI, the owner of an incinerator vessel may obtain an IMO Certificate of Fitness if the vessel has a valid Certificate of Inspection endorsed under § 150.225.

Note.—After July 1, 1986, the IMO Certificate of Fitness is required for loading and transporting hazardous waste from most foreign ports for incineration at sea.

(c) The IMO Certificate of Fitness expires on the same date that the incinerator vessel's Certificate of Inspection expires.

§ 150.240 Equivalent standards.

(a) A vessel that does not meet each standard required in this subpart for an endorsement on a Certificate of Inspection may meet an alternate standard if the Commandant (G-MTH) finds that the alternate standard provides an equivalent level of protection for the purpose of safety.

(b) The Commandant considers on a case by case basis the issuance of a determination of equivalence to a standard required by this subpart if the person requesting the determination sends a written application to Commandant (G-MTH) that includes—

(1) A detailed explanation of the vessel's characteristics that do not meet the requirements in this subpart; and,

(2) An explanation of how the substituted standards enable the vessel to meet a level of safety equivalent to the standards of this subpart.

Construction and Arrangements

§ 150.245 Hull type and damage stability.

(a) Each incinerator vessel must have either a type I or type II hull.

(b) Each incinerator vessel must meet the applicable stability requirements in Subpart F of Subchapter S of this chapter for type I or II hull.

§ 150.250 Electrical equipment.

(a) Each incinerator vessel must meet Subchapter J of this chapter.

(b) Electrical equipment in an incinerator space or incinerator blower space that is not suitable for use in a Class I, Division 1 location or that does not must meet the requirements of § 111.105 of this chapter must have interlocks sufficient to automatically de-energize the equipment upon ventilation system failure or loss of the pressure required by § 150.370.

§ 150.255 Cargo containment system.

(a) Each cargo containment system on a vessel must be no closer to the incinerator vessel's shell than 76 cm (approx. 29.9 in) and it may not be located in any part of the incinerator vessel subject to the damage described in Table 172.135 of this chapter for GROUNDING PENETRATION, Vertical extent from the baseline upward.

(b) Cargo piping must not be located in those areas from which a containment system is excluded by paragraph (a) of this section unless the cargo piping:

(1) Drains back to its cargo tank under any condition of heel or trim resulting from the damage specified in § 172.135 of this chapter; and

(2) Enters the cargo tank above the liquid level for a full tank in any condition of heel or trim resulting from the damage specified in § 172.135 of this chapter.

(c) Fuel piping for an incinerator and the cargo piping system may be connected at the incinerator burner only by a three-way valve having "fuel",

"cargo", and "off" positions. The fuel piping must include two automatic non-return valves with positive means of closure, or an equivalent arrangement. These valves must be located in the incinerator space.

(d) A cargo tanks' relief valve setting must be not less than 21 kPa gauge (approx. 3 psig).

(e) All cargo pumps and valves located below the weatherdeck must be operative from on or above the weatherdeck.

(f) The cargo must be separated from any bunkers by at least two bulkheads, except that an oil fuel tank containing oil fuel used exclusively in the incineration process may be adjacent to a cargo tank.

(g) A tank containing liquid used for washing cargo tanks and cargo piping may be adjacent to a cargo tank.

(h) Each cargo containment system must be designed to withstand the maximum pressure that develops during an overfill of cargo having the maximum specific gravity endorsed on the vessel's Certificate of Inspection.

(i) Each independent tank must meet the following requirements:

(1) Section 38.05–10(a)(1), (b), (d), and (e)(1) of this chapter.

(2) Its piping must penetrate the tank only through that part of the tank or dome extending above the weatherdeck.

(j) The cargo piping system must not be connected to any sea valve.

(k) A cargo tank may be an integral tank.

(l) A cargo tank must have at least one covered manhole opening into the vapor space described in § 150.295.

(m) An access through a horizontal cargo tank surface must be at least 60 cm by 60 cm (approx. 23.6 x 31.5 in.).

(n) An access trunk must be no less than 76 cm (approx. 29.9 in.) in diameter.

(o) The hatch of a cargo tank must:

(1) Be at the highest point of the tank; and

(2) Open on or above the weatherdeck.

(p) Aluminum, copper, copper alloys, zinc, galvanized steel, mercury and materials of construction having a melting point below 925 °C (approx. 1697 °F) may not be used in the construction of a cargo containment system.

§ 150.260 Separation of tanks from machinery, service and other spaces.

(a) To prevent leakage through a single weld failure, the following spaces must be separated from a cargo by two walls, two bulkheads, or a bulkhead and a deck not meeting in a cruciform joint:

(1) Machinery spaces.

(2) Service spaces.

(3) Accommodation spaces.

(4) Spaces for storing potable domestic or feed water.

(5) Spaces for storing edibles.

(b) Some examples of arrangements that may separate cargo from the spaces listed in paragraph (a) of this section are the following:

(1) Dedicated ballast tanks.

(2) Cargo pumprooms.

(3) Ballast pumprooms.

(4) Double walled piping or a piping tunnel.

§ 150.265 Fore and aft location.

Each cargo containment system must be located at least 0.05L aft of the forward perpendicular, but in no case forward of a collision bulkhead.

§ 150.270 Vessel arrangements.

(a) The following must be outside the cargo area:

(1) Accommodation spaces.

(2) Service spaces.

(3) Incinerator spaces.

(4) Control spaces.

(5) Incinerators.

(6) Machinery spaces.

(7) Incinerator control rooms.

(b) Except as allowed in paragraph (c) of this section, entrances, ventilation intakes and exhausts, and other openings to accommodation or service or control spaces, must be located at a distance from the athwartship bulkhead facing the cargo area that is at least equal to the following:

(1) 3 m (approx. 10 ft) if the vessel is less than 75 m (approx. 246 ft).

(2) L/25 if the vessel is between 75 and 125 meters (approx. 246 ft and 410 ft).

(3) 5 m (approx. 16.5 ft) if the vessel length is more than 125 m (approx. 410 ft).

(c) Fixed port lights, wheelhouse doors, and windows need not meet the location requirements specified in paragraph (b) of this section if they do not leak when tested with a fire hose at 207 kPa gauge (30 psig).

(d) Portlights in the hull plating below the uppermost continuous deck and in the first tier of the superstructure must be a fixed type.

(e) Air intakes and openings into accommodation and service spaces must have metal closures that do not leak when tested with a fire hose at 207 kPa (30 psig).

(f) The closures required by paragraph (e) of this section must be capable of being closed from inside the space.

(g) Each oil fuel containment system must be located inside the cargo area unless the fuel has a closed cup flashpoint above 60 °C (140 °F).

(h) The containment system for liquids used for washing cargo tanks or cargo piping must be located inside the cargo area.

(i) Pumproom bilge discharges and cargo tank and piping washings must be stored in a slop tank in the cargo area. A cargo tank may be used as a slop tank.

(j) Each incinerator stack must be positioned in a manner approved by Commandant (G–MTH) for that vessel.

§ 150.275 Ballast equipment.

(a) Except for the arrangement described in paragraph (b) of this section, no piping that serves a dedicated ballast tank that is adjacent to a cargo tank may enter an engine room or accommodation space.

(b) Piping used only to fill a dedicated ballast tank adjacent to a cargo tank may enter an engine room or accommodation space if the piping has a valve or valving arrangement—

(1) Within the part of the incinerator vessel where a containment system may be located under § 150.265;

(2) That allows liquid to flow only towards that ballast tank (such as a check valve); and

(3) That enables a person to shut off the fill line from the weatherdeck (such as a stop valve).

(c) Except as prescribed in paragraph (d) of this section, pumps, piping, vent lines, overflow tubes, and sounding tubes serving dedicated ballast tanks must not be located within a cargo containment system.

(d) Each vent line, overflow tube, and sounding tube that serves a dedicated ballast tank and that is located within a cargo containment system must meet § 32.60–10(e)(2) of this chapter.

§ 150.280 Bilge pumping system.

Bilge pumping systems for cargo pumprooms, slop tanks, and void spaces separated from cargo tanks by only a single bulkhead must be entirely within the locations allowed containment systems in § 150.265.

§ 150.285 Access to enclosed spaces and dedicated ballast tanks.

An access opening to an enclosed space or a dedicated ballast tank must meet the requirements for a cargo tank access in § 150.255 (i), (j), and (k) if:

(a) The enclosed space or dedicated ballast tank is located within the cargo area of the vessel; or

(b) A part of a cargo containment system lies within the enclosed space or dedicated ballast tank.

§ 150.290 Acces to double bottom tanks serving as dedicated ballast tanks.

(a) Except as prescribed in paragraph (b) of this section, access opening to double bottom tanks serving as

dedicated ballast tanks must not be located within a cargo containment system.

(b) Each access opening to a double bottom tank that is a dedicated ballast tank and that is located within a cargo containment system must be:

(1) Enclosed in an access trunk extending to the weatherdeck;

(2) Separated from the cargo containment system by two manhole coverings; or

(3) Approved by the Commandant (G-MTH).

§ 150.295 Cargo venting system.

(a) Except as permitted paragraph (c) of this section, each cargo venting system must discharge—

(1) At the highest of the following points:

(i) 6 m (approx. 19.7 ft) above the weatherdeck.

(ii) B/3 above the weatherdeck.

(iii) 6 m (approx. 19.7 ft) above a walkway, if the walkway is within 6 m (19.7 ft) horizontal radius from the vent discharge.

(2) At least 15 m (approx. 49.2 ft) from air intakes for, or openings into, accommodation and service spaces.

(b) Each venting system outlet must—

(1) Discharge vertically upwards; and

(2) Prevent precipitation from entering the vent system.

(c) The discharge point of the venting system must be located at least 3 m (10 ft) above the weatherdeck or walkway if—

(1) The discharge is a vertical unimpeded jet;

(2) The jet has a minimum exit velocity of 30 m/sec. (approx. 98.4 ft/sec.); and

(3) The high velocity vent has been approved by Commandant (G-MTH).

(d) Each venting system must terminate in the vapor space above the cargo when the cargo tank is filled to a 2 percent ullage and the incinerator vessel has no heel or trim.

(e) Each cargo tank must have a PV valve in its vent line. The PV valve must be located between the tank and any connection to another tank's vent line (such as a vent riser common to two or more tanks).

(f) The cross sectional flow area of any vent system segment, including any PV valve, must at no point be less than that of a pipe whose inside diameter is 6.4 cm (approx. 2.5 in.).

(g) Calculations must show that under conditions in which a saturated cargo vapor is discharged through a venting system at the maximum anticipated loading rate, the pressure differential between the cargo tank vapor space and the atmosphere does not exceed 28 kPa gauge (approx. 4 psig), or, for independent tanks, the maximum working pressure of the tank.

(h) A venting system must have not assembly that could reduce its cross-sectional flow area or flow capacity to less than that required in paragraph (f) of this section.

(i) Unless a cargo venting system at every point is level or slopes back to the cargo tank under all conditions of heel and trim allowed under § 150.505 of this chapter, the cargo vent system must have a drain valve at each low point (trap) in the vent line.

(j) Supports for a vent system must meet § 38.10–10(c) of this chapter.

(k) Each pressure-vacuum relief valve must meet the requirements of Subpart 162.017 of this chapter.

(l) A cargo containment system that carries at ambient temperature a cargo whose vapor pressure exceeds 100 kPa absolute at 37.8 °C (approx. 14.7 psia at 100 °F) must have a tank pressure gauge at the point where cargo flow is controlled during transfer.

(m) Cargo vent heads must have the flame arrestors prescribed by § 32.55–22(b) of this chapter.

§ 150.300 Cargo tank gauging.

In this section, "Independent", as applied to two systems, means that one system will operate with a failure of any part of the other system.

(a) Each cargo containment system must have—

(1) A permanently installed closed gauging system;

(2) A vapor return connection;

(3) A closed cargo sampling system; and

(4) A high level alarm—

(i) That gives an audible and visible alarm before the tank fills to 97 percent of its capacity;

(ii) That can be seen and heard at the location where cargo transfer is controlled and on the open deck;

(iii) Whose operation can be checked prior to each loading; and

(iv) That must be marked "HIGH LEVEL ALARM" in lettering as specified for the warning sign in § 150.490 so that the legend is visible from work areas in the part of the deck where the cargo containment systems are located.

(b) In addition to the cargo high level alarm meeting paragraph (a)(4)(i)-(iv) each cargo containment system must have:

(1) A second high level (cargo overflow) alarm, or

(2) A system that automatically stops cargo flow to the tank (automatic shutdown system).

(c) The high level alarm and the cargo overflow alarm or automatic shutdown system must—

(1) Be independent of one-another; and

(2) Operate on loss of power.

(d) The cargo overflow alarm or the automatic shutdown system must operate early enough to—

(1) Stop the loading operation before the cargo tank overflows; and

(2) Avoid surge pressures that exceed the working pressure of the cargo piping system as prescribed in § 38.10–10(a) of this chapter.

(e) A tank overflow must be identified with the legend "TANK OVERFLOW ALARM" in lettering as specified for the warning sign in § 150.490.

(f) A tank overflow alarm must be audible and visible in that part of the deck where the containment systems are located and at the point where cargo loading is controlled.

(g) The automatic shutdown system or tank overflow alarm must be able to be checked at the tank for proper operation (for example, by electrically simulating an overfill at the tank gauge connections).

§ 150.305 Access to a cargo pumproom.

(a) The access door to a cargo pumproom must open onto the weatherdeck.

(b) The access way to a cargo pumproom and its valving must allow passage of a man wearing the breathing apparatus required by § 150.395(a)(2)(i).

(c) Each ladderway in a cargo pumproom must be free from obstructions by piping, framework, or other equipment.

(d) Cargo pumproom ladders and platforms must have guard railings.

(e) Each ladder to a cargo pumproom must have an incline from the horizontal of less than 60°.

§ 150.310 Hoisting arrangement.

(a) A cargo pumproom located below the weatherdeck must have a permanent hoisting arrangement with a lifting capacity of 2500 N (approx. 562 lbs), operable from a weatherdeck, for the removal of an unconscious person.

(b) The cargo pumproom must have a 60 cm by 60 cm (approx. 2 ft by 2 ft) cross-sectional clearance through the hoistway.

§ 150.315 Cargo pump discharge pressure gauge.

Each cargo pump within a pumproom must have a discharge pressure gauge outside the pumproom.

§ 150.320 Bilge pumping systems.

(a) A cargo pumproom must have a bilge pumping system.

(b) The bilge pumping system must have—

(1) Complete remote operating controls outside the cargo pumproom; and

(2) An alarm that operates when the depth of liquid in the bilges exceeds 50 cm (approx. 20 in.).

(c) The discharge piping of the bilge pumping system must not be connected to any sea valve.

§ 150.325 Pumproom respiratory requirements.

(a) Each cargo pumproom must have a low pressure air supply system that provides breathing quality air for use with the breathing apparatus in the pumproom.

(b) The low pressure air supply system described in paragraph (a)(1) of this section must—

(1) Run from fixed air bottles to the pumproom;

(2) Have an air compressor to recharge the fixed air bottles;

(3) Have connections in the pumproom suitable for use with the breathing apparatus required in § 150.395(a)(2)(i); and

(4) Have the air capacity to enable two men to work in the pumproom for at least one hour each without using the cartridges for the breathing apparatus required in § 150.395(a)(2)(i).

Incinerator and Controls

§ 150.330 Incinerator construction.

(a) Each incinerator must have enough bricklining and insulation so that the temperature on its outside surface does not exceed 180 °C (356 °F) during burning.

(b) Calculations must show that the incinerator, including its structural supports, is designed to withstand a static angle of heel of 30° and the dynamic loading prescribed in § 38.05-2(d) of this chapter.

§ 150.335 Incinerator control and monitoring: general.

(a) Each incinerator must have—

(1) Monitoring and alarms that meet § 150.340;

(2) Combustion control that meets § 150.345;

(3) Programming control that meets § 150.350;

(4) Safety trip control that meets §§ 150.355 and 150.360.

(b) Systems that perform the functions listed in paragraphs (a)(1)–(a)(4) of this section must perform all assigned tasks continuously, *i.e.*, the detection of unsafe conditions must not prevent continued control or monitoring of other conditions.

(c) Inadvertent grounding of an electrical or electronic control or alarm system must not cause false signals or safety trip control bypassing.

(d) Programmable control or alarm system logic must not be altered after initial testing without the approval of the cognizant OCMI. Control and automatic alarm systems must be provided with means, acceptable to the cognizant OCMI, of ensuring that setpoints remain within the safe operating range of the equipment.

(e) Operating programs for microprocessor-based or computer-based control, alarm and monitoring systems must—

(1) Be stored in non-volatile memory;

(2) Automatically operate on supply power resumption; and

(3) Not rely on mechanical devices.

(f) All incinerator controls and all alarm and monitoring equipment must be of a type suitable for the marine environment and its intended application.

(g) All control systems must be so designed that, as far as practicable, failure of equipment causes safe and immediate incinerator shutdown.

(h) Safety trip controls must require manual reset before renewed operation of the incinerator.

(i) Each incinerator burner must be provided with a valve, operated by the programming controls, that is automatically closed by the burner safety trip control and the incinerator safety trip control. Each incinerator must be provided with a master fuel oil valve and a master cargo valve to stop fuel and cargo to the incinerator upon actuation by the incinerator safety trip control. Burner and master valve shutoff must occur within 4 seconds of the detection of an unsafe condition or operation of an emergency shutdown station control. These valves must also be manually operable at the incinerator.

§ 150.340 Incinerator monitoring and alarms.

(a) Operation of a safety trip control described in §§ 150.355 and 150.360 must be alarmed at the incinerator space and the incinerator control room, if any; otherwise, in the vessel's control space.

(b) Manual incinerator control locations, including remote manual control and local manual control, must be provided with the instrumentation necessary for safe operation from that location.

(c) Visual alarm displays must initially indicate the malfunction without operator intervention.

(d) If the remote instrumentation installed does not provide a continuous display, readings must be obtainable with minimal effort by the operator.

(e) Failure of an incinerator automatic control, remote control, or alarm system must be immediately alarmed in the incinerator space and the incinerator control room, if any, and at the vessel's control space.

(f) Alarms must be provided in each incinerator space to indicate failure to maintain the pressure differential required by § 150.375(b)(5) of this chapter.

(g) Alarms must also be provided to indicate when temperature on the surface of the incinerator exceeds 180 °C (356 °F) during burning. The alarms must be in each incinerator control room, if any, otherwise in the vessel's control spaces.

(h) All alarm systems must—

(1) Have no means to reduce or eliminate the annunciated signal other than the manual acknowledgement device;

(2) Be continuously powered;

(3) Be provided with a means to test audible and visual annunciators;

(4) Be able to simultaneously indicate more than one alarm condition if multiple inputs are provided:

(5) Visually annunciate until the alarm is manually acknowledged and the alarm condition is cleared;

(6) Audibly annunciate until manually acknowledged;

(7) Not prevent annunciation of subsequent alarms because of previous alarm acknowledgement;

(8) Automatically reset to the normal operating condition only after the alarm has been manually acknowledged and the alarm condition is cleared; and

(9) Clearly distinguish between normal, alarm, and acknowledged alarm conditions.

§ 150.345 Combustion control.

(a) Automatic combustion control must provide the air-fuel-cargo relationships necessary for complete and safe combustion under all normal light off and operating conditions, but in no case less than 3% excess air.

(b) If combustion control is not automatic, the programming controls and safety trip control must provide a level of safety equivalent to automatic combustion control.

§ 150.350 Programming control.

Programming control must provide a specific sequence of interlocks for the safe ignition and normal shutdown of the incinerator burners. The programming control must prevent

ignition if unsafe conditions exist and must include the following minimum sequence of events and interlocks:

(a) *Prepurge.* Incinerators must undergo a continuous purge of the combustion chamber to make sure of a minimum of 5 changes of air. The purge must occur immediately prior to the trial for ignition of fuel oil in the initial burner of an incinerator. All registers and dampers must be open and an air flow of at least 25 percent of the maximum volumetric air flow must be established before the purge period commences. The prepurge must be complete before fuel oil trial for ignition of the initial burner.

(b) *Trial for ignition and ignition of fuel oil.* Total incinerator air flow during light off must be at least 25 percent of the incinerator's maximum volumetric air flow. The burner igniter must be in position and proven energized before admission of fuel to the incinerator. The igniter must remain energized until the burner flame is established and stable, or until the trial for ignition period ends. The trial for ignition period must not exceed 5 seconds. Failure of the burner to ignite during a trial for ignition must automatically actuate the burner safety trip controls.

(c) *Post-purge.* Immediately after normal shutdown of the incinerator, an automatic purge of the incinerator equal to the volume and duration of the prepurge must occur. Following shutdown caused by the conditions listed in § 150.360, the air flow to the incinerator must not automatically increase. Post-purge in such cases must be under manual control.

§ 150.355 Incinerator burner safety trip control.

(a) Each burner must be provided with at least one flame detector.

(b) The burner fuel oil and cargo valves must automatically close when—

(1) Loss of burner flame occurs;

(2) Actuated by the incinerator safety trip control;

(3) The burner is not properly seated or in place;

(4) Trial for ignition fails; or

(5) The burner flame detector fails.

§ 150.360 Incinerator safety trip control.

Each incinerator must be provided with a safety trip control that automatically closes the master and all incinerator burner fuel and cargo valves upon—

(a) Inadequate air flow to support complete combustion;

(b) Loss of control power;

(c) Manual trip operation in the incinerator space or the emergency shutdown station of § 150.390(c);

(d) Loss of flame at all burners; or

(e) Control system failure.

§ 150.365 Operating instructions and test procedures.

(a) Normal and emergency operating instructions must be provided for all remote and automatic control systems, and must include safety precautions, as applicable. Specific emergency operating instructions must be posted at incinerator control locations.

(b) A written Coast Guard approved test procedure for periodically verifying the operational conditions required by §§ 150.335–150.360 must be retained aboard the vessel.

§ 150.370 Ventilation of cargo handling spaces, incinerator spaces and incinerator blower spaces.

(a) Except as provided in paragraphs (c) and (d) of this section, each cargo handling space must have a permanent forced exhaust ventilation system.

(b) Except as provided in paragraph (c) of this section, each cargo handling space ventilation system must meet the following:

(1) Each ventilation system exhaust duct must discharge no less than 10 m (approx. 32.8 ft) from openings into, or ventilation intakes for, accommodation or service spaces.

(2) Each ventilation system must not recycle vapors from ventilation discharges.

(3) Except for the space served by the ventilation duct, each ventilation duct must not pass through a machinery room, an accomodation space, or working space.

(4) Each ventilation system must be operable from outside the space it ventilates.

(5) Each ventilation system must be sized to change the air in the ventilated space at least 45 times per hour.

(6) Each ventilation system must not allow air to stagnate in any part of a ventilated space.

(7) Each ventilation system must be able to exhaust air from both above and below the deck plates of a ventilated space.

(c) The ventilation system for an incinerator space must be permanent, be of a positive pressure type, and keep the pressure in the space greater than the pressure in the incinerator.

(d) The ventilation system for an incinerator blower space must be permanent, be of a positive pressure type, and be independent of other air supply systems and the ventilation system—

(1) Must provide a pressure greater than the pressure within the incinerator; and

(2) Must change the air in the space at least 20 times per hour based on the total volume of the incinerator blower space.

§ 150.375 Ventilation of spaces not usually occupied.

(a) Each incinerator vessel must have portable ventilation equipment that fits the mount required in paragraph (b)(1) of this section.

(b) Each enclosed space within the cargo area that does not have a permanent ventilation system meeting § 150.375(a) must have—

(1) A mount for the portable mechanical ventilation equipment required by this section; and

(2) Either permanent ventilation ductwork connected to the mount and arranged to supply air to the extremities of the space; or

(3) An attachment for temporary ductwork at the mount with enough ductway in the ventilated space and temporary ductwork stowed aboard the vessel to supply air to the extremities of the space.

§ 150.380 Incinerator space access.

(a) Two accesses must be provided to each incinerator space. One of these must be from the weather deck. If an incinerator control room is provided adjacent to the incinerator space, it must have at least one access that is not to the incinerator space.

(b) Each access opening to an incinerator space must be fitted with a self-closing door that does not leak when tested with a firehose at 207 kPa (approx. 30 psig).

§ 150.385 Incinerator blower space.

If an incinerator blower space is provided adjacent to an incinerator space, it must have at least one access that is not to the incinerator space.

Equipment and Operations

§ 150.390 Emergency shutdown stations.

(a) Each incinerator vessel must have at least two emergency shutdown stations.

(b) One emergency shutdown station must be located on the weather deck in the cargo area.

(c) The second emergency shutdown must be located in the incinerator control room, if any, otherwise in the vessel's control space.

(d) Each emergency shutdown station must have the controls necessary to stop—

(1) All pumps supplying cargo and oil fuel to the incinerator; and

(2) the flow of cargo from the cargo area.

(e) Each emergency shutdown station must be marked as described in § 150.490 (c), (d), and (e) with the legend "EMERGENCY SHUTDOWN STATION".

§ 150.395 Personnel emergency and safety equipment.

(a) Each incinerator vessel must have the following:

(1) Two stretchers or wire baskets complete with equipment for lifting an injured person from a pumproom or a cargo tank.

(2) In addition to any similar equipment required by Subchapter D of this chapter, three each of the following:

(i) A 30 minute self-contained breathing apparatus of the pressure demand type, approved by the Mining Safety and Health Administration (formerly the Mining Enforcement and Safety Administration) and the National Institute for Occupational Safety and Health, with five refill tanks or cartridges of 30 minutes capacity each.

(ii) A set of coveralls or large apron, boots, long sleeved gloves, and goggles, each made of materials resistant to the cargo endorsed on the Certificate of Inspection.

(iii) A steel-cord lifeline with harness.

(iv) An explosionproof lamp.

(3) First aid equipment.

(b) Each incinerator vessel must have at least two safety equipment lockers.

(c) One safety equipment locker must be adjacent to the emergency shutdown station required by § 150.390(b). This locker must contain one set of the equipment required by paragraph (a)(1) of this section and two of the sets required by paragraph (a)(2) of this section.

(d) The second safety equipment locker must be adjacent to the second emergency shutdown station required by § 150.390. This locker must contain the remaining equipment required by paragraphs (a) (1) and (2) of this section.

(e) Each safety equipment locker must be marked as described in § 150.490(c), and (d) with the legend "SAFETY EQUIPMENT."

(f) Each incinerator vessel must have a shower and an eyewash fountain that:

(1) Operate in any ambient temperature;

(2) Maintain the water at a temperature between 0 °C and 40 °C (approx 32 °F and 104 °F);

(3) Are located on the weatherdeck; and

(4) Are marked "EMERGENCY SHOWER" so that the legend is visible from work areas in the part of the deck where the cargo containment systems are located.

(g) Each incinerator vessel must have on board for each crew member:

(1) A five minute or greater self-contained compressed air breathing apparatus for escape approved by the Mining Safety and Health Administration (formerly the Mining Enforcement and Safety Administration) and the National Institute for Occupational Safety and Health.

(2) If the emergency escape breathing apparatus does not protect the eyes from vapor, a set of goggles that meets the specifications of ANSI Practice for Occupational and Educational Eye and Face Protection, Z87.1(1979).

(h) Each incinerator vessel must have a comprehensive respiratory program meeting ANSI Practices for Respiratory Protection, Z88.2(1980) including approval, use, and maintenance of all respiratory equipment.

§ 150.400 Special requirements for fire protection.

(a) With the exception of the vent riser, each part of a cargo containment system exposed on the weatherdeck must be covered by a fixed foam system.

(b) The incinerator space must be fitted with a fixed foam system. The area protected must meet the requirements of § 34.17–5(a)(1) of this chapter.

(c) Each fire protection system required by this section must meet Part 34 of this chapter or be specifically approved by the Commandant (G–MTH).

§ 150.405 Inert gas system: General.

A permanent inert gas system must be provided for—

(a) Each cargo tank having a fill or circulation line that terminates higher than 10cm or the radius of the line above the bottom of the tank whichever is greatest; and

(b) Each cargo tank washed with flammable solutions.

§ 150.410 Inert gas system: Specific requirements.

When required by § 150.405, an inerting system must—

(a) Maintain the vapor space of the containment system in an inert state by filling the vapor space with a gas that is neither reactive with the cargo nor flammable;

(b) Have a pressure control system that—

(1) Prevents the inert gas system from raising the cargo tank pressure to more than the relief valve settings; and

(2) Maintains at least a 3.5 kPa gauge (approx. 0.5 psig) pressure within the containment system.

(c) Has storage for enough inerting gas to replace that normally lost through tank breathing and relief valve leakage, but in no case an amount less than five percent of the tank's capacity when measured with the gas at —18 °C (approx. 0 °F) and a pressure equal to the cargo tank's relief valve setting; and

(d) Has connections for any supplemental gas supply necessary to maintain the inert gas pressure described in paragraph (b) of this section while supplying cargo to the incinerator for burning.

§ 150.415 Certificates required to be on bridge.

Each incinerator vessel must have its endorsed Certificate of Inspection posted on the bridge.

§ 150.420 Limitation in the endorsement.

No person may operate an incinerator vessel unless the vessel is operated in compliance with all limitations in the endorsement on the incinerator vessel's Certificate of Inspection.

§ 150.425 Regulations required to be on board.

No person may operate an incinerator vessel unless the most recent editions of this subpart and Part 35 of this chapter are on board.

§ 150.430 Shipping documents.

No person may operate an incinerator vessel without the EPA manifest and waste analysis as required in 40 CFR 234.58 both being on the bridge of the vessel.

§ 150.435 Cargo piping plan.

No person may operate an incinerator vessel unless the vessel has a cargo piping plan that—

(a) Shows all cargo piping on the vessel;

(b) Shows all cargo valving, pumps, and other equipment that is used during cargo transfer;

(c) Shows the cargo tanks;

(d) Shows any modification necessary to any cargo containment system that is to be separated from other cargo containment systems to handle cargo that is incompatible with cargo handled in the other systems; and

(e) Emphasizes the piping and equipment described in paragraphs (a), (b) and (d) of this section by using contrasting colors, line widths or similar methods.

§ 150.440 Cargo quantity limitations.

No person may load a cargo tank or operate an incinerator vessel that carries a cargo tank containing in excess of 3000 m^3 (approx. 105,932 ft^3) of cargo.

§ 150.445 Inerting system operation.

The master shall ensure that the inert gas system required by § 150.405(a) is in use and operating correctly.

§ 150.450 Eye protection.

(a) The master shall ensure that each person wear a face mask or tight fitting goggles for eye protection against splashing or spraying cargo if that person is—

(1) Sampling cargo;

(2) Transferring cargo;

(3) Making or breaking a cargo hose connection; or

(4) Opening a cargo tank for purposes of tank cleaning by opening a Butterworth hatch, ullage hatch, cargo tank hatch, or similar opening.

(b) The master shall ensure that each person wears a face mask or tight-fitting goggles for eye protection against splashing or spraying cargo if the person is—

(1) In the area of the deck where the cargo tanks, cargo piping, and cargo handling spaces are located while a cargo transfer is taking place; or

(2) In a cargo handling space, an enclosed space adjacent to a cargo tank, or a space containing part of a cargo containment system while cargo transfer is taking place.

§ 150.455 Protective clothing.

(a) The master shall ensure that every person in the cargo area who is involved in cargo sampling, opening a cargo tank, transferring cargo, or making or breaking cargo connections wears coveralls or a large apron, boots, and gloves.

(b) The master shall ensure that each person described in § 150.450(b), in addition to the clothing required by paragraph (a) of this section, wears any other protective clothing the master believes necessary to protect the person from the cargo's hazards.

§ 150.460 Entry into spaces containing cargo vapor.

(a) No person may enter a cargo tank, cargo handling space, pumproom, or enclosed space in the cargo area without the permission of the master.

(b) Before permitting anyone to enter a cargo tank, cargo handling space, pumproom, or other enclosed space in the cargo area, the master shall make sure that—

(1) The atmosphere of the space is tested in accordance with procedures in ANSI/NFPA 306, "Control of Gas Hazards on Vessels" to ensure that it contains at least 19.5 percent oxygen by volume, flammable concentration in air less than 10% of the Lower Explosive Limit (LEL), and toxic contaminant concentrations less than the Threshold Limit Value (TLV) as recommended by the American Conference of Governmental Industrial Hygienists (ACGIH) or in the alternative that those entering the space—

(i) Wear the type of respiratory equipment required for the atmosphere as specified in ANSI Z88.2;

(ii) Follow the procedures in section 6 of ANSI Z88.2 concerning proper selection of a respirator and individual fit testing;

(iii) Are trained in the matters set forth in section 7 of ANSI Z88.2 concerning proper use of the equipment to be used; and

(iv) Are made aware of, in terminology understandable to the personnel entering the atmosphere, of the generally recognized short and long term harmful effects of exposure to the atmosphere involved.

(2) A deck safety watch is in attendance when any person is in the tank or space and that an officer closely supervises the entire operation; and

(3) The results of the test required in paragraph (b)(1) of this section are logged in the vessel's Official Log Book.

§ 150.465 Opening of tanks and cargo sampling.

(a) Except as provided by paragraph (b) of this section, the master shall ensure that all cargo tank hatches, ullage openings, and tank cleaning openings are tightly closed at all times.

(b) The master may authorize the opening of a cargo tank to clean it.

(c) The master shall make sure that cargoes are sampled only through the controlled sampling arrangement required by § 150.300 of this chapter.

§ 150.470 Storage of cargo samples.

(a) The master shall make sure that any cargo samples are stored in—

(1) A designated and ventilated space in the cargo area of the vessel; or

(2) An area approved by the Commandant (G–MTH) for the stowage of cargo samples.

(b) The master shall make sure that cargo sample bottles are stored—

(1) In a way that prevents shifting of the sample bottles when the vessel is at sea;

(2) In bins or containers constructed of materials that are resistant to the cargo samples; and

(3) Apart from other sample bottles containing incompatible cargo.

§ 150.475 Illness, alcohol, drugs.

The master shall ensure that no person participates in cargo related operations who appears to be intoxicated by alcohol or drugs or to be so ill as to be unfit for the particular operation.

§ 150.480 Standards for marking of cargo hose.

No person may mark a hose assembly as meeting the standards of this section unless the hose assembly meets the following requirements:

(a) Each hose assembly must have—

(1) Fully threaded connections;

(2) Flanges that meet standard B16.5, Steel Pipe Flanges and Flange Fittings, or standard B16.31, Nonferrous Pipe Flanges, of the American National Standards Institute; or

(3) Quick-connect couplings that are acceptable to the Commandant (G–MTH).

(b) Each hose assembly must be marked with the—

(1) Date of manufacture;

(2) Working pressure described in paragraph (d) of this section;

(3) Date of the last test made as prescribed in paragraph (e) of this section; and

(4) Manufacturer's recommended maximum and minimum temperatures.

(c) A cargo hose assembly must have a minimum bursting pressure as stated by the manufacturer of at least 5152 kPa gauge (approx. 750 psig).

(d) The working pressure marked on a hose must meet the following:

(1) Be at least 1030 kPa gauge (approx. 150 psig).

(2) Not exceed 20 percent (one fifth) of the manufacturer's stated bursting pressure.

(3) Not exceed the manufacturer's recommended working pressure.

(4) Not exceed the test pressure used in the latest test under paragraph (e)(3) of this section.

(e) A cargo hose assembly must be inspected and tested by placing it in a straight, horizontal position so that its entire external surface is accessible. It must be ascertained that the hose assembly—

(1) Has no loose covers, kinks, bulges, soft spots, and no gouges, cuts, or slashes that penetrate any hose reinforcement;

(2) Has no external and, to the extent internal inspection is possible with both ends of the hose open, no internal deterioration; and

(3) Does not burst, bulge, leak, or abnormally distort under static liquid pressure at least 1½ times the recommended working pressure.

§ 150.485 Signals during cargo transfer.

The master shall ensure that the incinerator vessel displays a red flag in

the day and a red light at night when transferring cargo while fast to a dock.

§ 150.490 Warning signs during cargo transfer.

(a) When transferring cargo to the vessel, the master shall ensure that the incinerator vessel displays a warning sign at the gangway facing the shore so that it may be seen from the shore and another warning sign facing outboard toward the water so that it may be seen from the water.

(b) Except as provided in paragraph (f) of this section, each warning sign must have the following legends. (See figure 1):

(1) Warning.
(2) Dangerous Cargo.
(3) No Visitors.
(4) No Smoking.

(5) No Open Lights.

(c) Each letter must be block style, black on a white background.

(d) Each letter must—

(1) Be 7.5 cm (approx. 3 in.) high;

(2) Be 5 cm (approx. 2 in.) wide except for "M" and "W" which must be 7.5 cm (Approx. 3. in.) wide and the letter "I" which may be 1.3 cm (approx. ½ in.) wide; and

(3) Have 1.3 cm (approx. ½ in.) stroke width.

(e) The spacing must be—

(1) 1.3 cm (approx. ½ in.) between letters of the same word;

(2) 5 cm (approx. 2 in.) between words;

(3) 5 cm (approx. 2 in.) between lines; and

(4) 5 cm (approx. 2 in.) at the borders of the sign.



Figure 1 - Minimum Dimensions for Warning Sign

§ 150.495 Person in charge of cargo transfer.

(a) The master shall ensure that cargo transfer operations are supervised by a person designated as a person in charge of cargo transfer under 33 CFR 155.710.

(b) No person may make connections for cargo transfer or transfer cargo unless he has authorization from the person in charge of cargo transfer.

§ 150.500 Cargo transfer conference.

(a) Before making connections for cargo transfer, the person in charge of cargo transfer shall confer with the person supervising the cargo transfer at the facility.

(b) The person in charge of cargo transfer shall discuss the important aspects of the transfer operation, such as the following, with the supervisor at the facility:

(1) The cargo to be transferred.

(2) The cargo loading rates marked on the cargo piping plan or the maximum safe transfer rates.

(3) The critical or hazardous stages of the transfer operation.

(4) The emergency procedures in case of a spill.

(5) A procedure for shutdown of shore pumps, shore valves, and vessel's valves that prevents piping system pressures from exceeding those for which the piping system is designed.

§ 150.505 Loading information.

Each incinerator vessel must have a manual containing information that enables the master to load and ballast the vessel while keeping structural stresses within design limits.

§ 150.510 Cargo transfer piping.

The person in charge of cargo transfer shall ensure that—

(a) Cargo is transferred to or from a cargo tank only through the fixed cargo piping system;

(b) Vapor not returned to shore through the incinerator vessel's vapor return system is discharged at the height required for the vessel's cargo vent riser in § 150.295 of this chapter.

(c) All cargo vapor is returned to shore through the valved connection on the venting system if—

(1) The transfer terminal has vapor return equipment; and

(2) In that person's estimation, the vapor return equipment is adequate to handle the vapor expected from the tank.

§ 150.515 Connecting a cargo hose.

The person in charge of cargo transfer may not authorize the connection of a hose to a cargo containment system unless—

(a) That person ensures that the cargo will not weaken or damage the hose;

(b) The hose is marked as meeting the standards of § 150.480;

(c) The date of the hose's last pressure test is within one year of the date on which the hose is used to transfer cargo;

(d) The recommended working pressure marked on a hose used for discharge meets or exceeds the working pressure marked on the cargo piping at the hose connection; and

(e) The cargo's temperature is within the manufacturer's recommended maximum and minimum hose temperatures.

§ 150.520 Preparation for cargo transfer.

The person in charge of cargo transfer may not begin or continue cargo transfer unless the following conditions are met:

(a) No fires or open flames are on deck or in compartments near the hose connections.

(b) Any electrical bonding of the vessel incinerator vessel to the transfer facility is made before the cargo transfer piping is joined.

(c) The transfer connections have enough slack to allow for vessel movement.

(d) The transfer connections are supported by tackles.

(e) The cargo high level alarms, tank overflow alarms and overflow control systems are functioning correctly when the cargo is loaded.

(f) Joints and couplings are gasketed and mated tightly.

(g) Flanges are bolted tightly.

(h) No repair work is underway in area where cargo vapors may collect.

(i) Cargo valves are properly set.

(j) Venting system bypass valves are set for cargo transfer and are operating properly.

(k) All scuppers are plugged.

(l) Smoking is limited to safe places.

(m) Fire fighting and safety equipment is ready.

(n) Discharge containment as required by 33 CFR 155.310 is in place and periodically drained to a cargo tank.

(o) The person in charge of cargo transfer is in effective communication with the transfer terminal.

(p) The person in charge of the transfer terminal has acknowledged that the transfer terminal is ready to transfer.

(q) Pressures within the cargo transfer and containment systems do not exceed the pressure ranges for which the transfer hose and containment systems are designed.

(r) No vessels that would hazard cargo transfer are alongside the incinerator vessel.

§ 150.525 Transfer of ship stores.

The person in charge of cargo transfer may neither begin nor continue the transfer of a cargo while ship's stores are transferred unless transfer of ship's stores does not hazard transfer of the cargo.

§ 150.530 Supervision of cargo transfer.

The person in charge of cargo transfer shall—

(a) Supervise the operation of cargo system valves;

(b) Monitor the cargo loading rate to ensure it does not exceed that stated on the cargo piping plan; and

(c) Monitor the cargo level in the tanks to make sure they do not overflow.

(d) Ensure that the amount of cargo in a tank does not exceed the tank's capacity at any ambient temperature between −18 °C (approx. 0 °F) and 46 °C (approx. 115 °F).

§ 150.535 Isolation of automatic closing valves.

The person in charge of cargo transfer may not isolate automatic closing valves described in § 150.300 of this chapter from a cargo containment system.

§ 150.540 Terminal procedures.

Upon completion of the transfer operation, the person in charge of cargo transfer shall ensure that—

(a) The cargo transfer connections are closed off;

(b) The transfer lines and hoses are drained of cargo, either into the tank or back to the transfer terminal;

(c) Any electrical bonding between the vessel and the shore facility is broken only after the cargo hose is disconnected; and

(d) Each vent system is returned to its nonloading configuration.

§ 150.545 Inspection of personnel emergency and safety equipment.

The master shall ensure that the personnel emergency and safety equipment required by § 150.395 of this chapter is inspected every 30 days and found to be in good condition and operating properly.

§ 150.550 Reporting discharges of cargo.

The master shall ensure that any overboard discharges of cargo are reported in the manner prescribed for oil and hazardous substances in 33 CFR 153.203.

Dated: August 13, 1986.

J.C. Irwin,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 86-18660 Filed 8-22-86; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CC Docket No. 86-212]

Amendment of the Rules and Policies Governing the Attachment of Cable Television Hardware to Utility Poles; Extension of Comment Period

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; order granting extension of time for filing comments.

SUMMARY: In response to a further request by the National Cable Television Association, Inc., the Commission's Common Carrier Bureau has granted a 15-day extension of time for filing comments on matters discussed in the Commission's Notice of Proposed Rulemaking, Amendment of Rules and Policies Governing the Attachment of Cable Television Hardware to Utility Poles in CC Docket No. 86-212, published on June 16, 1986, 51 FR 21774. The extension also established a new date for filing reply comments.

DATES: Comments are now due by September 11, 1986, and reply comments by September 26, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Bert Weintraub or Suzan Friedman, (202) 632-4887.

In the matter of amendment of rules and policies governing the attachment of cable television hardware to utility poles; order; CC Docket No. 86-212.

Adopted: August 14, 1986.

Released: August 19, 1986.

By the Chief, Common Carrier Bureau.

1. Before the Bureau is a further motion for extension of time filed by the National Cable Television Association, Inc. ("NCTA"), requesting that the Bureau extend for 15 days, *i.e.*, from August 27, 1986, to September 11, 1986, the deadline for interested persons to file comments in the above-captioned proceeding.[1] The Bureau had previously granted a 30-day extension, until August 27, 1986. Mimeo No. 5941 (released July 23, 1986).

2. In support of its further request, NCTA states that its members are currently gathering raw data and other supporting materials to respond to the issues raised in the Commission's Notice of Proposed Rulemaking ("NPRM"). It explains that pole cost information is often not available in summary form at the corporate headquarters of cable companies, but must be compiled from individual system operators. Other information is in the possession of the utilities, and the cable industry is attempting to obtain such data from a review of public records of pole rate proceedings. However, it explains, identifying, accumulating, and reviewing the data cannot be completed in time for inclusion in NCTA's comments unless the additional 15-day extension of time is granted.

3. Good cause has been shown to grant an additional extension, and no evidence has been submitted that other interested parties will suffer harm from another short delay. Therefore, we will grant the requested 15-day extension of time in which to file comments and will adjust the due date for reply comments to September 26, 1986.

4. Accordingly, it is ordered, pursuant to authority delegated in § 0.291 of the Commission's Rules, 47 CFR 0.291, that the request for extension of time filed by the National Cable Television Association, Inc., is granted.

5. It is further ordered that all interested parties may file comments on the matters discussed in the NPRM and its proposed rule changes by September 11, 1986, and reply comments by September 26, 1986.

Federal Communications Commission.

Albert Halprin,

Chief, Common Carrier Bureau.

[FR Doc. 86-19086 Filed 8-22-86; 8:45 am]

BILLING CODE 6712-01-M

[1] 51 FR 21774 (1986).

Notices

Federal Register
Vol. 51, No. 164
Monday, August 25, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1986 Extra Long Staple Cotton; Determinations Regarding the Proclamation of the 1986-Crop Program Provisions for Extra Long Staple Cotton

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Determinations.

SUMMARY: The purpose of this notice is to: (1) Affirm the following determinations which were made by the Secretary of Agriculture on December 31, 1985, and February 12, 1986, with respect to the 1986 crop of extra long staple (referred to as "ELS") cotton: (a) A loan rate for ELS cotton of 85.40 cents per pound; (b) an established (target) price of 102.48 cents per pound; and (c) an acreage reduction program with a uniform required reduction of 10 percent; and (2) make certain other determinations with respect to the 1986 crop of ELS cotton. These determinations are required to be made in accordance with section 103(h) of the Agricultural Act of 1949, as amended (hereinafter referred to as the "1949 Act").

EFFECTIVE DATE: This notice of determinations is effective for the 1986 crop of extra long staple cotton.

ADDRESS: Dr. Howard C. Williams, Director, Commodity Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Janise A. Zygmont, Agricultural Economist, Commodity Analysis Division, USDA–ASCS, Room 3758, South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 475–4645. The Final Regulatory Impact Analysis describing the options considered in developing this Notice of Determinations is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "not major" since the program provisions are not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) 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.

The titles and numbers of the federal assistance programs to which this notice applies are: Cotton Production Stabilization, Number 10.052 and Commodity Loans and Purchases, Number 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that a notice of proposed rulemaking be published in accordance with 5 U.S.C. 553 or any other provision of law with respect to the subject matter of these determinations.

An environmental evaluation has been completed and it has been determined this action will have no significant adverse environmental impacts. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultations with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This notice affirms determinations with respect to the following issues which are briefly described:

1. *Loan Level.* Section 103(h)(2) of the 1949 Act provides that the loan level for 1986-crop ELS cotton must be established at 85 per centum of the simple average price received by producers of ELS cotton during 3 years of the 5-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

2. *Established (Target) Price.* Section 103(h)(3)(B) of the 1949 Act provides that the established price for 1986-crop ELS cotton shall be 120 per centum of the 1986-crop ELS loan level.

3. *Acreage Reduction Program.* Section 103(h)(8)(A) of the 1949 Act provides that the Secretary may establish a limitation on the acreage planted to ELS cotton if the Secretary determines that the total supply of ELS cotton, in the absence of such limitation, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable prices and to meet a national emergency. Such limitation shall be achieved by applying a uniform percentage reduction to the acreage base for each ELS-cotton-producing farm. Producers who knowingly produce ELS cotton in excess of the permitted acreage for the farm shall be ineligible for ELS cotton loans and payments in respect to that farm.

This notice also sets forth determinations with respect to the following issues which are briefly described:

1. *Land Diversion Program.* Section 103(h)(8)(B) of the 1949 Act provides that the Secretary may make land diversion payments to producers of ELS cotton, whether or not an acreage limitation (reduction) program is in effect, if the Secretary determines that such payments are necessary to assist in adjusting the total national acreage of ELS cotton to desirable goals.

2. *Haying and Grazing of Acreage Conservation Reserve (ACR).* Section 103(h)(8)(A) of the 1949 Act provides that the regulations issued by the Secretary with respect to acreage required to be devoted to conservation uses (the "Acreage Conservation Reserve") shall assure protection of such acreage from weeds and wind and water erosion. The Secretary may authorize haying and grazing of land devoted to the Acreage Conservation Reserve (ACR).

3. *Binding Program Contracts.* For the 1985 crop of ELS cotton, contracts signed by program participants were binding contracts. The contracts provided for liquidated damages in the event the producer did not fulfill the terms and conditions of the contract.

4. *Offsetting Compliance.* Section 103(h)(13) of the 1949 Act provides that the Secretary may issue such regulations as the Secretary determines to be necessary to carry out the ELS cotton program. In some prior crop years, the Secretary has promulgated regulations providing for offsetting compliance requirements. If offsetting compliance is required, owners and operators of farms, in order to be eligible for ELS cotton program benefits, would have to ensure either that all of the farms in which they have an interest are in compliance with ELS cotton program requirements or that the acreage of ELS cotton planted for harvest on each of such farms does not exceed the ELS cotton acreage bases established for such farms.

5. *Loan Level for Seed Cotton.* Section 103(h)(17) of the 1949 Act provides that, in order to assist cotton producers in the orderly ginning and marketing of their ELS cotton production, the Secretary shall make recourse loans available to such producers on seed cotton in accordance with authority vested in the Secretary under the Commodity Credit Corporation Charter Act.

6. *The National Program Acreage (NPA).* Section 103(h)(4) of the 1949 Act provides that the Secretary shall proclaim a national program acreage (NPA for the 1986 crop by November 1, 1985. Such NPA may, however, be revised for the purpose of determining the allocation factor if the Secretary determines it necessary based upon the latest information. Any revision shall be announced as soon as it has been made. The NPA shall be the number of harvested acres the Secretary determines necessary, based on the estimated weighted national average of the farm program payment yields for the 1986 crop, to produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the 1986–87 marketing year. The Secretary may make such adjustments in the NPA as the Secretary determines to be necessary, taking into consideration the estimated carryover supply and stocks not accounted for by official domestic consumption and export data, so as to provide for an adequate but not excessive total supply of ELS cotton for the 1986–87 marketing year. In no event shall the national program acreage be less than 60,000 acres. If an acreage reduction program is implemented for the 1986 crop of ELS cotton, the NPA determination shall not be applicable to such crop.

7. *Voluntary Reduction Percentage.* Section 103(h)(6) of the 1949 Act provides that the individual farm program acreage for the 1985 crop of ELS cotton that is eligible for payments shall not be further reduced by application of an allocation factor if the producer reduces the acreage of ELS cotton planted for harvest on the farm from the acreage base established for the farm for the 1986 crop of ELS cotton by at least the percentage recommended by the Secretary in the proclamation of the national program acreage for the 1986 crop. If an acreage reduction program is implemented for the 1986 crop of ELS cotton, the voluntary reduction percentage shall not be applicable to such crop.

Determinations

1. *Loan Level.* Based on the formula prescribed in section 103(h)(2) of the 1949 Act, the loan rate for the 1986 crop of ELS cotton has been determined to be 85.40 cents per pound, which is 85 percent of the simple average of the price received during 3 years of the 5-year period ending July 31, 1985, excluding the year in which the acreage price was highest and the year in which the average price was lowest during that period.

The calculation of the loan rate for the 1986 crop of ELS cotton is as follows:

(1) Prices received by producers of ELS cotton:

August 1980 through July 1981—108.00 cents

August 1981 through July 1982—96.90 cents

August 1982 through July 1983—98.50 cents

August 1983 through July 1984—106.00 cents

August 1984 through July 1985—91.90 cents

(2) Eight-five percent of the simple average of the price received of the five years, excluding the highest and the lowest years–85.396 cents.

(3) Loan rate for 1986 crop of ELS cotton–85.40 cents.

2. *Established (Target) Price.* In accordance with the provisions of section 103(h)(3)(B) of the 1949 Act, the 1986 established (target) price for ELS cotton has been determined to be 102.48 cents per pound.

The calculation of the established (target) price is as follows:

(1) The determined 1986 ELS cotton loan rate is 85.40 cents per pound.

(2) The 1986 established (target) price, which must be at 120 percent of the determined 1986 ELS cotton loan level, is 102.48 cents per pound.

3. *Acreage Reduction Program.* In accordance with the provisions of section 103(h)(8)(A) of the 1949 Act, it has been determined that a 10 percent acreage reduction program shall be applicable to the acreage planted to ELS cotton in 1986. Producers are required to limit their production of ELS cotton to the permitted cotton acreage for the farm in order to be eligible for price support loans and deficiency payments for the 1986 crop fo ELS cotton. The Secretary has determined that the total supply of ELS cotton, in the absence of such limitation, will be excessive taking into account the need for any adequate carryover to maintain reasonable and stable prices and to meet a national emergency. The 10 percent reduction requirement was selected because it achieves the best balance among the multiple objectives of providing an adequate supply of ELS cotton for domestic and foreign utilization, maintaining adequate carryover stocks, supporting farm income, and conserving natural resources.

A number of acres equal to 11.11 per cent of the acreas planted to ELS cotton must be devoted to ACR in accordance with regulations issued by the Secretary. Land designated as ACR must be cropland the was devoted to row crops or small grains in two of the last three years, except for a summer fallow rotation. In order for acreage which is in a summer fallow rotation to be designate as ACR, such land must be acreage that was devoted to small grains or row crops in one of the last two years.

4. *Land Diversion Program.* In accordance with section 103(h)(8)(B) of the 1949 Act, it has been determined that there will be no cash land diversion payments for the 1986 crop of ELS cotton. It has been determined that there will be sufficient producer participation in the acreage reduction program without such an incentive.

5. *Haying and Grazing of Acreage Conservation Reserve.* In accordance with section 103(h)(8)(A) of the 1949 Act, the Secretary has determiend that haying of covered crops on ACR acreage will be permitted. However, ACR acreage may not be grazed during the five principal growing months as designated by country Agricultural Stabilization and Conservation (ASC) committees. In the event of a natural disaster, emergency haying and grazing may be approved as needed on a county-by-county basis.

6. *Binding Program Contracts.* Contract signed by program participants for the acreage reduction program will be considered binding at the end of the signup period and will provide for liquidated damages if producers do not comply with contractual requirements.

7. *Offsetting Compliance.* In accordance with section 103(h)(13) of the 1949 Act, it has been determined

that offsetting compliance will not be required as a condition of eligibility for program benefits.

8. *Loan Level for Seed Cotton.* In accordance with section 103(h)(17) of the 1949 Act, recourse loans will be offered on 1986-crop seed cotton. The seed cotton will be adjusted to a lint basis for loan-making purposes, and the loans rates applicable to lint cotton will be used.

9. *National Program Acreage.* In accordance with section 103(h)(8)(A) of the 1949 Act, it has been determined that the NPA will not be applicable to the 1986 crop ELS cotton since an acreage reduction program has been announced.

10 *Voluntary Reduction Percentage.* In accordance with section 103(h)(8)(A) of the 1949 Act, it has been determined that voluntary reduction percentage will not be applicable to the 1986 crop of ELS cotton since an acreage reduction program has been announced.

Authority: Sec. 103(h), 97 Stat. 494 (7 USC 1444(h)).

Signed at Washington, DC, August 20, 1986.

Milton J. Hertz,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 86-19152 Filed 8-22-86; 8:45 am]

BILLING CODE 3410-05-M

Foreign Agricultural Service

Assessment of Fees for Dairy Import Licenses

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of the fee for dairy import licenses for the 1987 quota year.

SUMMARY: This notice announces that the fee to be charged for the 1987 quota year for each license issued to a person or firm by the Department of Agriculture authorizing the importation of certain dairy articles which are subject to quotas proclaimed under the authority of section 22 of the Agricultural Adjustment Act of 1933, as amended, will be $63.00 per license.

EFFECTIVE DATE: January 1, 1987.

FOR FURTHER INFORMATION CONTACT: Phillip J. Christie, Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Room 6616-South Building, U.S. Department of Agriculture, Washington, DC 20250 or telephone at (202) 447-5270.

SUPPLEMENTARY INFORMATION: Regulations promulgated by the Department of Agriculture and codified at 7 CFR 6.20-6.33 provide for the issuance of licenses to importers of certain dairy articles which are subject to quotas proclaimed by the President pursuant to section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624). Those dairy articles may only be entered into the United States by or for the account of a person or firm to whom such licenses have been issued and only in accordance with the terms and conditions of such licenses and the regulations.

The licenses are issued on a calendar year basis, and each license authorizes the license holder to import a specified quantity and type of dairy article from a specified country. The use of licenses by the license holder to import dairy articles is monitored by the Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, U.S. Department of Agriculture (the "Licensing Authority") and the U.S. Customs Service.

Section 6.33(a) of Title 7 of the CFR provides that a fee will be charged for each license issued to a person or firm by the Licensing Authority in order to reimburse the Department of Agriculture for the costs of administering the licensing system under this regulation.

The fee is to be based upon the total costs to the Department of Agriculture of administering the licensing system during the calendar year preceding the year for which the fee is to be charged, divided by the average number of licenses issued per year for the three years preceding the year for which the fee is to be assessed.

Section 6.33(b) provides that the Licensing Authority will announce the annual fee for each license and that such fee will be set out in a notice to be filed with the Federal Register. Accordingly, this notice sets out the fee for the licenses to be issued for the 1987 calendar year.

Notice

The total cost to the Department of Agriculture of administering the licensing system during 1986 has been determined to be $221,710. Of this amount, $159,710 represents the cost of the staff and supervisory hours devoted directly to administering the licensing system during 1986 (total personnel costs for the Import Licensing Group of the Foreign Agricultural Service equaled $133,740; a proportionate share of the supervisory costs devoted directly to administering the licensing system equaled $25,970); $38,000 represents the cost of the computer on-line entry system used to monitor the use of licenses during 1986; and $24,000 represents other miscellaneous costs, including travel, postage, and an in-hour computer system. The average number of licenses issued for the three years immediately preceding 1987 has been determined to be 3,494.

Accordingly, notice is hereby given that the fee for each license issued to a person or firm for the 1987 calendar year, in accordance with the regulations codified at 7 CFR 6.20-6.33, will be $63.00 per license.

Issued at Washington, DC, the 16th day of July 1986.

Phillip J. Christie,

Licensing Authority.

[FR Doc. 86-19109 Filed 8-22-86; 8:45 am]

BILLING CODE 3410-10-M

Forest Service

Sherwin Bowl Ski Area; Inyo National Forest Mono County, CA; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare an environmental impact statement for a proposal to permit the development of Sherwin Bowl Ski Area on the Mammoth Lakes Ranger District.

The Mammoth-Mono Unit Plan, implemented in 1979, reserved the Sherwin area to allow for further evaluation and possible development of a winter sports site. In addition, the proposed Inyo National Forest Land and Resource Management Plan recognizes the Sherwin area as having high potential for alpine skiing.

A range of alternatives will be considered. One of those alternatives will be nondevelopment of the site. Other alternatives will consider development designs with capacities varying from 4,000 to 12,000 skiers at one time. Alternative locations for uphill facilities, ski runs, and support facilities will be examined.

Federal, State, and local agencies; project proponents; and other organizations and individuals who may be affected by or interested in the decision will be invited to participate in the scoping process.

The process will include:

1. Identification of potential issues.
2. Identification of significant issues to be analyzed in depth.
3. Elimination of insignificant issues and those which have been covered by prior environmental review.

A public scoping session will be held September 20, 1986, starting at 1 p.m. in the multipurpose room at Mammoth High School in Mammoth Lakes, California. This is the only scoping session planned to be held.

Dennis W. Martin, Forest Supervisor, Inyo National Forest, is the responsible official.

The analysis is expected to take about seven months. The draft environmental impact statement is scheduled to be available for public review by July, 1987. The final environmental impact statement should be completed by March, 1988 or sooner.

Written comments and suggestions concerning the analysis should be sent to Dennis W. Martin, Forest Supervisor, Inyo National Forest, Bishop, California 93514, by November 1, 1986.

Questions about the proposed action and environmental impact statement should be directed to Bob Wood, Winter Sports Specialist, Mammoth Lakes Ranger District, phone (619) 934–2505.

Dated: August 19, 1986.

Dennis W. Martin,

Forest Supervisor.

[FR Doc. 86–19148 Filed 8–22–86; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Connecticut Advisory Committee; Cancellation of 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 originally scheduled for September 8, 1986, convening at 3:00 p.m. and adjourning at 5:00 p.m., at Yale University, Phelps Hall, Room 402, College Street, New Haven, Connecticut (FR Doc. 86–18195, Page 28969), has been cancelled.

Dated at Washington, DC, August 20, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc. 86–19111 Filed 8–22–86; 8:45 am]

BILLING CODE 6335–01–M

Delaware 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 Delaware Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m. on September 19, 1986, at the Boggs Federal Courthouse, Room 3207, 844 King Street, Wilmington, Delaware. The purpose of the meeting is to review and approve final changes in a briefing memorandum to the Commission on "Nutrition Services and the Black Elderly."

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee chairperson, William Conner, or John Binkley, Director of the Mid-Atlantic Regional Office at (202) 523–5264 (TDD 202/523–5264). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 20, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc. 86–19112 Filed 8–22–86; 8:45 am]

BILLING CODE 6335–01–M

Maryland 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 Maryland Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 9:00 p.m. on September 17, 1986, at the Omni International, 101 West Fayette Street, Baltimore, Maryland. The purpose of the meeting is to discuss and review final changes in "Equity Issues in Special Education and Gifted and Talented Programs in Maryland," a briefing memorandum to the Commissioners.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Lorretta Johnson, or John Binkley, Director of the Mid-Atlantic Regional Office at (202) 523–5264 (TDD 202/523–5264). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 20, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc. 19113 Filed 8–22–86; 8:45 am]

BILLING CODE 6335–01–M

Vermont 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 Vermont Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:00 p.m. on September 5, 1986, at Tavern Motor Inn, Coolidge Room, 100 State Street, Montpelier, Vermont. The purpose of the meeting is to review the agenda for the next day's factfinding meeting on Civil Rights Laws and Methods of Enforcement in Vermont.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Kenneth Holland or Jacob Schlitt, Director of the New England Regional Office at (617) 233–4671 (TDD 617/233–0344). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 20, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc 86–19114 Filed 8–22–86; 8:45 am]

BILLING CODE 6335–01–M

Vermont 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 Vermont Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:30 p.m. on September 6, 1986, at Pavilion Auditorium, 109 State Street, Montpelier, Vermont. The purpose of the gathering is to conduct a factfinding meeting on Civil Rights Laws and Methods of Enforcement in Vermont.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Kenneth Holland or Jacob Schlitt, Director of the New England Regional Office at (617) 223–4671, (TDD 617/223–0344). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 20, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc 86-19115 Filed 8-22-86; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: August 25, 1986.

FOR FURTHER INFORMATION CONTACT: William L. Matthews or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5253/2786.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32556) a notice outlining the procedures for requesting administrative reviews. The Department has received timely requests, in accordance with §§ 353.53a (a)(1), (a)(3), and 355.10(a)(1) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with §§ 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews no later than August 31, 1987.

Antidumping duty proceedings and firms	Periods to be reviewed
Pig Iron from Canada: Dofasco	07/85-06/86
Salted Codfish from Canada:	
Canadian Saltfish	07/03/85-06/86
Granville Gates	07/03/85-06/86
Pecheries Malbaie	07/03/85-06/86
Pecheries Sheehan	07/03/85-06/86
Sans Souci	07/03/85-06/86
Stoney Island	07/03/85-06/86
Waybret	07/03/85-06/86
High Power Microwave Amplifiers from Japan: NEC	07/85-07/11/86
Neoprene Laminate from Japan:	
Heiwa	03/11/85-06/86
Yamamoto	03/11/85-06/86
Synthetic Methionine from Japan:	
Nippon Kayaku	07/85-06/86
Nippon Soda	07/85-06/86
Sumitomo Chemical	07/85-06/86
Countervailing duty proceeding	
Leather Wearing Apparel from Uruguay	01/84-12/85

In the antidumping case on Canadian pig iron, although a domestic manufacturer requested a review, we are not initiating that requested review since the request did not adequately explain the need for the review, as required by § 353.53a(a)(1) of the Commerce Regulations. However, we are initiating the review requested by one exporter, Dofasco, Inc.

We will instruct the Customs Service to liquidate all entries of Canadian pig iron exported to the U.S. by other firms entered, or withdrawn from warehouse, for consumption during the period at the cash deposit rate required at the time of entry and to continue to collect the cash deposit previously ordered.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and sections 353.53a(c) and 355.10(c) of the Commerce Regulations (19 CFR 353.53a(c), 355.10(c); 50 FR 32556, August 13, 1985).

Dated: August 15, 1986.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-19141 Filed 8-22-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-508-602]

Oil Country Tubular Goods From Israel; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that oil country tubular goods (OCTG) from Israel are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend the liquidation of all entries of OCTG from Israel that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by November 3, 1986.

EFFECTIVE DATE: August 25, 1986.

FOR FURTHER INFORMATION CONTACT: James Riggs or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-4929, or (202) 377-5288.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminary determined that OCTG from Israel are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The period of review for this investigation is April 1, 1985 through March 31, 1986. The margin preliminary found for the company investigated is listed in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make our final determination by November 3, 1986.

Case History

On March 12, 1986, we received a petition filed in proper form from Lone Star Steel Company and CF&I Steel Corporation on behalf of the U.S. industry producing OCTG. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Israel are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673), and that these imports are materially injuring, or threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. The petition also alleged that critical circumstances exist. We initiated the investigation on April 1, 1986 (51 FR 11963), and notified the ITC of our action.

On April 17, 1986, a questionnaire was presented to counsel for the respondent.

On April 28, 1986, the ITC found that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of OCTG from Israel (U.S. ITC Pub. No. 1840, April 1986).

On June 9, 1986, the respondent filed a response to our questionnaire, with supplemental responses filed on June 12, June 26, June 30, July 2, August 4, and August 9, 1986. We investigated Middle East Tube Company (METCO), the manufacturer that accounts for all Israeli exports of the merchandise to the United States. We examined 74 percent of the sales made by this company to the United States.

Scope of Investigation

The products under investigation are "oil country tubular goods," which are hollow steel products of circular cross section intended for use in the drilling for oil or gas. These products include oil well casing, tubing, and drill pipe of carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or non-API (such as proprietary) specifications as currently provided for in the *Tariff Schedules of the United States Annotated* items 610.3216, 610.3219, 610.3233, 610.3234, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4210, 610.4220, 610.4230, 610.4240, 610.4310, 610.4320, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244. This investigation includes OCTG that are in both finished and unfinished condition.

For purposes of its preliminary determination, the ITC ruled that drill pipe is a separate "like product" from other types of OCTG. Since neither of the petitioners manufactures, produces, or wholesales drill pipe, they are not "interested parties" with respect to drill pipe, within the meaning of section 711(9)(c) of the Act. Therefore, we are not investigating sales of drill pipe in this investigation.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold prior to the date of importation to unrelated purchasers in the United States. We calculated the purchase price based on the C&F or CIF, packed price. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, and handling charges. Although respondent submitted information that METCO receives a duty drawback on each export shipment, we could not make any adjustment to United States price for purposes of this preliminary determination because this information was received too late.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on constructed value since there were no sales of OCTG either in the home market or to third countries. We used the constructed value data submitted by METCO. In determining constructed value, we calculated the cost of materials, fabrication costs, general expenses, profit and packing cost. An imputed revenue claimed by METCO based on its favorable payment terms for raw materials purchases was disallowed. Insufficient information was provided by METCO regarding general expenses. METCO's financial statements do not contain information on general expenses adjusted for inflation, so the calculation of general expenses was based on nominal currency information in the company's financial statements.

Our calculation of financial expenses for constructed value purposes included interest expenses and credit expenses. Interest expense was based on the interest expenses for the consolidated corporation, net of appropriate interest income, during fiscal 1985. Credit expense was based on U.S. credit expense because no information was provided on the home market credit expenses. Credit expenses represent the cost of financing accounts receivable. Because credit expense was included in the constructed value calculations, the interest associated with the financing of accounts receivable was deducted from total interest expense to avoid double counting. This deduction was based on the relationship of accounts receivable to total assets.

The actual general expenses as calculated above exceeded 10 percent of the sum of the materials and fabrication expenses. Therefore, the actual general expenses were used. The statutory minimum for profit of 8 percent of the cost of materials, fabrication and general expenses was used, because actual profit was less than 8 percent.

As Federal Reserve certified exchange rates were not available, we made currency conversions using rates listed in the IMF International Financial Statistics. We will attempt to obtain Federal Reserve rates for our final determination.

Preliminary Negative Determination of Critical Circumstances

Petitioners have alleged that critical circumstances exist with respect to imports of OCTG from Israel. For purposes of section 733(e)(1) of the Act, critical circumstances exist if we find that:

(A) (i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than fair value; and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following data in order to determine whether massive imports have taken place: (1) The volume and value of the imports; (2) seasonal trends; and (3) the share of domestic consumption accounted for by the imports. Based on our analysis of recent import statistics, we find that there is no reasonable basis to believe that imports of the subject merchandise from Israel have been massive over a relatively short period. We examined all available Special Summary Steel Invoice import statistics for Israel for 1986 and found no imports of OCTG for the three months prior to or after the filing of the petition. Accordingly, we do not have to consider whether section 733(e)(1)(A) of the Act applies in this case. Therefore, we preliminarily determine that critical circumstances do not exist with respect to imports of OCTG from Israel.

Verification

As provided in section 776(a) of the Act, we will verify all information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of OCTG from Israel that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S.

Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Middle East Tube Company	25.99
All Others	25.99

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with section 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on September 19, 1986 in room 1851, the United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by September 9, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, no later than 30 days before the final determination is due, at the above address and in at least 10 copies.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-19140 Filed 8-22-86; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Minority Business Development Center Program; Solicitation of Competitive Applications for Financial Assistance

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first *12* months is estimated at *$165,000* for the project performance of *01/01/87* to *12/31/87*. The MBDC will operate in the *Orlando, Florida* Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of *$165,000* in Federal funds and a minimum of *$29,118* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The Project Number is *04-10-87002-01* for the *Orlando, Florida* MSA.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing date: The closing date for applications is *September 26, 1986.* Applications must be postmarked on or before *September 26, 1986.*

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30309, (404) 347-4091.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia, September 12, 1986 at 9:00 a.m., 11.800 Minority Business Development.

(Catalog of Federal Domestic Assistance)

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

August 19, 1986.

[FR Doc. 86-19103 Filed 8-22-86; 8:45 am]

BILLING CODE 3510-21-M

Minority Business Development Center Program; Solicitation of Competitive Applications for Financial Assistance

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available

funds. The cost of performance for the first *12* months is estimated at *$165,000* for the project performance of *01/01/87* to *12/31/87*. The MBDC will operate in the *Jackson, Mississippi* Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of *$165,000* in Federal funds and a minimum of *$29,118* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The Project Number is *04–10–87001–01* for the *Jackson, Mississippi* MSA.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for applications is *September 26, 1986.* Applications must be postmarked on or before *September 26, 1986.*

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30309, (404) 347–4091.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street, NE, Suite 505, Atlanta, Georgia, September 12, 1986 at 9:00 a.m., 11.800 Minority Business Development.

(Catalog of Federal Domestic Assistance)

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

August 19, 1986

[FR Doc. 86–19104 Filed 8–22–86; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council's Administrative Subcommittee will convene a public meeting, August 29, 1986, from 9:30 a.m. to approximately 3 p.m., at the Council's Office (address below) to discuss issues related to the Subcommittee's regular administrative operations. For further information contact the Caribbean Fishery Management Council, Banco de Ponce Building, Suite 1108, Hato Rey, PR 00918; telephone: (809) 753–4926.

Date: August 19, 1986.

Richard B. Roe,

Director, Office of Fisheries Management National Marine Fisheries Service.

[FR Doc. 86–19100 Filed 8–22–86; 8:45 am]

BILLING CODE 3510–22–M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Groundfish Management Team will convene a public meeting, September 3–5, 1986, beginning at 1 p.m. on September 3 at the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 7600 Sand Point Way, NE, Room 2079, Building 4, Seattle, WA, to review groundfish landings and projections under current trip limits; develop preliminary estimates of 1987 acceptable biological catches (ABCs); develop a draft definition of ABC; prepare a list of issues for amending the fishery management plan in 1988, as well as to develop a report for the Council's September 17–18, 1986 meeting in Portland, OR.

FOR FURTHER INFORMATION CONTACT: Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, Metro Center, 2000 S.W. First Avenue, Suite 420, Portland OR 97201; telephone: (503) 221–6352.

Date: August 19, 1986.

Richard B. Roe,

Director, Office of Fisheries Management National Marine Fisheries Service.

[FR Doc. 86–19101 Filed 8–22–86; 8:45 am]

BILLING CODE 3510–22–M

National Advisory Committee on Oceans and Atmosphere; Meeting

August 18, 1986.

Pursuant to section 10 (a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 (1982), notice is hereby given that the NOAA Study Crosscut Panel of the National Advisory Committe on Oceans and Atmosphere (NACOA) will meet Thursday, September 4. The panel, chaired by RADM Nathan Sonenshein, USN (Ret.) will meet in San Francisco, CA. For the exact location of the meeting please call Catherine Mills at 202/673–5225. This work session, which will be open to the public, will convene at 9:00 a.m. and adjourn at 5:00 p.m.

Persons desiring to attend will be admitted to the extent that seating is available. Persons wishing to make formal statements should notify the Chairman of the Crosscut Panel, RADM Nathan Sonenshein, USN (Ret.) in advance of the meeting. The Chairman retains the prerogative to impose limits on the duration of oral statements and dicussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Acting Executive Director, Dr. James A. Almazan or Ms. Catherine Mills, the staff member for the Crosscut Panel. The mailing address is 1825 Connecticut Avenue, NW., Suite 620, Universal South, Washington, DC 20235.

Dated: August 18, 1986.

James A. Almazan,

Acting Executive Director.

[FR Doc. 86–19093 Filed 8–22–86; 8:45 am]

BILLING CODE 3510–12–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Certain Cotton Textile Products Produced or Manufactured in the People's Republic of China

August 20, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 20, 1986. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On December 30, 1985 a notice was published in the **Federal Register** (50 FR 53182), which announced the import restraint limits for certain cotton, wool and man-made fiber textile products, including cotton trousers in Category 347/348, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. CITA has determined in a data investigation concerning this category that 135,822 dozen of 1985 exports, currently charged to the 1986 limit, should be charged to the 1985 limit. Accordingly, in the letter which follows this notice, the Chairman of CITA directs the Commissioner of Customs to deduct this amount from the import charges made to the current year limit and charge it to the 1985 limit.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

August 20, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, I request that, effective on August 20, 1986, you deduct 135,822 dozen from charges made to the restraint limit established in the directive of December 24, 1985 for cotton textile products in Category 347/348, produced or manufactured in China and exported during the agreement year which began on January 1, 1986 and extends through December 31, 1986. This same amount should be charged to the limit established for Category 347/348 during the agreement year which began on January 1, 1985 and extended through December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–19142 Filed 8–22–86; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1986; Proposed Addition

AGENCY: Committee for Purchase from the Blind and other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee is considering the addition to Procurement List 1986 of one medal and six medal sets which have been produced by a workshop for the other severely handicapped.

Comments Must be Received on or Before: September 26, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

On January 27, 1984, the Committee approved the addition to the Procurement List of the medal and six medal sets listed below. On June 4, 1986, the United States Court of Appeals for the Fourth Circuit directed that the Committee's decision be set aside due to the inadequacy of the explanatory statement in the Committee's notice of January 27, 1984. The United States District Court for the Eastern District of Virginia by order dated August 20, 1986 vacated the decision of the Committee which added the medal and six medal sets to the Procurement List. The Committee is considering if it is appropriate to procure the medal and medal sets listed below under the Committee's program. If the Committee approves their addition to the Procurement List, all entities of the Federal Government will be required to procure future requirements for the medal and medal sets listed below from workships for the blind or other severely handicapped. It is proposed to add the following commodities to Procurement List 1986, October 15, 1985 (50 FR 41809):

Medal
8455–00–261–4501 (Good Conduct, Marine Corps)
Medal Set
8455–00–082–5528 (Good Conduct, Air Force)
8455–00–269–5761 (Good Conduct, Army)
8455–00–269–5783 (Women's Army Corps)
8455–00–269–5763 (Army of Occupation, World War II)
8455–00–269–5764 (Asiatic-Pacific Campaign)
8455–00–269–5782 (World War II Victory)

C.W. Fletcher,

Executive Director.

[FR Doc. 86–19203 Filed 8–22–86; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Meeting of Graduate Medical Education Advisory Committee

AGENCY: Department of Defense Graduate Medical Education Advisory Committee, DOD.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of Public Law 92–463, notice is hereby given that an open meeting of the Department of Defense Graduate Medical Education Advisory Committee has been scheduled as follows:

DATE: September 12, 1986, 9:00 a.m. to 5:00 p.m.

ADDRESS: Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Michael Herndon, Executive Secretary, DOD Graduate Medical Education Advisory Committee, Office of the Assistant Secretary of Defense (Health Affairs), Room 1B657, the Pentagon, Washington, DC 20301, (202) 694–0748.

SUPPLEMENTARY INFORMATION: This will be the fourth meeting of the Committee. Presentations of current and projected Service programs will be made. A DOD projection of wartime requirements by specialty will be presented.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

August 20, 1986.

[FR Doc. 86–19110 Filed 8–22–86; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday–Friday, 10–12 September 1986.

Times of Meeting: 0830–1630 hours.

Places: REDCOM and CENTCOM Hqs, McDill AFB, Florida.

Agenda: The Army Science Board AHSG on Army Combat Models will meet for briefings by REDCOM, CENTCOM, and Joint Deployment Agency staffs. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5 U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably interwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86–19236 Filed 8–22–86; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Secretary of the Navy's Advisory Board on Education and Training (SABET); Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Secretary of the Navy's Advisory Board on Education and Training (SABET) will meet at the Sheraton National Hotel at the intersection of Columbia Pike and Washington Boulevard, Arlington, Virginia, on 23, 24, 25 September 1986.

The purpose of SABET is to advise the Secretary of the Navy on policy concerning all facets of education and training for Navy Marine Corps personnel. This meeting is a follow-on to the November meeting which provided an overview of the naval Medical Command. Follow-on policy issues related to military medicine will be discussed.

The meeting will commence at 2:30 p.m. on 23 September to review the agenda. Regular sessions will run 24 September from 8:30 a.m. until 5:00 p.m. The 25 September executive session will commence at 8:30 a.m. and terminate at 11:00 a.m. All sessions are open to the public.

For further information concerning this meeting, contact Mrs. Carol Osborn (Code N–51), Professional Assistant to the Principal Civilian Advisor on Education and Training, Chief of Naval Education and Training, Naval Air Station, Pensacola, Florida 32508–5100, telephone (904) 452–4019.

Dated: August 19, 1986.

Harold L. Stoller,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 86–19079 Filed 8–22–86; 8:45 am]

BILLING CODE 3810–AE–M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Research Advisory Committee Panel on Over the Horizon Targeting Capabilities will meet on September 16–18, 1986, at the Naval Ocean Systems Center, San Diego, California. The meeting will commence at 9:00 A.M. and terminate at 4:00 P.M. on September 16 and 17, and commence at 9:00 A.M. and terminate at 4:30 P.M. on September 18, 1986. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to conduct a comprehensive review of existing and planned over the horizon targeting programs; determine current and projected over the horizon targeting and related command and control capabilities and limitations; identify and problems and recommend solutions. The agenda for the meeting will consist of technical briefings addressing over the horizon targeting capabilities and limitations, programs, facilities and activities. These briefings and tours will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting.

Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander T.C. Fritz, U.S. Navy; Office of the Chief of Naval Research (Code OONR); 800 North Quincy Street, Arlington, VA 22217–5000, Telephone number (202) 696–4870.

Dated: August 18, 1986.

Harold L. Stoller, Jr.,

Commander, JAGC, U.S. Navy Federal Register Liaison Officer.

[FR Doc. 86–19080 Filed 8–22–86; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Intent To Repay to the Oklahoma State Department of Education Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Notice of intent to award grantback funds.

SUMMARY: Notice is given that, under section 456 of the General Education Provisions Act (GEPA), the U.S. Secretary of Education (Secretary) intends to repay under a grantback arrangement to the Oklahoma State Department of Education an amount equal to 75 percent of the funds recovered by the U.S. Department of Education (Department) as a result of a final audit determination issued by the Deputy Commissioner for Elementary

and Secondary Education (now Assistant Secretary) on September 12, 1977. This notice describes the State educational agency's (SEA's) plan, submitted on behalf of six local educational agencies (LEAs), for the use of the repaid funds and the terms and conditions under which the Secretary intends to make these funds available.

DATE: All written comments must be received on or before September 24, 1986.

ADDRESS: All written comments should be submitted to Dr. James Spillane, Director, Division of Program Support, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue SW. (Room 5004, ROB–3, MS–3580), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Dr. James Spillane, Telephone: (202) 245–9846.

SUPPLEMENTARY INFORMATION:

A. Background

On September 12, 1977, the Deputy Commissioner for Elementary and Secondary Education issued a final audit determination against the SEA, finding that six LEAs had improperly spent $598,250 of Federal funds provided under Title I of the Elementary and Secondary Education Act of 1965 (Title I). This final audit determination was based on an audit of the SEA's administration of the Title I program for the period July 1, 1968 through June 30, 1973 conducted by the Department of Health, Education, and Welfare Audit Agency. The six LEAs cited for violations in the final audit determination were El Reno, Frederick, Anadarko, Okmulgee, Enid, and Oklahoma City.

Under Title I, funds had to be expended on programs designed to meet the special educational needs of educationally deprived students in low-income areas and not for general aid to meet the needs of the school population as a whole (20 U.S.C. 241e(a)(1)(A)(1976) and 45 CFR 116.17(a) and (g)(1973)). Additionally, Title I funds had to be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, have been made available from non-Federal sources for the education of the participating Title I children, and in no case to supplant such funds from non-Federal sources (20 U.S.C. 241e(a)(3)(B)(1976) and 45 CFR 116.17(h)(1973)).

The Deputy Commissioner concluded in his final audit determination that $598,250 had been misspent by the six LEAs on activities that violated the general aid and supplanting restrictions on Title I funds. The general aid violations included library programs, counseling services, nursing programs, art programs, teacher aide activities, and attendance services. The Deputy Commissioner also determined that Title I funds had been used to supplant State and local funding in the areas of nursing services, reduction of class size, and counseling services.

In an application for review filed with the Title I Audit Hearing Board (now the Education Appeal Board (EAB)) on October 7, 1977, the SEA challenged the Deputy Commissioner's final audit determination. After lengthy administrative proceedings, the EAB ordered the SEA to refund a total amount of $514,675. The SEA appealed this decision to the United States Court of Appeals for the Tenth Circuit. On May 21, 1984, the Court affirmed the Department's final administrative decision requiring the SEA to refund $514,675.

The SEA was notified by the Department that in addition to the $514,675, it was liable for $141,536 in accrued interest. On July 27, 1984, the SEA paid the Department the principal amount of $514,675, but argued that it was not liable for the accrued interest. On April 21, 1986, after the Comptroller General of the United States issued an opinion upholding the Department's claim for this interest (No. B–217215), the SEA submitted a check for $141,536 to the Department. With this additional payment, the Department's total claim against the SEA for the Title I audit disallowance was settled.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA (20 U.S.C. 1234e(a)) provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available to that program and may arrange to repay to the SEA or LEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this "grantback" arrangement if the Secretary determines that—

(1) The practices and procedures of the SEA or LEA that resulted in the audit determinations have been corrected, and that the SEA or LEA is in all other respects in compliance with the requirements of the applicable program;

(2) The SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the applicable program and, to the extent possible, benefits the population that was affected by the misexpenditures that resulted in the audit exceptions; and

(3) The funds to be awarded under the grantback arrangement, if used in accordance with the SEA's plan, would serve to achieve the purposes of the program under which the funds were originally granted.

C. Request for Repayment of Funds Awarded Under a Grantback Arrangement

On May 27, 1986, the SEA formally requested in writing repayment of $386,006 (75 percent of the $514,675 repaid to the Department as a result of the final audit determinaton) under a grantback arrangement. With its request, the SEA provided assurances that the practices and procedures of the LEAs that resulted in the final audit determination have been corrected and that the LEAs are in all other respects in compliance with the requirements of the program. Detailed budgets prepared by the LEAs for the expenditure of the funds to be awarded under the grantback arrangement were also included with the SEA's request.

D. Plan for Use of Funds Awarded Under a Grantback Arrangement

In accordance with section 456(a)(2) of GEPA, the SEA submitted a plan on behalf of the LEAs outlining their intent to use the grantback funds to meet the special educational needs of educationally deprived children in programs administered under Chapter 1 of the Education Consolidation and Improvement Act of 1981 (Chapter 1) (20 U.S.C. 3801 *et seq.*). Since Chapter 1 has superseded Title I, the SEA's proposal reflects the requirements in Chapter 1—a program, similar to Title I, designed to serve educationally deprived children in low-income areas.

The SEA's plan proposes that the grantback funds will be used during school year 1986–87. A description of how these funds will be used by each of the LEAs to augment their regular Chapter 1 program follows:

El Reno Public School ISD #34—$25,755

Based on a needs assessment, the LEA will provide under its regular Chapter 1 program supplementary services for educationally deprived children in the basic skills areas of language arts, mathematics, and reading. The grantback funds will be used to pay the salary and fixed charges for one additional language arts teacher. Approximately 56 children in grades 1–6 will benefit from the grantback funds. There are no private school children

eligible for Chapter 1 services in this LEA.

Frederick Public Schools—$55,733

The needs assessment conducted by this LEA revealed that the children's greatest need was remedial instruction in language arts. The salaries and fringe benefits of two additional language arts teachers and two aides will be paid for with the grantback funds. Thirty children in grade 2 and 38 children in grades 6, 7, and 8 will participate in the language arts program. There are no private school children eligible for Chapter 1 services in this LEA.

Anadarko Public Schools—$21,141

The grantback funds will be used to purchase additional instructional materials, supplies, and equipment needed for the Chapter 1 program. The instructional services for this program will be funded from the LEA's regular Chapter 1 entitlement for school year 1986–87. The Chapter 1 program will consist of remedial reading, remedial mathematics, and remedial language arts for approximately 250 children in grades 1–8. There are no private school children eligible for Chapter 1 services in this LEA.

Okmulgee Public Schools—$63,116

An early childhood program for approximately 60 children will be provided. The grantback funds will pay the salaries and fixed charges for two teachers and one aide. Materials and supplies for the program will also be purchased with grantback funds. Private school children in the LEA have chosen not to accept Chapter 1 services for the 1986–87 school year.

Enid Public Schools ISD #57—$9,528

Computers and software will be purchased with grantback funds to enhance the regular Chapter 1 program. In this program, 640 children in grades 1–8 will receive supplementary instructions in mathematics. Private school children in the LEA have chosen not to participate in the Chapter 1 program for 1986–87 school year.

Oklahoma City Public Schools—$210,733

Under its Chapter 1 program, the Oklahoma City Public Schools will provide remedial reading, mathematics, and language arts in grades 1–8 for 5,446 public school children and 73 private school children. The grantback funds will pay the salaries of 82 part-time teachers, 24 aides, and 13 part-time administrative and support staff.

E. The Secretary's Determinations

Based upon a thorough review of the SEA's request for the repayment of funds under section 456 of GEPA, including the SEA's discharge of its payment obligations to the Department, the SEA's assurances described in Part C of this notice, and the plan and budgets describing the use of funds, the Secretary makes the following determinations:

(1) The SEA and the LEAs have corrected the practices and procedures that resulted in the final audit determination, and they are in all other respects in compliance with the requirements of the Chapter 1 program.

(2) The SEA has submitted a plan on behalf of the LEAs for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the Chapter 1 program and, to the extent possible, benefits the Chapter 1 children who were affected by the misexpenditures that resulted in the audit exceptions.

(3) The funds to be awarded under the grantback arrangement, if used in accordance with the SEA's plan, would serve to achieve the purposes of the Chapter 1 program.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action.

F. Notice of the Secretary's Intent to Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires, at least 30 days prior to entering into an arrangement to award funds under a grantback, that the Secretary publish in the Federal Register a notice of his intent to do so, and the terms and conditions under which the payment will be made.

In accordance with this requirement, notice is given that the Secretary intends to make available under a grantback arrangement to the SEA an amount of $386,006 which is 75 percent of the funds (not including interest) the Department has recovered as a result of the final audit determination. The Secretary bases has intention to enter into a grantback arrangement under section 456 of GEPA on his determinations outlined in Part E of this notice, and payment by the SEA to the Department of $514,675, plus $141,536 in interest, as a result of the final audit determination.

G. Terms and Conditions Under Which Payment Under the Grantback Arrangement Will be Made

Section 456(b) of GEPA provides that any payments made under a grantback arrangement shall be subject to the terms and conditions that the Secretary deems necessary to accomplish the purposes of the affected program. The SEA and LEAs agree to comply with the following terms and conditions under which payment under the grantback arrangement will be made:

(1) Funds awarded under the grantback will be spent in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that the SEA submitted and any amendments to that plan that are approved in advance by the Secretary; and

(c) The budgets that were submitted with the plan and any amendments to the budgets that are approved in advance by the Secretary.

(2) In accordance with section 456(c) of GEPA and SEA's plan, all funds received under the grantback arrangement will be obligated by September 30, 1987.

(3) The SEA, on behalf of the LEAs, will, not later than January 1, 1988, submit a report to the Secretary which indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved budgets.

(4) Separate accounting records will be maintained documenting the expenditures of funds awarded under the grantback arrangement.

Invitation to Comment

The Secretary invites public comments on this notice of intent to award funds under a grantback arrangement to the Oklahoma SEA on behalf of the six LEAs identified in Part D of this notice. Interested persons may send written comments to Dr. James Spillane at the address at the beginning of this notice. All comments must be received on or before September 24, 1986.

Dated: August 20, 1986

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance No: 84.010, Educationally Deprived Children—Local Education Agencies)

[FR Doc. 86-19137 Filed 8-22-86; 8:45 am]
BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-3069-3]

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 (OMB) 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 ICR is available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, (202) 382–2740 or FTS 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Research and Development

Title: Water Quality and Health Effects Associated with Shellfish Consumption (EPA ICR #1262). (This is a new, one-time information collection request).

Abstract: Approximately two hundred college students at the University of North Carolina will volunteer to eat raw shellfish provided by EPA. The students will give their medical histories and report any health effects that occur after the ingestion of the shellfish. EPA will use the data to determine how raw shellfish of a certain quality affect human health.

Respondents: Students at the University of North Carolina.

Agency PRA Clearance Requests Completed by OMB

EPA ICR #0111, NESHAP for Asbestos Demolition and Renovation, was approved 8/11/86 (OMB #2060–0101; expires 10/31/88).

EPA ICR #0275, Nondiscrimination in EPA-Assisted Programs: Recordkeeping Requirement and Report Form, was approved 8/11/86 (OMB #2090–0014; expires 8/31/89).

EPA ICR #1031, Recordkeeping and Reporting of Allegations of Significant Adverse Reactions, was approved 8/11/86 (OMB #2070–0017; expires 8/31/89).

EPA ICR #1237, State Sewage Sludge Management Program Information, was approved 5/21/86 (OMB #2040–0102; expires 8/31/86).

EPA ICR #1259, Non-Occupational Pesticide Exposure Study, was approved 7/2/86 (OMB #2080–0022; expires 9/30/88).

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), Information and Regulatory Systems Division, 401 M Street SW., Washington, DC 20460

and

Rick Otis, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, DC 20503.

Dated: August 18, 1986.

David Schwarz,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 86–18993 Filed 8–22–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review.

August 14, 1986.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission are available from Doris Benz, FCC, (202) 632–7513. Comments should be sent to J. Timothy Sprehe, Office of Management and Budget, Room 3235, NEOB, Washington, DC 20503 (202) 395–4814.

OMB No.: 3060–0007

Form No.: FCC 435

Title: Application for a New or Modified Common Carrier Microwave Radio Station Construction Permit Under Part 21

Action: Extension

Estimated Annual Burden: 5,000 Responses; 10,000 Hours.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–19088 Filed 8–22–86; 8:45 am]

BILLING CODE 6712–01–M

[Report No. DC–592; (Gen. Docket 86–336)]

Inquiry Begun on Scrambling of Satellite Television Signals

August 7, 1986.

The Commission has opened an inquiry into the scrambling of satellite television signals and access to them by owners of home satellite dish (HSD) antennas.

Home Box Office began scrambling its satellite feed on January 15, 1986. Since then, several other popular channels have begun scrambling or announced plans to do so. There has been considerable concern regarding the availability and price of satellite programing to the more than 1.3 million HSD households.

The Commission initiated its inquiry in response to a Congressional request, made during a June 12, 1986, House subcommittee hearing. The National Telecommunications and Information Administration is participating in the inquiry, also in response to a Congressional request.

The overall objective of the inquiry is to determine whether HSD households have reasonable access to satellite programing at competitive prices. To that end, the inquiry will explore the development of descrambling equipment, the scrambling and marketing plans of satellite television channels, competition for HSD patronage (between HSDs and rival media, as well as among alternative satellite-delivered channels), the public benefits of scrambling, issues relating to the network feed, and other legal issues.

Descrambling Equipment: The development, price, and availability of equipment will be studied, as well as the question of whether the marketplace is creating a *de facto* standard for scrambling.

Developments to Date in Scrambling Satellite Television Channels. The scrambling timetables of the various satellite-delivered channels, the prices charged, the extent to which a group of channels can be ordered from a single source ("one-stop shopping"), and the availability of program packages with discounts for buying several channels will be examined.

Competition for the Patronage of HSD Owners: The inquiry will analyze both intermodal competition and intramodal competition. Intermodal competition takes place among broadcasting, cable, videocassette recorders, and HSDs. Intramodal competition is rivalry among satellite-distributed premium channels, such as Home Box Office and Showtime, among basic cable services, and among

alternative distributors of the same programing (for example, self-retailing by Home Box Office v cable systems sales).

Public Benefits of Scrambling: The inquiry will investigate the extent to which allowing collection of revenues from all viewers strengthens programers' incentives and ability to acquire quality new programing and encourages entry into the programing business. It also will investigate the proposition that scrambling treats copyright owners fairly by providing them with appropriate control over their intellectual property. The role of scrambling in encouraging further development of direct-to-home satellite television transmission will be assessed. (In this connection, the investigation will examine the potential migration of satellite television channels from C band to Ku band and the effect it would have on HSDs.)

The Network Feed: Information will be gathered on the number of households unable to receive network programing via terrestrial broadcast facilities or cable and on the reasons that the networks prefer to distribute exclusively via affiliates. The inquiry also will consider what incentives the networks have to reach a wide audience and options for reaching those outside affiliate service areas.

Legal Issues: Comments will be solicited on Commission authority to set scrambling standards, to regulate rates, and to regulate the retail distribution structure for satellite programing. Other issues raised are the applicability of Section 705 of the Communications Act to the network feed and the impact of copyright law on the "superstations."

The Commission expressed the hope that a comprehensive record will be developed in this proceeding. This will allow it to decide if it should propose any action, and will also provide a wealth of useful information to the Congress.

The Commission also noted that a companion item adopted today examines the methods of combating unauthorized interference with satellite signals. (The recently-solved "Captain Midnight" episode is a prime example.)

Comments are due by October 10, 1986, replies by October 27, 1986.

Note.—Due to the Commission's ongoing effort to minimize publishing costs, the full text of the Notice of Inquiry will not be printed herein. However, copies may be obtained from the International Transcription Services, 1919 M St., NW., Washington, DC 20036 Tel. No.: (202) 857–3800.

Action by the Commission August 7, 1986, by Notice of Inquiry (FCC 86–355). Commissioners Fowler (Chairman), Quello, Dawson, Patrick and Dennis.

For more information contact Jonathan D. Levy at (202) 653–5940.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–19085 Filed 8–22–86; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1612]

Petitions for Reconsideration and Clarification and Applications for Review of Actions in Rulemaking Proceedings

August 18, 1986.

Petitions for reconsideration and clarification and applications for review have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor, International Transcription Service (202–857–3800). Oppositions to these petitions and applications must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Revision of the Uniform System of accounts and Financial Reporting Requirements for Class A and Class B Telephone Companies (Parts 31, 33, 42, and 43 of the FCC's Rules) (CC Docket No. 78–196); Number of petitions received: 5

Applications for Review

Subject: Amendment of Section 606(b), Table of Assignments, FM Broadcast Stations. (Morehead City, North Carolina) (MM Docket No. 84–790, RM–4801); Number of applications received: 2.

Federal Communication Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–19087 Filed 8–22–86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–007690–019.

Title: The India, Pakistan, Bangladesh, Ceylon & Burma Outward Freight Conference.

Parties:

The Scindia Steam Navigation Co., Ltd.

The Shipping Corporation of India, Ltd.

Waterman Isthmian Line.

Sysnopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 202–008050–015

Title: Sri Lanka/U.S.A. Conference.

Parties:

The Scindia Steam Navigation Co., Ltd.

The Shipping Corporation of India, Ltd.

Waterman Isthmian Line.

Synopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 202–008650–013.

Title: Calcutta, East Coast of India and Bangladesh/U.S.A. Conference.

Parties:

The Bangladesh Shipping Corporation.

The Scindia Steam Navigation Co., Ltd.

The Shipping Corporation of India, Ltd.

Waterman Isthmian Line.

Synopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 202–010984.

Title: Mediterranean/Puerto Rican Conference.

Parties:

Compania Trasatlantic Espanola, S.A.

d'Amico Societa di Navigazione per Azioni

Nordana Line/Dannebrog Rederi A/S

Sea-Land Service, Inc.

Synopsis: The proposed agreement would establish a conference between the parties in the trade from French Mediterranean ports, Italian and Yugoslavian ports, including islands, Spanish ports, including the North African/Spanish ports and those of the Spanish Mediterranean Islands and the Canary Islands, Portuguese ports, including ports on Madeira Island but excluding ports on the Azores Islands, and points in Continental Europe via such ports to all ports and points in Puerto Rico.

By Order of the Federal Maritime Commission.

Dated: August 20, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86-19144 Filed 8-22-86; 8:45 am]

BILLING CODE 6730-01-M

Request for Additional Information; Sea-Barge Agreement

Agreement No.: 203-010970.
Title: Sea-Barge Agreement.
Parties:

S.E.L. Maduro (Florida), Inc.
Luis A. Ayala Colon Sucesores, Inc.
Zapata Gulf Marine Corporation

Synopsis: Notice is hereby given that the Federal Maritime Commission pursuant to section 6(d) of the Shipping Act of 1984 (46 U.S.C. app. 1701-1720) has requested additional information from the parties to the agreement in order to complete the statutory review of Agreement No. 203-010970 as required by the Act. This action extends the review period as provided in section 6(c) of the Act.

By Order of the Federal Maritime Commission.

Dated: August 20, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86-19143 Filed 8-22-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

August 19, 1986.

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 recieved 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 within fifteen working days of the date of publication in the **Federal Register.**

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, DC 20551, or delivered to room B-2223 between 8:45 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: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, 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—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829)

Proposal to approve under OMB delegated authority the implementation of the following report:

1. Report title: Survey of Machinery Dealers
Agency form number: FR 3039
OMB Docket number: 7100-0222
Frequency: One-time
Reporters: Machine-dealers
Small businesses are affected.
General description of report: This information collection is voluntary [12 CFR Parts 225a, 263, 353 et seq., and 461] and is given confidential treatment [5 U.S.C. 552(b)4].

Survey of machine dealers that collects general information on the market for use machine tools, the sources of used machinery, and estimates of useful lives of the equipment traded. Information on specific transactions, such as, the transaction price and transaction date, is also collected.

Board of Governors of the Federal Reserve System, August 19, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-19095 Filed 8-22-86; 8:45 am]

BILLING CODE 6210-01-M

Citizens Banking Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) (2) or (f) of the Board's Regulation Y (12 CFR 225.23(a) (2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would

not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 17, 1986.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Banking Corporation,* Flint, Michigan; to acquire First National Capital Corporation, Birmingham, Michigan, and thereby engage in leasing personal or real property pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 19, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-19096 Filed 8-22-86; 8:45 am]

BILLING CODE 6210-01-M

Habersham Bancorp; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 12, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Habersham Bancorp,* Cornelia, Georgia; to engage *de novo* through CDM, Helen, Georgia, in data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y. Applicant proposes to own, install and operate a cash dispensing machines. These activities will be conducted throughout the State of Georgia.

Board of Governors of the Federal Reserve System, August 19, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-19097 Filed 8-22-86; 8:45 am]

BILLING CODE 6210-01-M

Shawmut Corp. et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the office 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 September 15, 1986.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Shawmut Corporation,* Boston, Massachusetts; to acquire 100 percent of the voting shares of The Fidelity Trust Company, Stamford, Connecticut.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Moxham Bank Corporation,* Johnstown, Pennsylvania; to acquire 100 percent of the voting shares of The First National Bank of Garrett, Garrett, Pennsylvania.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *ABC Holding Company,* Moultrie, Georgia; to acquire 51.5 percent of the voting shares of The Citizens Bank of Tifton, Tifton, Georgia.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Oak Brook Bancshares, Inc.,* Oak Brook, Illinois; to acquire 100 percent of the voting shares of FNB Bancorp, Inc., Chicago Heights, Illinois, and thereby indirectly acquire First National Bank in Chicago Heights, Chicago Heights, Illinois.

2. *First of America Bank Corporation,* Kalamazoo, Michigan; to merge with First Bancorp, Indianapolis, Indiana, and thereby indirectly acquire First Bank and Trust Company, Speedway, Indiana.

3. *Jackson County Bancshares, Inc.,* Black River Falls, Wisconsin; to become a bank holding company by aquiring 80 percent of the voting shares of Jackson County Bank, Black River Falls, Wisconsin.

4. *Summcorp,* Fort Wayne, Indiana; to acquire 100 percent of the voting shares of Industrial Trust and Savings Bank, Muncie, Indiana. Comments on this application must be received by September 17, 1986.

5. *Summcorp,* Fort Wayne, Indiana; to acquire 100 percent of the voting shares of South Central Bancorp, Edinburg, Indiana, and thereby indirectly acquire The Edinburg State Bank, Edinburg, Indiana.

6. *Versailles Bancorporation, Inc.,* Versailles, Indiana; to become a bank holding company by acquiring 87.48

percent of the voting shares of Bank of Versailles, Versailles, Indiana. Comments on this application must be recevied by September 10, 1986.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Caliendo Bancorp, Inc.*, Wichita, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Sedgwick State Bank, Sedgwick, Kansas. Comments on this application must be recevied by September 17, 1986.

2. *First Bancshares of Durant, Inc.*, Durant, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Durant, Durant, Oklahoma.

Board of Governors of the Federal Reserve System, August 19, 1986.

William W. Wiles,

Secretary of the Board.

[FR Do. 86-19098 Filed 8-22-86; 8:45 am]

BILLING CODE 6210-01-M

Westpac Banking Corp.; Proposal To Engage in Certain Gold and Silver Activities

Westpac Banking Corporation, Sidney, Australia, has applied pursuant to section 4(c)(8) of the Bank Holding Company (12 U.S.C. 4843(c)(8)) and § 225.23(a) (2) and (3) of the Board's Regulation Y (12 CFR 225.23(a) (2) and (3)), for permission to engage through subsidiary, Mase Westpac, Inc., New York City, New York, in certain activities relating to dealing in gold and silver. Specifically Applicant proposes to engage in the following activities: (a) Buying and selling gold and silver bullion, bars, rounds and bullion coins; (b) Dealing in gold and silver futures contracts traded on exchanges, options on gold and silver futures contracts and options on gold and silver bullion; (c) Financing the production, refining, and fabrication of gold and silver including lending and borrowing gold and silver in connection with such financing; (d) Arbitraging gold and silver in markets throughout the world; and (e) Providing various incidental services for customers, such as the safe custody, assaying and shipment of gold and silver. These services will be provided from offices in New York City, New York.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." Applicant believes that these activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto because the activities are, in Applicant's opinion, either provided by banks or functionally similar to services provided by banks.

While the Board has decided to publish Westpac's proposal, the Board does not, thereby take any position on the issues under the Bank Holding Company Act raised by the proposal. The Board is publishing this proposal in order to seek the views of interested persons on the issues that this application presents and does not represent a determination that the activity is likely to meet the standards of the Bank Holding Company Act.

Interested persons may express their views on whether the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether consummation of the acquisition as a whole can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on these questions must be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at the hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Comments or requests for a hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than September 18, 1986.

Board of Governors of the Federal Reserve System, August 19, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-19099 Filed 8-22-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA-225-86-2000]

Memorandum of Understanding Between the National Marine Fisheries Service and the Food and Drug Administration

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and FDA of the Public Health Service, U.S. Department of Health and Human Services. This MOU describes the cooperative methods that FDA and NMFS will employ to deal with illegal commerce in molluscan shellfish.

DATE: The agreement became effective July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC-50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1583.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)), which states that all agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing this memorandum of understanding.

Dated: August 19, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

Memorandum of Understanding Between the Food and Drug Administration and the National Marine Fisheries Service Concerning Enforcement of Laws Against Illegal Commerce in Molluscan Shellfish

I. Purpose

The Food and Drug Administration (FDA) of the Public Health Service, U.S. Department of Health and Human Services and the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration, U.S. Department of Commerce enter this Memorandum of Understanding to increase and to improve their cooperation in the enforcement of laws against the illegal

harvest, transport, export, import, sale, and purchase of molluscan shellfish. This Memorandum describes the arrangements that FDA and NMFS will follow to ensure that the activities of each agency under its respective authorities complement those of the other agency, and the cooperative methods that the two agencies will employ to deal with illegal commerce in molluscan shellfish.

II. Background

FDA is responsible for enforcement of the Federal Food, Drug and Cosmetic (FD&C) Act (Act of June 25, 1938, as amended 21 U.S.C. section 301 et seq.) and the Public Health Service Act (42 U.S.C. section 201 et seq.). Under these Acts, FDA works to protect the health and welfare of the Nation by ensuring that foods, including molluscan shellfish, are safe and wholesome. In fulfilling this responsibility, FDA promulgates regulations dealing with the safety, quality, and identity of foods; establishes action levels and tolerances for natural defects and unavoidable defects; inspects the processing and distribution of foods; examines samples of foods to assure compliance with the Act; and conducts research to support these activities. The States and a number of foreign nations also have laws that relate to the illegal commerce in molluscan shellfish. FDA works with states and foreign nations to increase the effectiveness of these laws and coordinates its activities in this area with those of the States and foreign nations through its participation in the National Shellfish Sanitation Program (NSSP). FDA assists States and foreign nations with training, technical projects and the development of model ordinances and guidelines; and advises States and foreign nations as to the effectiveness of their public health control programs.

Under the authorities of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) and the Fish and Wildlife Act of 1956 (16 U.S.C. 742e et seq.), NMFS conducts a voluntary fishery products inspection program which is concerned with the safety, wholesomeness, and quality of fishery products, including molluscan shellfish. NMFS is also responsible for enforcement of the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.), as they apply to molluscan shellfish. In pertinent part, the Lacey Act prohibits and prescribes penalties for the transport, export, import, sale, and purchase of shellfish taken or possessed in violation of United States laws and regulations. The Act also forbids the transport, export, import, sale, purchase, receipt, acquisition, or possession in interstate or foreign commerce of molluscan shellfish taken, possessed, transported, or sold in violation of State or foreign law. False records, accounts, labels, and identifications of molluscan shellfish are also forbidden. NMFS conducts investigations of alleged illegal transactions in molluscan shellfish through its Office of Enforcement. These investigations can lead to the imposition of civil penalties by the National Oceanic and Atmospheric Adminstration, the referral of cases to the Department of Justice for criminal prosecution, and the forfeiture of illegal molluscan shellfish and the vessels and gear with which they were caught.

FDA and NMFS believe that it is in the public interest for them to cooperate more closely in carrying out the these responsibilities and taking maximum advantage of their respective expertise.

III. Substance of Agreement

A. *FDA agrees to*: 1. Provide periodically, preferably annually, summary reports of the status of State shellfish enforcement control programs which identify States with enforcement program weaknesses and illegal shellfish harvesting problems, and recommend priorities for Lacey Act investigations for the purpose of providing improved public health protection and industry integrity.

2. Support NMFS Lacey Act investigations to the extent that regulatory authority and resources allow. This may include conducting food sanitation inspections of suspect shellfish shippers, reviewing interstate shipping records and obtaining affidavits to the extent possible, collecting and analyzing shellfish samples to be used as evidence of violations, and removing adulterated shellfish from the marketplace.

B. *NMFS agrees to*: 1. Utilize FDA's report on State shellfish control programs and illegal shellfish harvesting problems when establishing planning priorities for potential Lacey Act investigations. To the extent that resources and agency policies allow, investigations for the purpose of protecting the public health and the integrity of the shellfish industry will be given a high priority.

2. Advise FDA when Lacey Act or other investigations reveal information of illegal shelfish harvesting problems in particular States, and when Lacey Act related arrests and prosecutions are undertaken by NMFS that relate to shellfish program activities.

C. *FDA and NMFS agree to*: 1. Consult regularly concerning enforcement of laws against illegal commerce in molluscan shellfish. These consultations will be guided by the considerations that FDA is in a favorable position to determine the situations most in need of enforcement attention from the public health perspective; and that NMFS has a particular expertise in investigations involving the harvesting, processing, and transportation of molluscan shellfish.

2. Coordinate their activities under this Memorandum with the public health and fisheries agencies of interested and affected States. Upon request of FDA, NMFS may authorize FDA personnel to assist NMFS in the enforcement of the Lacey Act as it applies to molluscan shellfish.

3. Coordinate activities to negotiate and implement agreements with agencies of foreign governments to eliminate illegal commerce in foreign molluscan shellfish and to assure the continued viability of domestic molluscan shellfish resources so that the authorities and expertise of both FDA and NMFS will be effectively utilized. In particular, FDA will consult with NMFS concerning the potential impact on domestic molluscan shellfish whenever FDA considers initial requests or negotiates agreements to import live molluscan shellfish into the United States without regard to the stated purpose of such importation.

4. Develop arrangements for the most effective use of the authorities and resources available to each agency for enforcement of laws against illegal commerce in molluscan shellfish. In particular, NMFS will seek appropriate administrative or criminal sanctions for violations of the Lacey Act with respect to molluscan shellfish that could adversely affect public health, the aquatic environment, or stability of aquatic resources; and FDA will, consistent with its resources, upon request provide expert testimony and scientific support necessary to demonstrate the actual or potential public health effects of such violations.

Designate a primary contact to implement this agreement and to assure regular communication concerning the activities of the agencies covered by the Memorandum. The primary contact for each agency will be responsible for ensuring that other agency employees who have an intererst in activities under this Memorandum are informed of those

activities. If either agency is unable to carry out any of its responsibilities under this Memorandum, the primary contact for that agency shall so advise the primary contact for the other agency promptly.

6. Have the primary contacts meet at least twice a year to discuss activities undertaken pursuant to this agreement and identify ways of fostering further cooperation between the two agencies. The primary contacts will prepare a joint written annual summary of activities undertaken pursuant to this Memorandum to present at the annual meeting of the Interstate Shellfish Sanitation Conference.

IV. Participating Parties

A. National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Washington, DC 20235.

B. Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20857.

V. Primary Contacts

A. National Marine Fisheries Service: Director, Office of Enforcement, Mr. Morris M. Pallozzi, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Washington, DC 20235, 202–673–5295.

B. Food and Drug Administration: Chief Shellfish Sanitation Branch (currently, Mr. J. David Clem), Center for Food and Safety and Applied Nutrition (formerly Bureau of Foods), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–485–0149.

VI. Period of Agreement

This Memorandum will take effect upon its signature by the authorized representatives of both FDA and NMFS. It may be modified by consent of both agencies and terminated by either agency upon 30 days written notice to the other.

Approved and accepted on behalf of the Food and Drug Administration and the National Marine Fisheries Service.

Dated: July 24, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs, Food and Drug Administration, Public Health Service, U.S. Department of Health and Human Services.

Dated: July 17, 1986.

James E. Douglas, Jr.,

for Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

[FR Doc. 86–19084 Filed 8–22–86; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–080–06–4322–02]

Vernal District Grazing Advisory Board Meeting

ACTION: Notice of Vernal District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463, that a meeting of the Vernal District Grazing Advisory Board will be held Friday, September 26, 1986, commencing at 10:00 a.m. Meeting will be held in the district conference room at 170 South 500 East, Vernal, Utah.

The agenda items will include: (1) Predator and Pest Control, (2) Range Improvements, (3) Range Program Summary Update, (4) Land Exchanges/ Sales-Brush Creek and Little Hole, (5) Wild Horse Roundup, (6) Taylor Flat Shrub Die-Off and Regeneration Studies and Chaining, Control Burning and Grazing, (7) Subleasing of Grazing Preference, (8) Approval of Applications for Non-Use, (9) Blue Mountain Brush Control, and (10) Status of Coop Maintenance Agreements.

The meeting is open to the public. Interested persons wishing to participate or present a statement should notify the District Manager at the above-mentioned address or phone him at (801) 789–1362 no later than September 22, 1986.

FOR FURTHER INFORMATION CONTACT: Dean Evans, Assistant District Manager, Resources, 170 South 500 East, Vernal, Utah 84078, Phone (801) 789–1362.

Craig M. Hansen,

Acting District Manager.

[FR Doc. 86–19121 Filed 8–22–86; 8:45 am]

BILLING CODE 4310–DQ–M

[CA–010–06–4212–13]

Realty Action, Exchange of Public and Private Land in Calaveras and Placer Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public and private land in Calaveras and Placer Counties, California.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under section 206 of the *Federal Land Policy and Management Act of 1976,* (43 U.S.C. 1716):

Mount Diablo Meridian, California, Calaveras County

Parcel A–T.6N., R.14E.,
Sec. 32, Portion of Rainbow Lode
T.5N., R.14E.,
Sec. 5, Portion of Rainbow Fallen Pine, White Elephant Lode Claims 37.05± acres;
Parcel B–T.5N., R.14E.,
Sec. 5, Lot 2, 37.2± acres;
Parcel C–T.5N., R.14E.,
Sec. 7, E½NW¼, 80± acres;
Parcel D–T.6N., R.14E.,
Sec. 31, SE¼NW¼, 40± acres.

The areas described aggregate approximately 194.25 acres of public land.

In exchange for these lands, the United States will acquire the following described lands from Gerald and Shirley Hodnefield:

Mount Diablo Meridian California, Placer County

T.15N., R.10E.,
Sec. 1, N½SW¼, 80 acres;
Lot 12, 24.59 acres;
Lot 15, 39.50 acres;
W½ Lot 1 NE¼, 40 acres;
Lot 2 NE¼ 80 acres;
E½ Lot 2 NW¼, 40 acres;
E½ Lot 1 NW¼, 40 acres.

The areas described aggregate approximately 344.09 acres of private lands.

The purpose of this exchange is to acquire the non-Federal lands which have high public values for recreation. These lands are within the North Fork of the American River canyon which has been designated a Wild and Scenic River since 1978. The acquisition would protect the area and its spectacular scenery as well as provide public access to a remote section of the river. The public interest will be served by completing the exchange.

The values of the lands to be exchanged are approximately equal; full equalization of values will be achieved by payment to the United States by Gerald and Shirley Hodnefield of funds in an amount not to exceed 25 percent of the total value of the lands to be transferred out of Federal ownership.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945) on all parcels (A,B,C,D).

2. Parcels A,B,C,D have been found to have no known mineral value but the exchange proponent acknowledges that parcels A,B and C are encumbered by certain mining claims filed pursuant to the mining laws of the United States 30 U.S.C. 21 et seq. The exchange conveyance on parcels A,B, and C will be subject to the existing claims and the following rights:

(a) Right to continue to prospect for, mine and remove locatable minerals under applicable laws.

(b) Right to obtain mineral patent to both the surface and mineral estate within the mining claim if valid discovery was made prior to the date of FLPMA patent, or;

(c) Right to obtain patent to the mineral estate only if discovery is made subject to the patent.

The United States of America by this conveyance does not intend to preclude the grantee from challenging the validity of any mining claim located on the land conveyed.

The exchange proponent, by accepting this Land Patent, will hereby waive any liability against the United States in the event of subsequent title litigation.

Parcel A encumbered by CAMC 25885, CAMC 34520, CAMC 34521, CAMC 42250, CAMC 81077, CAMC 92979, CAMC 114650, CAMC 142568–70, CAMC 142578–80, CAMC 142583, CAMC 142591–95, CAMC 142607–11.

Parcel B encumbered by CAMC 129918–20, CAMC 142581–2, CAMC 142584–5,

Parcel C encumbered by CAMC 142525–7, CAMC 142532–36.

3. Parcel A will be conveyed when resurvey has been completed, and lot numbers have been assigned.

4. Parcel D will be conveyed after publication of an opening order vacating the land withdrawl in part for Power Project No. 284, pursuant to the determination of the Federal Energy Regulatory Commission Order dated November 29, 1985.

SUPPLEMENTARY INFORMATION: Publication of this notice in the **Federal Register** segregates the public lands from appropriation under the public land laws including the mining laws for a period of 2 years from the date of first publication. Any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant.

Further information concerning the exchange, including the environmental assessment/land report is available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630.

For a period of 45 days from the date of first publication, interested parties may submit comments to District Manager, Bakersfield District, Bureau of Land Management, 800 Truxton Avenue, Room 311, Bakersfield, California 93301: (805) 861–4191. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination.

Deane K. Swickard,

Area Manager.

[FR Doc. 86–19149 Filed 8–22–86; 8:45 am]

BILLING CODE 4310–40–M

[NV–930–06–4212–11; N–43025]

Realty Action; Lease/Purchase for Recreation and Public Purposes, Clark County, NV

Correction

In FR Doc. 86–17847 beginning on page 28631 in the issue of Friday, August 8, 1986, make the following corrections: On page 28632, in the first column, under "T. 13 S., R. 71E.,", in the third line, "SE1/4N1/2SE1/4NW1/4," should read "N1/2SE1/4SE1/4NW1/4"; in the fourth line the comma should be removed between "E1/2" and "NE1/4".

BILLING CODE 1505–01–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–26 (Sub–No. 35X)]

Interstate Railroad Co. & Norfolk and Western Railway Co.; Abandonment and Discontinuance of Service Between Tacoma and Miller Yard, VA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 10903, *et seq.*, abandonment by Interstate Railroad Company and discontinuance of service by Norfolk and Western Railway Company over 10.7 miles of track between Tacoma and Miller Yard in Wise and Scott Counties, VA, subject to standard labor protective conditions.

DATES: This exemption is effective on September 25, 1986. Petitions to stay must be filed by September 5, 1986 and petitions for reconsideration must be filed by September 15, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB–26 (Sub–No. 35X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Nancy S. Fleischman, Norfolk Southern Corporation, 1050 Connecticut Ave., NW., Suite 740, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423 or call 289–4357 (DC Metropolitan Area) or toll free (800) 424–5403.

Decided: August 15, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86–19094 Filed 8–22–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Final Environmental Impact Statement on Cannabis Eradication on Non-Federal and Indian Lands in the Contiguous United States and Hawaii

AGENCY: Notice of Record of Decision.

SUMMARY: This is the Record of Decision of the Administrator of the Drug Enforcement Administration [DEA], pursuant to 40 CFR 1505.2, with respect to DEA-EIS-2, the Final Environmental Impact Statement on the Eradication of Cannabis on non-Federal and Indian Lands in the Contiguous United States and Hawaii. A Notice of the Availability of the Final EIS was published in the **Federal Register** on May 23, 1986 (51 FR 18955).

Notice

Based on the environmental analysis documented in the Final EIS, I have decided, pursuant to 40 CFR 1505.2, to adopt Alternative 5, Operational Flexibility, calling for the full range of manual and mechanical methods, and both directed and broadcast application of herbicides to eradicate illegally cultivated cannabis on non-Federal and Indian lands. With regard to disposal of eradicated cannabis, it is my decision to adopt disposal Alternative 4, allowing the full range of disposal methods, including haul and burn, haul and bury, shred and till, and posting of the area. This decision is made after careful consideration of all written and oral comments received during scoping meetings, written and oral comments on the May 1985 Draft EIS and January 1986 Supplemental EIS, and comments received on the May 1986 Final EIS. I have also considered the May 8, 1986, comments of the U.S. Department of

Health and Human Services advising DEA that a screening program for detection of residues of the herbicides glyphosate and 2,4–D on confiscated marijuana is not necessary to assess the public health impact of use of those herbicides for cannabis eradication. In addition, I have considered the August 8, 1986, comments of the U.S. Environmental Protection Agency advising DEA that the worst case analyses of 2,4–D cancer risk contained in the EIS are adequately conservative in light of EPA's preliminary assessment of the most recent 2,4–D oncogenicity study.

The other alternatives considered were:

Alternative 1: Manual Eradication (no action);

Alternative 2: Herbicidal Eradication;
2.1: Eradication Using Paraquat
2.2: Eradication Using Glyphosate
2.3: Eradication Using 2,4–D

Alternative 3: No Application of Herbicides.

Alternative 4: No Broadcast Application of Herbicides.

Other disposal alternatives considered were:

Alternative 1: Haul and Burn or Haul and Bury (after manual or mechanical eradication).

Alternative 2: Till Under.

Alternative 3: Leave Cannabis Onsite (after herbicidal eradication in noncrop areas only).

The nature of domestic cannabis cultivation places it primarily within the jurisdiction and enforcement capabilities of state and local authorities. Through the Domestic Cannabis Eradication/Suppression Program, DEA provides financial and other assistance to support state and local eradication efforts. The alternatives which I have selected will permit state and local authorities to request, and DEA to provide, funding for the full range of eradication and disposal methods. Providing DEA and state and local authorities with the ability to employ the mix of eradication and detection methods which best satisfies each jurisdiction's needs will allow DEA to more effectively meet its mandate under the 1961 Single Convention on Narcotics Drugs and the 1984 National Strategy for the Prevention of Drug Abuse and Drug Trafficking.

Although eradication Alternative 1 and disposal Alternative 1 are the environmentally preferable alternatives at the programmic level, eradication Alternative 5 and disposal Alternative 4 will allow DEA and participating state and local authorities operational flexibility in selecting the most appropriate method, given safety, health, and environmental considerations. The selected alternative will be carried out by DEA personnel, state or local law enforcement personnel, or by contractors employed by any of these agencies. Decisions on which method to use for any given site will ordinarily be made by state or local law enforcement personnel on a case-by-case basis in accordance with the environmental laws and regulations of the jurisdiction and the procedures described in the EIS. Selection of the eradication method would be based on a number of factors described in the EIS, including available manpower and equipment, number of plants and configuration of plots, proximity to water bodies and human habitation or developed recreational areas, topography, foliage density and plant height, soil type, presence of endangered or threatened species or cultural resources, site accessibility, weather conditions, time of year, and maturity of plants. The responsible official at the site-specific level, ordinarily a state or local law official, will ensure that all appropriate mitigation measures and operational procedures provided in Table 2–1 of the EIS are met.

Mitigation measures for all methods of eradication are provided in the EIS. They include following all applicable Federal, state or local law environmental laws and regulations in conducting eradication operations, following all EPA- and State-approved herbicide label requirements, as well as requirements regarding application procedures, drift control measures, and public notification procedures, as set forth in Table 2–1.

The need for monitoring herbicide residues in soil and ground and surface water will be determined on a case-by-case basis by apropriate State agencies. DEA will continue to monitor domestically seized marijuana for paraquat residues. On the recommendation of the United States Department of Health and Human Services, DEA will not monitor domestically seized marijuana for glyphosate or 2,4-D residues.

I have carefully considered the analyses in the EIS, including worst case situations involving workers accidentally exposed to herbicides, humans and wildlife directly sprayed ore ingesting contaminated foodstuffs, oncogenicity, and the possible risk to persons smoking marijuana contaminated with herbicides.

Since the probability of the worst case accidents occurring is very low, and because all DEA personnel, State and local officials, and their contractors, will be required to adhere to label instructions and to mitigation measures and operational procedures stipulated in Table 2–1 of the EIS, I believe the risk under eradication Alternative 5 and disposal Alternative 4 to be acceptable.

Eradication Alternative 5 allows the use of the herbicides glyphosate, 2,4-D and paraquat. The analysis indicates that the proper use of paraquat does not pose significant risk to public health or the environment. DEA, however, has entered into a consent judgment in Federal court in which it agreed that it would not use or authorize the use of paraquat to eradicate marijuana on "U.S. Federal lands" under the current paraquat label. Indian lands are arguably sufficient Federal in character to be considered "U.S. Federal lands." Accordingly, I have not authorized the use of paraquat on Indian lands at this time

Dated: August 19, 1986.

John C. Lawn

Administrator.

[FR Doc. 86–19132 Filed 8–22–86; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 86–14]

Jack E. Taylor, M.D., Gillette, WY; Hearing

Notice is hereby given that on December 27, 1985, the Drug Enforcement Administration, Department of Justice, issued to Jack E. Taylor, M.D., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke his DEA Certificate of Registration, AT6858407, as a practitioner under 21 CFR 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Tuesday, September 16, 1986, in the Federal Mine Safety and Health Review Commission Hearing Room, Suite 400, 333 W. Colfax Avenue, Denver Colorado.

Dated: August 18, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86–19133 Filed 8–22–86; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Astronomical Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee to Evaluate Procedures Used to Review the Quality of the Science Activities at the National Astronomy Centers.

Date and Time: September 10, 11, 12, 1986, 9 am–5 pm.

Place: September 10, room 615–F; September 11–12, room 212.

Type of Meeting: Open.

Contact Person: Dr. Laura P. Bautz, Director, Division of Astronomical Sciences, Room 615, National Science Foundation, Washington, D.C. 20550 (202/357–9488).

Summary Minutes: May be obtained from the contact person at the above address.

Purpose of Subcommittee: To evaluate the procedures used to review the quality of the scientific activities of the National Astronomy Centers.

Agenda:

Wednesday, September 10

9 am–5 pm—Description and discussion of procedures used to review the quality of the scientific activities at the National Astronomy Centers

Thursday, September 11

9 am–5 pm—Continuation of presentations and discussions from previous day

Friday, September 12

9 am–5 pm—Continuation of discussions from previous day

M. Rebecca Winkler,

Committee Management Officer.

August 20, 1986.

[FR Doc 86–19134 Filed 8–22–86; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–250 and 50–251]

Florida Power & Light Co; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix H to 10 CFR Part 50 to Florida Power and Light Co (the licensee), for the Turkey Point Plant, Units No. 3 and 4, located in Dade County, Florida.

Environmental Assessment

Identification of Proposed Action

The exemption would permit the extension of the time for the submittal of the summary technical report of the analysis of the surveillance capsule "V" from Turkey Point, Unit 3, from March 16, 1986 to on or before September 1, 1986. The summary technical report is applicable to both Turkey Point Plant Units 3 and 4. This proposed action is responsive to the licensee's request for exemption dated July 11, 1986.

The Need for the Proposed Action

10 CFR Part 50, Appendix H, Section III.A., requires licensees to submit a summary technical report of the analysis and testing of the materials in surveillance capsule(s) within one year after the capsule(s) withdrawal from the reactor vessel unless an extension is granted by the Director, Office of Nuclear Reactor Regulation. By letter dated April 30, 1986, the licensee requested an extension pursuant to 10 CFR Part 50, Appendix H, Section III.A. The request was not timely and an extension could not be granted, therefore, the licensee requested an exemption from the one year requirement for submitting the summary technical report.

The licensee has indicated that the requested extension of approximately six months for providing the summary technical report is due to material circumstances beyond their control. The capsule "V" analysis and testing is contracted to Southwest Research, Inc. (SWRI) and the SWRI project manager in charge of the program died recently. The extension would allow SWRI to complete the report and provide sufficient time for the licensee to review the report and resolve any comments since they are responsible for the content and accuracy of the information documented in the report.

Environmental Impacts of the Proposed Action

The proposed exemption affects only the submittal date for providing the capsule "V" summary technical report and does not affect previously analyzed accidents. Thus, post-accident radiological releases will not differ from those previously determined and the proposed exemption does not otherwise affect facility radiological effluents, or any significant occupational exposures. Likewise, the exemption does not affect facility nonradiological effluents and has no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measureable environmental impact associated with the proposed exemption, any alternatives either will have no environmental impact or will have a greater environmental impact. The principal alternative to the exemption would be to deny the request for exemption. Such an action would result in environmental impacts which are equal to or greater than the proposed action.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement (operating licenses) for the Turkey Point Plant, Unit Nos. 3 and 4, dated July 1972.

Agencies and Persons Consulted

The NRC staff did not consult with any other agencies of persons.

Finding no Sigificant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment. The Commission has, therefore, determined not to prepare an environmental impact statement for the proposed exemption.

For futher details with respect to this action, see the application for exemption dated July 11, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW. Washington, DC, and at the Envinonmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Bethesda, Maryland, this 20th day of August, 1986.

For the Nuclear Regulatory Commission.

Daniel G. McDonald,

Acting Director, PWR Project Directorate No. 2, Division of PWR Licensing–A.

[FR Doc. 86–19155 Filed 8–22–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–369 and 50–370]

Duke Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. to Facility Operating License No. NPF–9, and Amendment No. to Facility Operating License No. NPF–17, issued to Duke Power Company (the licensee), which revised the Technical Specifications for operation of the McGuire Nuclear Station, Units 1 and 2 (the facility) located in Mecklenburg County, North Carolina. The

amendments are effective as of the dates of their issuance.

The amendments change the Technical Specifications to modify steam generator tube plugging requirements for tube defects located in the tubesheet region.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments and Opportunity for Prior Hearing in connection with this action was published in the **Federal Register** on July 16, 1986 (51 FR 25777). No request for a hearing or petition for leave to intervene was filed following this notices.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact (51 FR 2973) related to the action and has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility dated April 1976 and its addendum dated January 1981.

For further details with respect to the action see (1) the application for amendment dated June 24, 1986, as revised August 5, 13, and 18, 1986, and as supplemented July 1 and 23, 1986, (2) Amendment No. 59 to License No. NPF–9 and Amendment No. 40 to License No. NPF–17, and (3) the Commission's related Safety Evaluation and Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of PWR Licensing–A.

Dated at Bethesda, Maryland, this 19th day of August 1986.

For the Nuclear Regulatory Commission.

Paul O'Connor,

Acting Director PWR Project Directorate #4 Division of PWR Licensing–A.

[FR Doc. 86–19156 Filed 8–22–86; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

[Docket No. SS86–1]

Preferred Rate Study

Issued August 19, 1986.

Before Commissioners: Janet D. Steiger, Chairman; Bonnie Guiton, Vice-Chairman; Henry R. Folsom; John W. Crutcher; Patti Birge Tyson.

In the matter of Report to the Congress: Preferred Rate Study, Issued June 18, 1986, and Notice of Supplemental Tables for Library Rate Mail.

In the Commission's Preferred Rate Study, we cautioned that the figures presented on library rate mail were from raw data which had not yet been weighted to reflect more precisely the composition of the library rate subclass. As explained in Appendix F of the study, the Postal Service collected the library rate data in conjunction with its regular Revenue, Pieces and Weight (RPW) data collection system. At the time the study was released, the Postal Service was unable to provide the weighting factors necessary to convert the raw data into figures representative of the library rate universe. In the study we presented tables which gave each library rate piece equal weight.

With the information recently supplied by the Postal Service, we are able to "weight" the data to account for the different sampling probabilities for the post office delivery units where the data were collected. The weighting—a customary procedure in such data collection efforts—resulted in changes in most of the figures presented in Appendix F. As previously explained in Appendix F, information was collected on each library rate piece sampled at the 611 post offices in the Postal Service's normal RPW data collection during April 12 through May 9, 1986.

The attached Supplemental Tables are titled 1A, 2A and 3A, and they replace tables 1, 2, and 3 in Appendix F. The new tables put the data into the same categories for sender and recipient as used previously in the study, and follow the format used for the tables published in Appendix F of the study. As a breakdown of the library rate subclass by sender and recipient categories, Table 1A shows percentages of pieces, Table 2A shows percentages of pounds, and Table 3A shows percentages of subsidy.

The Commission believes that its recommendation concerning library rate mail should not be affected by the information developed by properly weighting the raw data. The "relatedness" standard remains applicable. We continue to recommend the adoption of legislation precluding any commercial entity from using library rate mail. Using the weighted data, the Commission estimates that the recommended change would reduce the appropriation for library rate mail by $8.9 million.

By the Commission.

Charles L. Clapp,

Secretary.

SUPPLEMENTAL LIBRARY RATE TABLES (WITH STATISTICAL WEIGHTING)

TABLE 1A.—PERCENT OF LIBRARY RATE PIECES BY SENDER AND RECIPIENT

Sender category	Recipient Category							Total
	Publisher/ distributor	Educational organizations	Libraries	Religious organizations	Other organizations	Individuals	Unknown	
Publisher/Distributor	0.1	15.4	1.6	2.3	1.2	1.2	1.1	22.9
Educational Organizations	12.9	7.0	8.5	(*)	1.6	1.1	0.8	32.1
Libraries	0.1	1.0	14.6		1.9	2.6	0.7	20.9
Religious Organizations	(*)	0.4		0.7	0.4	7.5	3.1	12.0
Other Organizations	1.2	1.2	1.2	0.2	2.8	1.8	(*)	7.5
Individuals	(*)	0.1	0.1	(*)	0.1	0.2		0.5
Unknown	3.2	0.2	0.1	(*)	0.5	(*)	0.3	4.2
	17.5	25.3	25.2	3.2	8.4	14.3	6.1	100.0

*Less than 0.1 percent.
Does not add due to rounding.

August 1986

SUPPLEMENTAL LIBRARY RATE TABLES (WITH STATISTICAL WEIGHTING)

TABLE 2A.—PERCENT OF LIBRARY RATE POUNDS BY SENDER AND RECIPIENT

Sender category	Recipient category							Total
	Publisher/ distributor	Educational organiza- tions	Libraries	Religious organiza- tions	Other organiza- tions	Individuals	Unknown	
Publisher/Distributor	0.2	36.1	5.5	6.0	1.7	4.7	0.4	54.6
Educational Organizations	13.4	3.8	3.5	0.1	1.4	0.4	0.9	23.6
Libraries	0.1	0.6	2.9	.....	1.3	1.0	0.4	6.3
Religious Organizations	(*)	0.1	.....	0.5	0.2	2.6	0.2	3.7
Other Organizations	1.4	3.1	0.2	0.1	2.1	0.3	(*)	7.4
Individuals	(*)	0.1	0.3	(*)	0.1	0.2	.....	0.7
Unknown	3.0	0.1	0.1	(*)	0.2	(*)	0.5	3.9
.....	18.2	44.0	12.5	6.6	7.0	9.3	2.4	100.0

Less than 0.1 percent.
Does not all due to rounding.

August 1986

SUPPLEMENTAL LIBRARY RATE TABLES (WITH STATISTICAL WEIGHTING)

TABLE 3A.—PERCENT OF LIBRARY RATE SUBSIDY BY SENDER AND RECIPIENT

Sender category	Recipient category							Total
	Publisher/ distributor	Educational organiza- tions	Libraries	Religious organiza- tions	Other organiza- tions	Individuals	Unknown	
Publisher/Distributor	0.2	26.7	3.7	4.5	1.6	2.8	0.7	40.2
Educational Organizations	13.8	5.2	5.5	(*)	1.5	0.7	0.9	27.6
Libraries	0.1	0.8	8.0	.....	1.4	1.7	1.5	12.5
Religious Organizations	(*)	0.2	.....	0.6	0.2	5.0	1.6	7.7
Other Organizations	1.4	2.2	0.2	0.1	2.4	1.0	(*)	7.3
Individuals	(*)	0.1	0.2	(*)	0.1	0.2	.....	0.6
Unknown	3.2	0.1	0.1	(*)	0.2	(*)	0.5	4.1
.....	18.7	35.3	17.7	5.3	7.5	11.5	4.1	100.0

* Less than 0.1 percent.
Does not add due to rounding.

[FR Doc. 86-19092 Filed 8-22-86; 8:45 am]
BILLING CODE 7715-01-M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Subcommittee on Diagnostic and Therapeutic Practices; Meetings

Notice is hereby given of meetings of the Prospective Payment Assessment Commission on September 9–10, 1986, at the Shoreham Hotel, 2500 Calvert Street NW., Washington, DC.

The Subcommittee on Diagnostic and Therapeutic Practices will meet in the Diplomat room at 9 o'clock a.m., September 9, 1986. The Subcommittee on Hospital Productivity and Cost-Effectiveness will convene at 10 o'clock a.m., September 9, 1986, in the Executive room.

The full commission will convene at 10 o'clock a.m., on Septembr 10, 1986 in the Hampton room.

All meetings will be open to the public.

Donald A. Young,
Executive Director.
[FR Doc. 86-18972 Filed 8-22-86; 8:45 am]
BILLING CODE 6820-BW-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-23539; File No. SR-NSCC-86-08]

Self-Regulatory Organizations, Order Approving Proposed Rule Change by the National Securities Clearing Corp.

On June 27, 1986 the National Securities Clearing Corporation ("NSCC") submitted a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The proposed rule change establishes the authority and the procedures for the Stock Loan Rebate Payment and Collection Service ("Stock Loan Rebates Service"). Notice of the proposed rule change appeared in the **Federal Register** on July 10, 1986.[1] The Commission received one comment letter enthusiastically supporting the proposal.

The proposal amends NSCC's rules by adding a new Rule 53, Stock Loan Rebate Payment and Collection Service. The Stock Loan Rebates Service will allow members to submit the name of the member due a rebate and the amount of the rebate. NSCC then will produce a report indicating the amount debited or credited a member and, on settlement date, make the appropriate adjustments to the member's settlement account.

Under the proposal, members that have rebate payment obligations to other members under stock loan agreements may process those payments through NSCC. Each member with a rebate payment obligation may instruct NSCC to process payments by submitting to NSCC a "Stock Loan Rebate Debit List" of charges to be debited to its account and the members whose account should be credited for rebates. NSCC will accept submission of

[1] Securities Exchange Act Release No. 23396 (July 2, 1986), 51 FR 25134 (July 10, 1986).

the listings on the second Tuesday, Wednesday and Thursday of each month. Settlement will occur the following Monday (the third Monday of the month). On the business day prior to the rebate settlement date (the second Friday of the month), NSCC will issue to members a Rebate Settlement Statement listing credits and debits, the contra firm, and the net credit or debit. On rebate settlement day, NSCC will debit or credit the appropriate member's settlement accounts.

NSCC does not guarantee payments processed through this Service. Thus, NSCC reserves the right to withhold credit to a member's account for funds not received or to reverse the credit if NSCC is unable to collect the funds from the contra party.

NSCC believes that the proposal is consistent with Section 17A of the Act in that it will faciliate the prompt and accurate payment and collection of stock loan rebates.

The Commission agrees with NSCC that the proposal is consistent with Section 17A of the Act. Currently, the billing, payment and reconcilement of stock loan rebates is a manually intensive, decentralized process. Parties to a stock loan agreement must develop, use and monitor their own arrangements for the payment and collection of rebates. Generally, the payee submits a rebate bill to the payor for verification and payment. To alleviate these manually intensive and burdensome processing arrangements, the Securities Industry Association and a number of NSCC members urged NSCC to develop a centralized and automated mechanism for the payment and collection of stock loan rebates. The Stock Loan Rebates Service is a result of that effort.

The proposal will enable NSCC to provide a centralized and automated mechanism for the payment and collection of stock loan rebates, thereby facilitating the prompt and accurate payment and collection of stock loan rebates. The Commission understands that broker-dealers who have rebate payment obligations may continue to require payees to submit rebate bills before issuing payment instructions to NSCC. Nevertheless, implementation of the Stock Loan Rebates Service represents an important step that will further centralize and automate broker-dealer stock loan activity. Accordingly, the Commission finds that the proposal is consistent with section 17A of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR-NSCC-86-08) be, and it hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19128 Filed 8-22-86; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-15300]

Application and Opportunity for Hearing; The Dow Chemical Co.

August 19, 1986.

Notice Is Hereby Given that The Dow Chemical Company (the "Company") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Citibank, N.A. ("Citibank") under indentures of the Company dated as of (i) September 15, 1963 (the "September 1963 Indenture"), (ii) June 1, 1968, as amended by Indenture Supplement No. 1 dated as of January 10, 1986 (the "June 1968 Indenture"), (iii) May 1, 1970 (the "May 1970 Indenture"), (iv) November 1, 1970, as amended by Indenture Supplement No. 1 dated as of January 10, 1986 (the "November 1970 Indenture"), (v) July 1, 1973 (the "July 1973 Indenture"), (vi) February 1, 1975, as amended by Indenture Supplement No. 1 dated as of January 10, 1986 (the "February 1975 Indenture"), and (vii) February 15, 1978 (the "February 1978 Indenture"), which Indentures were heretofore qualified under the Act, and the trusteeships by Citibank under the Indentures dated as of (i) June 15, 1971, between Dow Corning Overseas Capital Company N.V. ("Dow Overseas"), and the Company and Corning Glass Works ("Corning Glass"), as Guarantors, and Citibank, as Trustee (the "June 1971 Indenture") which Indenture has not been qualified under the Act, and (ii) December 15, 1974, as amended by First Supplemental Indenture dated as of May 12, 1981, between Merrell Dow Pharmaceuticals Inc., formerly Richardson-Merrell Inc. ("Merrell Dow"), the Company, as Guarantor, and Morgan Guaranty Trust Company of New York ("Morgan"), as Trustee (the "December 1974 Indenture"), which Indenture was heretofore qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as successor trustee under the June 1968 Indenture, the November 1970 Indenture, the December 1974 Indenture or the February 1975 Indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such a conflicting interest either eliminate the conflicting interest or resign as trustee. Subsection (1) of section 310(b) provides, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

In support of its application the Company alleges that:

(1) The Company has outstanding on the date hereof approximately (i) $8,630,000 aggregate principal amount of its 4.35% Debentures due September 15, 1988, issued under the September 1963 Indenture (the "4.35% Debentures"), (ii) $62,084,000 aggregate principal amount of its 8.875% Debentures due May 1, 2000, issued under the May 1970 Indenture (the "8.875% Debentures"), (iii) $44,560,000 aggregate principal amount of its 7.625% Debentures due July 1, 2003, issued under the July 1973 Indenture (the "7.625% Debentures"), and (iv) $275,100,000 aggregate principal amount of its 8.625% Debentures due February 15, 2008, issued under the February 1978 Indenture (the "8.625% Debentures"). Citibank is currently acting as trustee under each of such Indentures. The September 1963 Indenture was filed as an exhibit to Registration Statement No. 2-21682 under the Securities Act of 1933, as amended (the "Securities Act"), and has been qualified under the Act. The May 1970 Indenture was filed as an exhibit to Registration Statement No. 2-38607 under the Securities Act and has been qualified under the Act. The July 1973 Indenture was filed as an exhibit to Registration Statement No. 2-48318 under the Securities Act and has been qualified under the Act. The February 1978 Indenture was filed as an exhibit to Registration Statement No. 2-60717 under the Securities Act and has been qualified under the Act.

(2) The Company has outstanding on the date hereof approximately (i) $33,903,000 aggregate principal amount of its 6.70% Debentures due June 1, 1998, issued under the June 1968 Indentures (the "6.70% Debentures"), (ii) $66,177,000 aggregate principal amount of its 8.90% Debentures due November 1, 2000, issued under the November 1970 Indenture (the "8.90% Debentures") and

(iii) $162,000,000 aggregate principal amount of its 8.50% Debentures due February 1, 2005, issued under the February 1975 Indenture (the "8.50% Debentures"). Morgan is currently the trustee under each of such Indentures. The June 1968 Indenture was filed as an exhibit to Registration Statement No. 2–29045 under the Securities Act and has been qualified under the Act. The November 1970 Indenture was filed as an exhibit to Registration Statement No. 2–38607 under the Securities Act and has been qualified under the Act. The February 1975 Indenture was filed as an exhibit to Registration Statement No. 2–52699 under the Securities Act and has been qualified under the Act.

(3) Merrell Dow has outstanding on the date hereof approximately $48,769,000 aggregate principal amount of its 8.85% Debentures due December 15, 1999, issued under the December 1974 Indenture (the "8.85% Debentures"). The 8.85% Debentures are guaranteed by the Company. Morgan is currently the trustee under the December 1974 Indenture which was filed as an exhibit to Registration Statement No. 2–52382 under the Securities Act and has been qualified under the Act.

(4) Morgan, on January 22, 1986, gave written notice to the Company of its intention to resign as trustee under the June 1968 Indenture, the November 1970 Indenture, the December 1974 Indenture and the February 1975 Indenture (the June 1968 Indenture, the November 1970 Indenture, the December 1974 Indenture and the February 1975 Indenture being collectively referred to as the "Morgan Indentures"). The Company has requested Citibank to accept appointment as successor trustee under the Morgan Indentures.

(5) The Company's obligations with respect to the 4.35% Debentures, the 6.70% Debentures, the 8.875% Debentures, the 8.90% Debentures, the 7.625% Debentures, the 8.50% Debentures and the 8.625% Debentures and the Company's obligations as a guarantor with respect to the Dow Overseas Debentures and the 8.85% Debentures are in each case wholly unsecured and rank *pari passu* with each other.

(6) There is no default under the September 1963 Indenture, the June 1968 Indenture, the May 1970 Indenture, the November 1970 Indenture, the June 1971 Indenture, the July 1973 Indenture, the December 1974 Indenture, the February 1975 Indenture, or the February 1978 Indenture.

(7) Such differences as exist among the Indentures referred to herein and the respective obligations of the Company as principal obligor under the September 1963 Indenture, the June 1968 Indenture, the May 1970 Indenture, the November 1970 Indenture, the July 1973 Indenture, the February 1975 Indenture, the February 1978 Indenture, and as guarantor under the June 1971 Indenture and the December 1974 Indenture, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as successor trustee under the June 1968 Indenture, the November 1970 Indenture, the December 1974 Indenture or the February 1975 Indenture.

(8) The Company has waived (a) notice of hearing, (b) hearing on the issues raised by its application and (c) all rights to specify procedures under the Commission's Rules of practice with respect to the application.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, File No. 22–15300, which is on file in the offices of the Commission at 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than September 8, 1986, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by said application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–19124 Filed 8–24–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15261; File No. 812–6291]

Pratt Street Ventures III Limited Partnership; Notice of Filing of Application for Exemption

August 18, 1986.

Notice Is Hereby Given that Pratt Street Ventures III Limited Partnership ("Applicant"), 100 East Pratt Street, Baltimore, Maryland 21202, registered under the Investment Company Act of 1940 ("Act") as a closed-end, management investment company, filed an application on January 28, 1986, and amendments thereto on July 3, 1986, and August 14, 1986, pursuant to section 6(c) of the Act requesting an order exempting Applicant from all provisions of the Act, and pursuant to section 8(f) of the Act requesting an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable provisions thereof.

Applicant was organized on May 1, 1985, as a limited partnership under the laws of the State of Maryland. Applicant's general partner is T. Rowe Price Associates, Inc. ("Price Associates") and its limited partners are Price Associates and George J. Collins, a senior officer of Price Associates. Applicant's capitalization consists predominantly of the assets transferred to Applicant on May 10, 1985 from Pratt Street Ventures II Limited Partnership, another Maryland limited partnership organized by Price Associates to serve as a medium through which Price Associates could hold limited partnership interests in various venture capital investments. Those assets consist principally of a limited partnership interest in New Enterprise Associates III, Limited Partnership ("New Enterprise"), a venture capital partnership investing in domestic securities, and cash. It is further stated that Price Associates is a registered investment adviser under the Investment Advisers Act of 1940, and that together with its affiliate, Rowe Price-Fleming International, Inc., Price Associates manages the investments of seventeen publicly-owned mutual funds which use the "T. Rowe Price" name, in addition to various pension funds and other institutional and individual clients. As of December 31, 1985, the common stock of Price Associates was held as follows: 123 current employees of Price Associates (including one outside director) and their family members held approximately 79.5% of the outstanding stock, with the remaining 20.5% of the stock held by 42 former employees of Price Associates and their family members.

Applicant represents that the board of directors of Price Associates has determined that income tax advantages would accrue to shareholders of Price

Associates from the distribution to them of limited partnership interests in Applicant. Such a distribution—essentially a fragmentation of Price Associates' present 99% interest in Applicant—would afford stockholders of Price Associates a more tax-efficient medium through which to receive the benefits to be produced by the venture capital investments currently held by New Enterprise, and through New Enterprise, Price Associates.

To effectuate the proposed distribution, Price Associates has declared a dividend on its common stock payable in limited partnership interests in Applicant, to stockholders of Price Associates. The interests would be transmitted to Price Associates stockholders in proportion to their ownership of Price Associates common stock as of the record date. All limited partnership interests so distributed would be owned by employees, former employees, or immediate family members of employees, or former employees of Price Associates, and in one instance, a charitable trust established by a major stockholder of Price Associates under which the income beneficiary is a private university, and the remaindermen of which are children of the grantor, who are also current stockholders of Price Associates.

After the proposed dividend has been paid, Price Associates will have retained a 1% interest in the profits, losses and capital of Applicant as general partner. It is anticipated that this "spin-off" distribution will have beneficial tax consequences to the current stockholders of Price Associates, by, for example, eliminating double taxation of distributions through the corporate structure which presently applies. It is further stated that although the spin-off of initial limited partnership interests in Applicant would be a taxable transaction to Price Associates shareholders (determined by the appraised fair market value of those interests), subsequent distributions of portfolio securities from New Enterprise would not be taxable to these shareholders, as limited partners of Applicant, at the time of distribution; and, if these interests were thereafter sold, they would be taxable, under present federal income tax law, at capital gains rates applied to the difference between the proceeds of sale and the tax basis of the securities (i.e., the basis of the securities in the hands of New Enterprise). Applicant believes that these consequences would be most favorable if a distribution were made at the present time, because the risk of tax under the present corporate structure would be eliminated.

Applicant further represents that the partnership agreement and limited partnership certificate of Applicant prohibit transfers of interests in Applicant other than to: (i) A limited partner's spouse, parent, or child, or a trust established for the benefit of such limited partner, spouse, parent or child, provided that either the limited partner, or the proposed transferee was a stockholder of record of Price Associates on December 31, 1985; (ii) another limited partner who was a stockholder of record of Price Associates, as well as a current or former employee of Price Associates, on December 31, 1985; (iii) the Applicant; or (iv) Price Associates. It is further represented that under the partnership agreement, absent an effective registration statement under the Securities Act of 1933 covering the disposition of limited partnership interests, Applicant may require as a condition to the transfer of a limited partnership interest an opinion of counsel reasonably acceptable to it to the effect that, among other things, the transfer of the interest: (i) Would be exempt from the registration and the prospectus-delivery requirements of any applicable state securities laws; (ii) would not require that the Applicant register the interests under the Securities Exchange Act of 1934; and (iii) would not require that Applicant register as an investment company under the Act. Additionally, Applicant represents that the proposed spin-off distribution of its securities to the stockholders of Price Associates would not constitute a public offering under the Securities Act of 1933, and notes that its notification of registration on Form N-8A, filed on January 27, 1986, disclaimed any intent on Applicant's part of making a public offering of its securities.

Applicant further states that it is a closely-held, private partnership to which the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant submits that it is not the type of company intended to be regulated under the Act, and that its current and prospective limited partners are not the types of persons who need the protections afforded by the Act. Applicant further argues that it is appropriate for the Commission to grant its requested exemption under section 6(c) of the Act, and not require Applicant to request an order as an employees' securities company under section 6(b) of the Act. Applicant states that there are important differences in its operations from those of a traditional employees' securities company.

In order to assure that its status as a closely-held, private entity will not change prospectively, Applicant agrees that the exemption requested herein may be made conditioned upon its adherence to the following undertakings:

(1) Applicant will not amend its limited partnership agreement, or its certificate, to authorize any additional units of limited partnership interests without first obtaining with respect to any such amendment an amended order of exemption from the Commission, or first registering with the Commission as an investment company;

(2) That, unless Applicant shall have first obtained an amended order of exemption from the Commission in respect of its ceasing to do so, Applicant will continue to:

(a) Hold special meetings of its limited partners for the purpose of (i) electing members of an advisory committee to advise the general partner (Price Associates) with respect to the business of Applicant, if at any time less than a majority of the members of such committee have been elected as such by the limited partners at a duly-called meeting, or by signed written consent; and (ii) transacting such other business as may properly come before such meetings and be permitted to be acted upon by limited partners under the Maryland Revised Uniform Limited Partnership Act;

(b) Submit for ratification by the limited partners on an annual basis (at either a meeting of members, or by written consent signed by the holders of a majority of the limited partnership interests) the appointment of the independent certified public accountants engaged by Applicant;

(c) Submit for approval, or ratification, by the limited partners any transfer of the interest in any venture capital partnership; and

(d) Furnish annually to the limited partners of Applicant audited financial statements of Applicant and a written report of Applicant's operations by the general partner of Applicant;

(3) That, unless Applicant shall have first obtained an amended order of exemption from the Commission in respect of its ceasing to do so, or first registering with the Commission as an investment company, Applicant shall not knowingly make available to any broker or dealer registered under the Securities Exchange Act of 1934 any financial information concerning Applicant for the purpose of knowingly

enabling such broker or dealer to initiate any regular trading market in Applicant's limited partnership interests;

(4) That, unless Applicant shall have first obtained an amended order of exemption from the Commission, or first registering with the Commission as an investment company, Applicant will not issue any additional limited partnership interests to persons other than stockholders of Price Associates who become limited partners of Applicant on the record date for the distribution, or members of the immediate families of such persons;

(5) That, unless Applicant shall have first given notice thereof to the Commission, Applicant will not permit the transfer of any additional limited partnership interests to Price Associates, if, after such transfer, Price Associates would be the owner of 10% or more of the partnership interests in Applicant, and the aggregate value of the partnership interests of Price Associates (including the interests proposed to be purchased) in Applicant (together with the securities of all issuers which are or would, but for the exception set forth in section 3(c)(1)(A) of the Act, be excluded from the definition of investment company solely by section 3(c)(1) of the Act) exceeds 10% of the value of Price Associates' total assets.

Notice Is Further Given that any interested person wishing to request a hearing on the application may, not later than September 12, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19125 Filed 8-24-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15263 (File No. 812-6409)]

Pro-Med Capital, Inc.; Notice of Application To Amend Prior Exemptive Order

August 19, 1986.

Notice Is Hereby Given that Pro-Med Capital, Inc. ("Applicant"), 1380 NE. Miami Gardens Drive, Suite 225, North Miami Beach, Florida 33181, registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified management investment company, filed an application on June 16, 1986, requesting an order to extend the exemptive relief granted by the Commission in Investment Company Act Release No. 13597, dated October 26, 1983 ("1983 Order"), to Applicant's newly formed wholly-controlled subsidiary and to certain future wholly-owned or wholly-controlled subsidiaries of Applicant. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the relevant provisions.

According to the application, Applicant has two wholly-owned subsidiaries that are licensed by the Small Business Administration ("SBA") and which are registered under the Act as closed-end, non-diversified investment companies. The first of these, Western Financial Capital Corporation, a Florida corporation ("Western Financial"), is a licensed small business investment company, and the second, First Western SBLC, Inc., also a Florida corporation ("SBLC"), is a licensed small business loan company. Western Financial obtains direct loans, or guarantees of borrowings, from the SBA for reinvestment. SBLC's activities consist of making loans solely to qualifying small business in conjunction with SBA guarantee programs pursuant to which SBA provides guarantees of up to 90 percent of the principal amount of such loans.

Applicant states that it incorporated another Florida subsidiary, Pro-Med Investment Corporation ("PMIC") on May 9, 1986, and that it owns all of PMIC's only class of voting common stock. Applicant further represents that the SBA will own non-voting preferred stock of PMIC and, thus, PMIC will be wholly-controlled, and not wholly-owned, by Applicant. Applicant represents that PMIC has applied to the SBA for a license, receipt of which will require PMIC to dedicate itself to assisting socially or economically disadvantaged small business entrepreneurs. Applicant further represents that PMIC's operations will be nearly identical to those of Western Financial with the exception that PMIC's funding from the SBA will be obtained not only from loans but also from the sale of non-voting preferred stock to the SBA.

According to the application, the 1983 Order under section 6(c) of the Act exempts Applicant, Western Capital, SBLC and certain affiliated small business concerns from the provisions of sections 8(b), 12(d), 17(a), 17(d), 18(a), 18(c), 30(a), and 30(d) of the Act and Rules 8b-16, 17d-1, 30a-1 and 30d-1 thereunder to permit certain continuing transactions. Applicant is now seeking to extend the exemptions granted in the 1983 Order to PMIC and to future wholly-owned or wholly-controlled subsidiary investment companies of Applicant that are SBA-licensed.

Specifically, Applicant requests an exemption from section 8(b) of the Act and Rule 8b-16 thereunder, to the extent necessary, to permit Applicant to file on behalf of itself, Western Financial, SBLC and PMIC, amendments to its registration statement filed under the Act containing information with respect to, and financial statements of, Applicant and its subsidiaries, on a consolidated basis. Applicant also requests an exemption from section 30(a) of the Act and Rules 30a-1 and 30b1-1 thereunder, to the extent necessary, to permit Applicant to file on behalf of itself, Western Financial, SBLC and PMIC, annual reports on Form N-SAR (formerly Form N-1R), containing information with respect to Applicant and its subsidiaries on a consolidated basis. (Applicant notes that Rule 30b1-1 did not exist at the time of the 1983 Order and that, while Rule 30b1-2 would permit Applicant to file semi-annual reports on Form N-SAR on behalf of its wholly-owned subsidiaries Western Financial and SBLC, Rule 30-b1-2 is not available to PMIC because it will not be wholly-owned by Applicant). Applicant also requests an exemption from section 30(d) of the Act and Rule 30d-1 thereunder, to the extent necessary, to permit Applicant to transmit to its shareholders, semi-annually, reports containing financial information and statements on a consolidated basis for itself, Western Financial, SBLC and PMIC.

In support of the relief requested, it is contended that separate filings for Applicant, Western Financial, SBLC and PMIC would be burdensome and that multiple filings would not provide a convenient source of information to investors. Applicant also asserts that transmitting semi-annual reports containing consolidated financial statements will not lessen investors' understanding of the financial position

or operation of Applicant and its subsidiaries. It is further asserted that because Applicant and its subsidiaries operate essentially as a single economic unit, consolidated financial statements present the most meaningful financial information for financial reporting purposes.

Applicant agrees that separate financial statements will not be required in any amendment filed with the Commission pursuant to Rule 8b–16 under the Act or in any semi-annual report to shareholders, only as long as the amount of Applicant's total assets on a consolidated basis invested in assets other than securities of its three investment company subsidiaries do not exceed 10 percent. In the event that 10 percent or more of Applicant's total assets on a consolidated basis should be invested in securities other than those of its three investment companies, applicant undertakes to provide additional financial statements namely, combined financial statements of Applicant's three investment company subsidiaries, and separate financial statements of any other subsidiary in which Applicant's investment exceeds 10 percent of its total assets on a consolidated basis. Applicant represents that these terms and conditions are identical to those in the 1983 Order, except with respect to Rule 30b1–1 under the Act which did not exist at that time.

Applicant also requests an exemption for sections 12(d)(1)(A) and 12(d)(1)(C) of the Act, to the extent necessary, to permit Applicant to make further acquisitions of PMIC's common stock where such purchases cause Applicant's investment therein to exceed five percent of the value of Applicant's total assets at the time of such purchase. Further relief is sought to permit Applicant, banks, insurance companies and other financial institutions to acquire, notwithstanding the restriction of section 12(e) of the Act, notes or other evidences of indebtedness of PMIC. Applicant represents this exemptive relief is identical to the exemptive relief granted in the 1983 Order.

Applicant further states that from time to time it may wish to transfer property or securities to PMIC (or vice versa). According to the application, these transactions would occur in the regular course of business, in the course of increasing Applicant's capital investment in PMIC, or as a means of enabling PMIC to make distributions on its outstanding stock. Because such transactions may constitute affiliated transactions within the prohibitions of section 17(a) of the Act, Applicant requests blanket exemptive relief from section 17(a) of the Act that will extend to transactions in which a small business concern which has become an affiliated person of Applicant, Western Financial, SBLC or PMIC, sells securities to, or borrows funds from, Applicant, Western Financial, SBLC or PMIC.

Applicant also requests relief to permit transfers of property and securities and the borrowing of funds and other property effectuated solely between Applicant and PMIC under circumstances prohibited by section 17(d) of the Act and Rule 17d–1 thereunder. Applicant states that in the course of business it may become necessary or desirable for it, Western Financial, SBLC and PMIC, to participate together with third persons having no other affiliation with Applicant, Western Financial, SBLC and PMIC or their affiliates in joint transactions. The blanket exemption requested would extend to transactions in which a small business concern which has become an affiliated person of Applicant, Western Financial, SBLC or PMIC, sells its securities to, or borrows funds from Applicant, Western Financial, SBLC or PMIC. Applicant agrees that the following conditions (which are identical to those in the 1983 Order) may be imposed with respect to the exemptions it seeks from section 17 of the Act:

1. Any small business concern which may become an affiliated person of Applicant, Western Financial, SBLC or PMIC, may borrow from or sell securities issued by it to, Applicant, Western Financial, SBLC or PMIC provided, that such transaction meets the requirements for an exemption pursuant to Rule 17a–6 under the Act, except to the extent it fails to meet the requirements of such rule solely because Applicant, Western Financial, SBLC or PMIC is also a party to the transaction or has, within six months prior to the transaction had, or pursuant to an arrangement will require, a direct or indirect financial interest in the small business concern.

2. Applicant, Western Financial, SBLC or PMIC, may participate in any joint enterprise or joint arrangement involving other participants provided that such transaction fails to meet the requirements of Rule 17a–6 solely because Applicant, Western Financial, SBLC or PMIC is, was, or proposes to be a participant in the joint enterprise or joint arrangement.

Applicant also requests relief from section 18 of the Act to permit Applicant, Western Financial, SBLC or PMIC to borrow from banks, insurance companies and other financial institutions, on a secured or unsecured basis, and to permit Applicant to guarantee the borrowings of its subsidiaries. Applicant represents that all borrowings by itself, Western Financial, SBLC or PMIC, except borrowings by Western Financial, SBLC or PMIC from Applicant, will be subject to the asset coverage requirements of section 18(a) of the Act as applied on an individual basis to each company and on a consolidated basis to Applicant and its subsidiaries; however, an amount of assets equal to Western Financial's and PMIC's borrowings shall be excluded for this purpose as described below. In addition, Applicant requests that any guarantee by Applicant of borrowings by its subsidiaries shall not be deemed a senior security, and not be subjected to the asset coverage requirements of section 18(a) of the Act, provided that 90 percent of Applicant's assets are represented by investments in Western Financial, SBLC, PMIC, or in securities similar to those in which such companies invest. Applicant represents that, although any borrowings by PMIC or sales of PMIC's preferred stock to the SBA are not subject to the asset coverage requirements of section 18(a) by reason of the exception from the provisions of section 18(a) afforded to SBA by section 18(k) of the Act, in applying the asset coverage requirements of section 18(a) to Applicant on a consolidated basis, an amount of assets equal to Western Financial's and PMIC's borrowings shall be excluded. Applicant also requests an exemption from the provisions of section 18(c) of the Act to permit Applicant and its investment company subsidiaries to have outstanding more than one class of senior security representing indebtedness.

In support of the relief requested, it is contended that requiring Applicant to borrow and relend proceeds to its subsidiaries would result in considerable duplication in effort. It is further asserted that permitting direct borrowings by PMIC will be consistent with the purposes and protections of the Act, because Applicant and PMIC individually, and Applicant and its subsidiaries on a consolidated basis, as adjusted for the borrowings of Western Financial and PMIC, will continue to be required to comply with the asset coverage requirements of section 18(a) of the Act, subject to the above noted exclusions. In addition, Applicant states that by excluding an amount of assets equal to the borrowings of Western Financial and PMIC for purposes of

calculating asset coverage provided by section 18(a), investors will be protected from the adverse effects of leveraging. Moreover, Applicant argues that exclusion from the asset coverage protections of section 18(a) of borrowings from Applicant by PMIC, and the Applicant's guarantee of PMIC's borrowings do not impair the protections of section 18 since neither of these senior securities (as defined in the Act) increases the aggregate indebtedness incurred by Applicant and PMIC. Finally, Applicant asserts that these justifications were found adequate by the Commission in issuing the 1983 Order granting an indentical exemption from section 18 of the Act of Applicant, and its subsidiaries, Western Financial and SBLC.

With respect to the requested order Applicant agrees to the following conditions in addition to the conditions imposed in the 1983 Order:

1. At all times Applicant will own and hold, beneficially and of record, all of the outstanding voting capital stock of PMIC;

2. Applicant will not cause or permit PMIC to adopt or pursue any of its fundamental investment policies which are in conflict with those of Applicant (which are set forth in the Form N–2 filed with the Commission by Applicant, and which reflect the investment activities described in the application), or take any action referred to in section 13(a) of the Act unless such action shall have been authorized by Applicant after approval of such action by a vote of a majority (as defined in the Act) of the outstanding voting securities of Applicant;

3. Applicant will not cause or permit PMIC to enter into, renew or perform any investment advisory or underwriting contract or agreement, written or oral, as contemplated by section 15 of the Act, unless the terms of such contracts or agreements and any renewal thereof shall have been approved in compliance with section 15, and where any vote of the shareholders of PMIC would be required by said section 15, unless the shareholders of Applicant shall also have approved the same by vote of a majority (as defined in the Act) of the outstanding voting securities of Applicant, or where any action of the directors of PMIC would be required by section 15, unless the board of directors of Applicant, including a majority of those directors who are not parties to any such contract or agreement or interested persons of any such party, also shall have approved the same;

4. Applicant will not itself, and Applicant will not cause or permit PMIC, to issue any security or sell any senior security of which Applicant or PMIC, is an issuer except as hereinafter set forth:

(a) Applicant and PMIC may issue and sell to banks, insurance companies and other financial institutions, their secured or unsecured promissory notes or other evidences of indebtedness in consideration of any loan, or any extension or renewal thereof made by private arrangement, provided the following conditions are met: (i) Such notes or evidences of indebtedness are not intended to be publicly distributed, (ii) such notes or evidences of indebtedness are not convertible into, exchangeable for or accompanied by any options to acquire any equity security, and (iii) Applicant and its subsidiaries on a consolidated basis, and Applicant and PMIC individually, shall have the asset coverage required by section 18(a) of the Act immediately after the issuance or sale of any such notes or evidences of indebtedness by any of them, except that, in determining whether Applicant and its subsidiaries on a consolidated basis have the asset coverage required by section 18(a) of the Act, any borrowings by PMIC shall not be considered senior securities and, for purposes of the definition of "asset coverage" in section 18(h) of the Act, shall be treated as indebtedness not represented by senior securities;

(b) In addition, (i) PMIC may borrow from the SBA on such basis as the SBA may from time to time lend to small business investment companies or sell non-voting preferred stock to the SBA, (ii) PMIC may borrow from Applicant, and (iii) Applicant may guarantee any borrowings by PMIC provided that 90 percent of the total assets of Applicant on a consolidated basis are represented by Applicant's investment in Western Financial, SBLC, PMIC or securities similar to those in which such subsidiaries invest. None of the borrowings or other arrangements permitted in this subparagraph (b) shall be deemed senior securities for the purposes of the requested order, the 1983 Order or section 18 of the Act;

5. Applicant will cause to be elected as directors of PMIC only persons who are directors of Applicant elected in compliance with section 16(a) of the Act and at all times officers of Applicant will also be officers of PMIC;

6. Any independent public accountant who signs a financial statement filed by Applicant or PMIC with the Commission will be selected and approved in compliance with section 32 of the Act by a majority (as defined in the Act) of Applicant's outstanding voting securities.

Applicant asserts that it would be an anomaly creating an undue hardship if one of its subsidiaries were treated differently under the Act than one of its other subsidiaries. Applicant believes that such an inconsistency would confuse its shareholders and would create unreasonable effort and expense for Applicant which, in turn, would be unfavorable to Applicant's shareholders without accruing to them any benefit. Thus, Applicant also requests that the exemptions sought in connection with the formation and operations of PMIC be extended prospectively to include SBA-licensed subsidiaries of Applicant to be formed in the future. In this respect, Applicant submits that it would require unreasonable effort and expense for Applicant to prepare and submit a new exemptive application under section 6(c) of the Act every time a new subsidiary is formed and licensed by SBA.

Applicant agrees that only subsidiaries that meet the following conditions would be eligible for the requested relief automatically without a further application pursuant to section 6(c) of the Act:

1. The subsidiary would be wholly-owned by Applicant, as are Western Financial and SBLC, or would be wholly-controlled by Applicant as is PMIC;

2. The subsidiary must be licensed by the SBA as a small business investment company or a small business loan company;

3. Wholly-owned subsidiaries would be subject to each and every provision of the 1983 Order which is applicable to Western Financial or SBLC, as the case may be, and

4. Wholly-controlled subsidiaries would be subject to each and every provision of the amendment to the 1983 Order which is applicable to PMIC.

Notice is further given that any person wishing to request a hearing on the application may, not later than September 12, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest and the specific issues, if any, of fact or law that are disputed to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19126 Filed 8-24-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15262; File No. 812-6422]

Application and Opportunity for Hearing; Zero Coupon Bond Fund and Certain Life Insurance Companies and Variable Life Insurance Separate Accounts Investing Therein

August 18, 1986.

Notice is hereby given that the Zero Coupon Bond Fund ("Fund") or ("Applicant"), 82 Devonshire Street, Boston, Massachusetts 02109, a Massachusetts business trust registered under the Act as an open-end diversified investment company, filed an application on July 1, 1986, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting certain life insurance companies and variable life insurance separate accounts investing therein from the provisions of sections 9(a), 13(a), 15(a), and 15(b) of the Act, and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder, to the extent necessary to permit shares of the Fund and any other existing or future investment companies of which Fidelity Management & Research Company ("FMR") or any affiliate thereof now or in the future serves as investment manager, adviser, principal underwriter or sponsor (the "Funds") to be sold to and held by variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies. All persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for a statement of the relevant provisions.

The Fund intends to offer shares of its existing and future series to separate accounts of any interested insurance company in order to fund variable annuity contracts and variable life insurance contracts (collectively referred to herein as "variable contracts"). It is anticipated that insurance companies whose separate accounts own shares of the Fund ("participating insurance companies," or "insurers") will rely on Rule 6e-2 or 6e-3(T) under the Act, although some may rely on individual exemptive orders as well, in connection with variable life insurance contracts. The use of a common managment investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts is referred to herein as "mixed funding." The use of a common management company as the underlying investment medium for separate accounts of unaffiliated insurance companies is referred to herein as "shared funding."

For the reasons stated below, Applicant believes that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Rules 6e-2 and 6e-3(T) under the Act provide certain exemptions from the Act in order to permit insurance company separate accounts to issue variable life insurance. Rule 6e-2(b)(15), however, precludes mixed and shared funding, and Rule 6e-3(T)(b)(15) precludes shared funding. Applicants request relief extending to a class consisting of life insurers and variable life separate accounts investing in the Fund or the Funds (and principal underwriters and depositors of such separate Accounts) which would otherwise be precluded from investing in the Fund or the Funds by virtue of the Fund or the Funds offering their shares to variable annuity separate accounts or unaffiliated variable life separate accounts.

Applicant asserts that mixed and shared funding will benefit variable contractowners by: (1) Eliminating a significant portion of the costs of establishing and administering separate funds; (2) allowing for the development of larger pools of assets resulting in greater cost efficiencies, diversification, and investment flexibility; (3) making the addition of new portfolios more feasible, thus, providing contractowners with additional investment alternatives; and (4) encouraging more insurance companies to offer variable contracts, which should result in increased competition and lower contract charges. Applicant states that the Fund and the Funds will not be managed to favor or disfavor any particular insurer or type of insurance product.

1. Disqualification

Applicant requests relief from section (a) and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) to the extent necessary to permit mixed and shared funding by a class of insurance companies and variable life separate accounts which may use the Fund as investment media to fund variable life insurance contracts, suject to the conditions, set out in the application and summarized below, regarding conflicts of interest. Applicant asserts that the same considerations that led the Commission to limit the provisions of section 9(a) to those employees of an insurance company engaged in managing a separate account are applicable to insurance companies and their separate accounts funded by funds offered to other affiliated and unaffiliated separate accounts. Thus, Applicant argues that it is unnecessary to apply the provisions of section 9(a) to all the employees of participating insurance companies. Moreover, Applicant submits that applying the requirements of section 9(a) in such cases would increase the expense of monitoring compliance with that section, thereby reducing the net rates of return realized by contractowners.

2. Voting

Applicant requests relief from sections 13(a), 15(a) and 15(b) of the Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder to the extent necessary to permit mixed and shared funding by a class of insurance companies and variable life separate accounts which may use the Fund or the Funds as an investment medium to fund variable life contracts, subject to the conditions, summarized below, regarding conflicts of interest.

Applicant represents that all variable annuity and variable life insurance contractowners will receive voting rights and proxy materials with respect to Fund shares attributable to their contracts inasmuch as all sponsoring insurance companies will vote these shares in accordance with contractowner instructions. Applicant states that paragraphs (b)(15) of both Rule 6e-2 and Rule 6e-3(T) permit the insurance company to disregard these voting instructions in certain limited circumstances, and acknowledges that such an action may cause an irreconcilable conflict among the separate accounts. Applicant proposes to resolve these potential conflicts through certain undertakings described below. Consequently, Applicant states that if a particular insurer's disregard of voting instructions conflicted with a majority of contractowners' voting instructions, or precluded a majority vote, the Fund may require the insurer to withdraw its separate account's investments in the Fund. Applicant states that this requirement (which also encompasses the situation where one state insurance regulator's decision conflicts with the decisions of other state regulators) shall appear in agreements between Participating Insurance Companies and the Fund.

3. Conditions

Applicants state that they will comply with conditions set forth in the application, which are summarized as follows: (1) A majority of the board of trustees of the Fund or the Funds ("board") shall consist of persons who are not "interested persons" of the Fund, as defined by the Act. (2) The Fund will comply with all provisions of the Act requiring voting by shareholders, and in particular the Fund will either provide for annual meetings or comply with section 16(c) of the Act (although the Fund is not one of the trusts described in section 16(c) of the Act) as well as with section 16(a) and, if applicable, section 16(b). Further, the Fund will act in accordance with the Commission staff's interpretation of the requirements of section 16(a) with respect to periodic election of trustees and with whatever rules the Commission may promulgate with respect thereto. (3) The board will monitor the Fund for the existence of any material irreconcilable conflict between the interests of the contractowners of all separate accounts investing in the Fund. An irreconcilable material conflict may arise for a variety of reasons, including: (a) An action by a state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner of investment management of any series; (e) a difference in voting instructions given by variable annuity contractowners and variable life insurance contractowners; or (f) a decision by an insurer to disregard the voting instructions of contractowners. (4) Participating Insurance Companies and FMR will report any potential or existing conflicts to the board. Participating Insurance Companies and FMR will share responsibility for assisting the board in carrying out its responsibilities under these conditions, by providing the board with all information reasonably necessary for the board to consider any issues raised. This includes, but is not limited to, an obligation by each Participating Insurance Company to inform the board whenever it disregards contractowner voting instructions. (5) If a majority of the board, or a majority of its disinterested trustees, determines that a material irreconcilable conflict exists, the insurance companies shall, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, including: (a), withdrawing the assets allocable to the relevant separate accounts from the Fund or any series or submitting the questions whether such segregation should be implemented to a vote of all affected contractowners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, annuity contractowners, life insurance contractowners, or variable contractowners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected contractowners the option of making such a change; and (b), establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of an insurer's decision to disregard contractowner voting instructions and that decision represents a minority position or would preclude a majority vote, the Fund may require the insurer to withdraw (without penalty) its separate account's investment in the Fund in the event of a board determination of an irreconcilable material conflict. A majority of the members of the board who are not interested persons of the Fund shall determine whether or not any action proposed to be taken pursuant to condition (5) adequately remedies any irreconcilable material conflict, but this shall not obligate the Fund or FMR to establish a new funding medium for any insurer. Participating Insurance Companies shall not be required to establish a new funding medium for any variable contract if an offer to do so has been declined by vote of a majority of contractowners adversely affected by the irreconcilable material conflict. (6) The Board shall promptly notify all Participating Insurance Companies of any determination of the existence of an irreconcilable material conflict. (7) Participating Insurance Companies will provide pass-through voting privileges to all variable contractowners as long as the Commission continues to interpret the Act to require pass-through voting privileges for variable contractowners. Participating Insurance Companies shall be responsible for assuring that each of their separate accounts participating in the Fund calculates voting privileges in a manner consistent with other Participating Insurance Companies. (8) The Fund will notify all Participating Insurance Companies that prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. (9) All reports received by the board of potential or existing conflicts, and all board action with regard to determining the existence of a conflict, notifying Participating Insurance Companies of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

Applicants represent that if and to the extent that Rule 6e–2 and Rule 6e–3(T) are amended, or Rule 6e–3 is adopted, to provide exemptive relief from any provision of the Act or the rules promulgated thereunder with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested in this Application, then the Fund and/or the Participating Insurance Companies, as appropriate, shall take such steps as may be necessary to comply with Rules 6e–2 and 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent such rules are applicable.

Finally, Applicants represent that all Participating Insurance Companies shall enter into a written agreement with the Fund providing, among other things, that:

(a) Each will assume responsibility for calculating pass-through voting privileges discussed in (7) above in a manner consistent with all other separate accounts investing in the Fund;

(b) Each will be responsible for effecting remedial actions described in (5) above (including bearing the costs thereof) and will exercise this responsibility solely in the best interests of contractowners; and

(c) Each will assume responsibility to report to the Board, with a view only to the interests of contractowners, information and conflicts described in (4) above and to provide the board assistance as required by (4) above.

Notice is further given that any interested person wishing to request a hearing on an application may, no later than September 15, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices or orders issued

in this matter. After said date an order disposing of this application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-19127 Filed 8-24-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2247]

Declaration of Disaster Area; Wisconsin

As a result of the President's major disaster declaration on August 14, 1986, I find that Milwaukee County in the State of Wisconsin constitutes a disaster loan area because of severe storms occurring on August 6, 1986. Eligible persons, firms, and organizations may file applications for physical damage until the close of business on October 13, 1986, and for economic injury until the close of business on May 15, 1987, at: Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Building, 75 Spring Street, SW., Suite 822, Atlanta, Georgia 30303.

or other locally announced locations.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) (without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 224711 for physical damage and for economic injury the number is 643200.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: August 18, 1986.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86-19102 Filed 8-22-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending August 15, 1986

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44254—R-1-R-11

Parties:
Members of International Air Transport Association
Date Filed: August 13, 1986
Subject: Resolutions of Passenger Agency Committees
Proposed Effective Date: January 1, 1987

Docket No. 44260

Parties:
Members of International Air Transport Association
Date Filed: August 14, 1986
Subject: Specific Commodity Rates
Proposed Effective Date: August 15, 1986

Docket No. 44253

Parties: Alaska Air Group Inc., AAG Holdings, Inc. and Jet America Airlines, Inc.
Date Filed: August 13, 1986
Subject: Application of Alaska Air Group Inc., AAG Holdings, Inc. requests an exemption from section 408 of the Act of, in the alternative, for approval of acquisition of control of Jet America Airlines, Inc.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-19119 Filed 8-22-86; 8:45 am]

BILLING CODE 4910-62-M

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended August 15, 1986.

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT 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.

Docket No. 44249

Date Filed: August 11, 1986.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 8, 1986.
Description: Application of Scandinavian Airlines System pursuant to section 402 of the Act and Subpart Q of the Regulations applies for an amendment to its foreign air carrier permit to provide authority, now granted by exemption, to carry passengers, mail and cargo (the latter on the lower deck only, but not on all-cargo services) between Anchorage, Alaska, on the one hand, and Tokyo, Japan, on the other.

Docket No. 44250

Date Filed: August 11, 1986.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 8, 1986.
Description: Application of Tower Air, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations applies for issuance of a certificate of public convenience and necessity (or amendment of its current Certificate), authorizing it to engage in scheduled foreign air transportation of passengers, property and mail, on a permissive basis, between New York, N.Y., on the one hand and Paris, France and Athens, Greece, on the other hand.

Docket No. 44259

Date Filed: August 14, 1986.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 11,. 1986.
Description: Application of Sabena pursuant to section 402 of the Act and Subpart Q of the Regulations requests issuance of a renewed, amended foreign air carrier permit to authorize it to continue to engage in foreign air transportation for an additional period of five years, as follows:

(1) Between a point or points in Belgium and the terminal point Anchorage, Alaska, with respect to persons, property and mail.

(2) Between a point or points in Belgium and the terminal point Anchorage, Alaska, and between the intermediate point Anchorage, Alaska, and the terminal point Tokyo, Japan, with respect to persons and their accompanied baggage.

Docket No. 44251

Date Filed: August 11, 1986.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 9, 1986.
Description: Pan American World Airways, Inc., c/o David M. O'Connor Suite 901, 1660 L Street, N.W.,

Washington, D.C. 20036. Application of Pan American World Airways, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations requests renewal of authority to serve Nairobi, Kenya, and Abidjan, Ivory Coast, granted by its certificate to public convenience and necessity for Route 133 which is scheduled to expire on February 11, 1987 and March 28, 1987 respectively.

Docket No. 44261

Date Filed: August 15, 1986.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 29, 1986.
Description: Application of Eastern Air Lines, Inc., prusuant to section 401 of the Act and subpart Q of the Regulations, applies for amendment of its certificate of public convenience and necessity for Route 59 so as to authorize service between the terminal point San Juan, Puerto Rico and the terminal point Caracas, Venezuela. (Conforming Applications re Docket 44181).

Docket No. 44263

Date Filed: August 15, 1986.
Due Date for Answers, Conforming Application, or Motions to Modify Scope: September 12, 1986.
Description: Application of Aerovias Venezolanas S.A., pursuant to section 402 of the Act and Subpart Q of the Regulations applies for a foreign air carrier permit authorizing it to provide scheduled foreign air transportation of persons, property and mail between Venezuela and the United States.

Docket No. 37799

Date Filed: August 11, 1986.
Due Date for Answers, Conforming Application, or Motions to Modify Scope: September 8, 1986.
Description: Application of Scandinavian Airlines System, pursuant to section 402 of the Act and Subpart Q of the Regulations applies for renewal of its foreign air carrier permit authorizing conditional stopover and emergency transfer of passengers at Anchorage, Alaska, on scheduled flights operated over its polar route between Europe and Japan.

Docket No. 37780

Date Filed: August 12, 1986.
Due Date for Answers, Conforming Application, or Motions to Modify Scope: September 9, 1986.
Description: Application of Japan Air Lines Company, Ltd. applies for renewal of its foreign air carrier permit pursuant to section 402 of the Act and Subpart Q of the Regulations to engage in foreign air transportation of persons, and their accompanying baggage, between a point or points in Japan and the intermediate point Anchorage, Alaska, and between the intermediate point Anchorage, Alaska and a point or points in Europe.

Docket No. 37779

Date Filed: August 12, 1986.
Due Date for Answers, Conforming Application, or Motions to Modify Scope: September 9, 1986.
Description: Application of Lufthansa applies for renewal of its foreign air carrier permit pursuant to section 402 of the Act and Subpart Q of the Regulations to engage in foreign air transportation of persons, property and mail between the Federal Republic of Germany and Anchorage or Fairbanks, Alaska and to grant stopover privileges at Anchorage or Fairbanks to its passengers traveling between Germany and Japan.

Phyllis T. Kaylor,
Chief, Documentary Services Division.

[FR Doc. 86-19120 Filed 8-22-86; 8:45 am]
BILLING CODE 4910-62-M

Federal Highway Administration

National Motor Carrier Advisory Committee; Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee will hold a meeting on September 17, 18, and 19, 1986, beginning at 1:00 p.m., in Columbus, Ohio, at the Radisson Hotel Columbus, 4900 Sinclair Road, Columbus, Ohio. The meeting is open to the public.

The agenda includes the following topics: status of motor carrier related legislation; rulemaking regarding single, classified commercial vehicle drivers license; status of the National Governors' Association contract on uniformity; the Secretary of Transportation's Internal Safety Review Task Force; and priority agenda items for the future consideration of the Committee. On September 19, the Committee will attend a demonstration of front wheel braking at the University of Ohio's Transportation Research Center in East Liberty, Ohio.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph S. Toole, Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HOA-1, Room 4218, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 366-2238. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

Issued on: August 20, 1986.

R.D. Morgan,
Executive Director, Federal Highway Administration.

[FR Doc. 86-19287 Filed 8-22-86; 8:45 am]
BILLING CODE 4910-22-M

federal register

Monday
August 25, 1986

Part II

Federal Emergency Management Agency

44 CFR Parts 59, 60, 61, 65, 70, 73, and 76

National Flood Insurance Program; Final Rule

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 59, 60, 61, 65, 70, 73, and 76

National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This final rule revises the National Flood Insurance Program regulations dealing with flood plain management standards, criteria for recognizing levees as providing protection from 100-year floods, and procedures for revising or amending maps (including the types of supporting data needed when map changes are requested). It also covers the Standard Flood Insurance Policy (SFIP) terms and provisions, criteria for the denial of the sale of insurance, the announcement of the termination of the State Assistance Program (SAP), and new criteria for the State Coordinating Agencies.

EFFECTIVE DATES: October 1, 1986, except for certain revisions to the Standard Flood Insurance Policy in Part 61 that are effective January 1, 1987, as listed and explained in the Supplementary Information under the heading, "Standard Flood Insurance Policy."

FOR FURTHER INFORMATION CONTACT: Charles M. Plaxico, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472; telephone number (202) 646–3422.

SUPPLEMENTARY INFORMATION: On March 28, 1986, FEMA published for comment in the **Federal Register** (Vol. 51, Page 10742) a proposed rule containing revisions to the National Flood Insurance Program (NFIP) which were the result of a continuing reappraisal of the NFIP to achieve greater administrative and fiscal effectiveness in the operation of the NFIP and to encourage sound flood plain management so that reductions in loss to life and property and in disaster expenditures can be realized. This reappraisal included the claims, coverage, rating, and sale of insurance component, the loss reduction (i.e. flood plain management) component and the risk assessment (i.e. mapping of flood hazard areas) component of the NFIP.

In the process of developing this final rule, 61 comments were received, logged and analyzed based on the 13 subject areas discussed in the proposed rule supplementary information. The tally of comments included 2 individuals, 11 associations (including 1 specialized journal), 2 Federal agencies, 20 State governments and 26 local governments. Many of the comments generally concurred with the proposed rule although some of them commented specifically on one or more of its provisions. The comment contents ranged from a simple acknowledgment of receipt of the proposed rule to strong support for or strong opposition to one or more of the proposed changes.

The analysis of the comments resulted in language clarifications, minor changes to some provisions, the identification of some overlooked typographical errors and the insertion of one or two phrases inadvertently omitted. However, no major substantive changes were made to the language in the proposed rule.

Although the comments focused primarily on the 13 topics, 12 respondents made generalized comments about the proposed rule or the supplementary information topic headings. A number of these comments supported the rule and definitional changes while others expressed concern over perceived economic impacts. In addition, several commentators made statements about specific topics and problems, not covered in the proposed rule, to which FEMA shall respond under the heading of "Miscellaneous Subjects."

Miscellaneous Subjects

Several State comments expressed concern over the length and frequency of changes to NFIP criteria. In part, this concern reflects the fact that major changes have been made in this final rule and the September 4, 1985, final rule (which became effective on January 1, 1986). FEMA recognizes that, although many of the revisions are procedural and require no action by NFIP communities, some revisions will require those communities to amend their flood plain management regulations to remain in compliance. FEMA has tried to minimize those revisions that require ordinance changes at the local level in order to avoid imposing unnecessary burdens on communities. However, it was recognized when NFIP criteria were first developed that there would need to be revisions as experience was acquired under the program and as new information on flood loss reduction techniques became available. Between 1976 and 1985 no significant changes were made to NFIP criteria. The September 4, 1985, final rule and this final rule reflect a 2-year effort to incorporate 10 years of knowledge and experience gained in implementing the program. Now that this effort is essentially completed, FEMA anticipates making no additional substantive changes to criteria at § 60.3 until several years of additional experience have been gained. Overall, FEMA believes that these two final rules have clarified and simplified NFIP flood plain management requirements and that this should improve the effectiveness of implementation at the local level.

One local government recommended for flash flood areas that the NFIP not provide coverage for new construction, reconstruction of demolished structures, or additions to existing structures located within the 100-year floodway of streams known to be flood-prone, if said construction will increase existing 100-year water surface elevations by more than 0.1 feet. NFIP criteria at § 60.3(d)(3) already prohibit encroachments in designated floodways that would result in any increase in flood levels during the occurrence of the base flood discharge. If this community wishes FEMA to deny flood insurance coverage for such structures, it can declare them to be in violation of its local ordinance as provided for in Section 1316 of the National Flood Insurance Act of 1968. Procedures for implementing Section 1316 are contained in Part 73 of this final rule. FEMA has no plans to seek additional authorities to deny flood insurance coverage.

Another specific comment on a topic not covered in the proposed rule came from a Federal agency. It suggested that FEMA engage in flood studies to determine impacts downstream and damages which would result from increased flooding due to destruction of wetlands. FEMA recognizes the importance of the preservation of wetlands in providing flood protection and will continue to work with this Federal agency to address mutual concerns. However, this topic was not at issue in the proposed rule.

Adoption of the Final Rule by Communities

Several communities requested information on the requirements and procedure for adoption of the final rule revisions. Much of the final rule is procedural or pertains to risk identification which does not have to be incorporated in local flood plain management regulations. This was also true for the September 4, 1985, final rule. A community can choose to adopt or have in force regulations that are more restrictive than NFIP criteria. Therefore, some communities may wish to retain requirements such as the prohibition on

the placement of manufactured homes in V-zones or floodways. In addition, there may be some communities that have adopted more restrictive ordinances that already meet or exceed provisions in the final rule. For instance, some communities may already require the elevation of replacement manufactured homes in existing "mobile home parks" (sic) and subdivisions. These communities may already comply with the final rule. However, FEMA believes that most NFIP communities will have to amend one or more of their flood plain management ordinance provisions to remain in compliance.

Copies of this final rule will be mailed to all participating NFIP communities prior to the October 1, 1986, effective date. This mailing will include instructions on which changes are required and on how these changes are to be made. NFIP criteria at § 60.7 require that communities revise their flood plain management regulations to comply with any revised regulations within six months of the effective date of that revised regulation. Therefore, communities will have to amend their regulations no later than April 1, 1987. FEMA regional office staff will be available to provide advice and assistance. After adoption communities should submit copies of their amended regulations to the appropriate regional office.

If, subsequent to the conclusion of this six-month adoption period on April 1, 1987, FEMA determines that a particular community has not amended its regulations so that they comply with this final rule, the community will be subject to suspension. However, prior to suspending the community, the Federal Insurance Administrator will follow the procedure at § 59.24(a). The Administrator will provide written notice to the community, at least 90 days prior to the proposed suspension date, indicating that the community's flood plain management measures are deficient and must be amended to comply with the final rule. If compliant regulations are not submitted at least 30 days prior to the suspension date, the Administrator will provide written notice to the community of its loss of eligibility for the sale of flood insurance and will publish notice in the Federal Register under Part 64 of Subchapter B. The suspension will go into effect if compliant regulations are not adopted and submitted prior to the suspension date.

Manufactured Homes

In the proposed rule supplementary information, FEMA outlined its intention to revise NFIP criteria to incorporate the terms "manufactured home" and "manufactured home park or subdivision" and to apply the same standards to "manufactured homes" as are applied to conventional structures. The definition of "manufactured home" that was proposed, included for flood plain management purposes, those park and travel trailers and similar vechicles that are placed on a site for a period of greater than 180 days.

The changes to the current regulations that would eliminate most of the distinctions between "mobile homes" and conventional homes fell into three categories: Deleting the prohibition on the placement of "mobile homes" in V-zones (coastal high hazard areas) except in existing "mobile home parks" and subdivisions; eliminating the current prohibition on placement of "mobile homes" in floodways except in existing "mobile homes parks" and subdivisions [per § 60.3(d)(4)]; and finally, eliminating the current provisions which allow the replacement, new placement or substantial improvement of "mobile homes" in existing "mobile home parks" and subdivisions without elevation. The latter provision is commonly referred to as the "grandfathering" of existing "mobile home parks" and subdivisions.

The manufactured home provision in the proposed rule generated the largest number of comments from all categories of respondents. Ten States commented on various aspects of the proposed regulation as did 3 associations, 10 local governments and 1 Federal agency.

The change in terminology to "manufactured home" resulted from a decision by FEMA to make the NFIP terminology consistent with terminology used by the U.S. Department of Housing and Urban Development (HUD) in "Manufactured Home Safety and Construction Standards" (24 CFR 3280.2) and by other Federal agencies and the industry. However, the NFIP definition will be more inclusive because the HUD definition includes only "manufactured homes" used as dwelling units which have a specified minimum square footage and meet other requirements. NFIP criteria must also regulate "manufactured homes" used for other purposes; "mobile homes," built prior to the June 15, 1976, effective date of the HUD standards, which are moved to flood plain locations; and those park trailers, travel trailers, and similar vehicles which are permanently placed on a flood plain site. The discussion by respondents about the terminology change from "mobile home" to "manufactured home" focused on the inclusion of certain park and travel trailers in the definition. No comment argued that FEMA should continue to use the term "mobile home".

Eight respondents commented on the overall definitional change concerning "manufactured homes." One State strongly supported the inclusion of certain park trailers, travel trailers and other similar vehicles in the definition of "manufactured home." Two associations disagreed with their inclusion in the definition. One of those associations pointed out that FEMA implies in the proposed rule that "manufactured homes" are vehicles and that the usage and risk are the same as other vehicles and that this is not true even if those other vehicles occupy a site for more than 180 days. This association further stated that park and travel trailers are not constructed in accordance with either a Federal or nationally recognized code and are not designed for use as permanent residences. This group recommended that FEMA further amend its regulation to change "manufactured home park" to "manufactured home rental community" to conform with industry use. FEMA researched this issue and determinded that the term "manufactured home rental community" was not commonly used by either other Federal agencies or local governments. Consequently, FEMA will continue to use "manufactured home park." If, at some later date, the term "manufactured home rental community" becomes the standard, FEMA will consider amending its regulations at that time.

A second association also disagreed with the proposed inclusion of travel trailers in the definition because it claims that they are not built to (manufactured home) industry standards for permanent residences. A State office disagreed with the inclusion of trailers of any kind in the definition because it contended that trailers can be moved on short notice. Finally, an association also recommended that travel trailer parks be required to install warning systems. FEMA encourages this practice but regards it as an optional safety measure to be taken by park operators or required by State regulation or local ordinance.

As indicated in the supplementary information to the proposed rule, the intent of this provision in the definition is to include these vehicles when they are permanently left on a site and their usage is the same as a "manufactured home" but not include them when they are placed on sites only seasonally or used for camping or other short-term occupancies. Although park and travel trailers were not constructed or intended to be permanently placed on sites and/or permanent foundations or

to be used for long-term occupancies, they frequently are. In particular these trailers are commonly used as vacation homes and placed on foundations with their wheels removed or otherwise permanently affixed to the site.

FEMA considered the alternative of developing two definitions, one for "manufactured homes" that met the HUD standards and one for all other structures or vehicles which would be included under the definition in the proposed rule. However, it believes that two definitions would add unnecessary complexity to NFIP criteria, especially since the same general performance standards would apply. Instead FEMA chose to use an all-inclusive term for all manufactured homes, "mobile homes," park and travel trailers and other vehicles that would be regulated by NFIP criteria.

Although FEMA chose to retain the proposed definition, it clearly recognizes the two inherent components of it—a "manufactured home" on a permanent foundation and some form of park or travel trailer which is permanently placed on a site. FEMA stresses that it uses this definition for the sole purpose of implementing flood plain management regulations and that it does not equate "manufactured homes," built in accordance with industry standards, with park and travel trailers and other similar vehicles. This is reflected in the fact that the definition of "manufactured home" in the proposed rule for insurance purposes specifically excludes park trailers, travel trailers, and other similar vehicles. As a result, they will not be provided flood insurance under the NFIP.

In addition to the definitional changes in the proposed rule, another major area of change centered on the revision of NFIP criteria so that the same standards are applied to "manufactured homes" and conventional structures, except that separate anchoring and placement provisions would be retained for clarity and reflect differences in construction. Three different sections of the regulations would be affected.

The first proposed change would remove the prohibition on the placement of "mobile homes" in Zones V, VE and V1–30 (coastal high hazard areas) except in existing "mobile home parks" and subdivisions, at § 60.3(e)(7). Two local governments agreed with this change and indicated that their ordinances currently make no differentiation between conventional structures and "mobile homes" (sic) for any other purpose. One group also stated that the proposed deletion was both reasonable and positive.

One State agency opposed the prohibition deletion, believing that it would encourage the placement of inadequately anchored "manufactured homes" in V-zones. This State's concern apparently relates to the capabilities of some local governments to administer and enforce V-zone elevation requirements at § 60.3(e) for "manufactured homes." While FEMA shares this concern, this is a compliance issue that would likely also occur for conventional construction built in these same V-zones. FEMA believes that this issue should be addressed by its continuing to monitor enforcement by these communities and by providing technical assistance as required. If communities fail to adequately enforce these requirements, those communities will be subject to the probation and suspension procedures at § 59.24.

One Federal agency also disagreed with the deletion of the prohibition of "manufactured homes" in the V zones because it seemed inconsistent with the preamble's goal "to encourage sound flood plain management" because FEMA stated that "manufactured homes," when their floor systems are inundated, suffer greater damages than conventional homes. As indicated in the supplementary information in the proposed rule, FEMA concluded that a "manufactured home," which is elevated to or above the base flood elevation (BFE) and properly anchored to and placed on a foundation system that meets the criteria at § 60.3(e), is no more subject to damage from the base flood than a comparably elevated and anchored conventional structure. For floods greater than the base flood in a V-zone, both types of structures are likely to be severely damaged due to wave impact. For this reason, FEMA believes that there are insufficient grounds to distinguish between the two types of construction and that the deletion of the prohibition is not inconsistent with achieving sound flood plain management.

The second major change was the deletion of the prohibition on placement of "mobile homes" in floodways except in existing "mobile home parks" and subdivisions at § 60.3(d)(4). One local government agreed with the proposal because it offers additional flexibility and greater development options at the local level.

Three States agreed with the deletion. One said that the proposal conformed with their State standard. The Federal agency noted above also opposed deletion of this provision again on the grounds that it would be inconsistent with the preamble's goal "to encourage sound flood plain management."

In the proposed rule, FEMA noted that if a "manufactured home" were placed in a floodway, it would have to meet the same performance standards required for a conventional structure. Thus, the "manufactured home" would have to be elevated to or above the base flood elevation and could not cause any increase in upstream flood stages during the base flood. The proposed rule supplementary information stated that this would require that a registered engineer analyze the proposed development and demonstrate that the development would not increase the flood stages. FEMA had also pointed out that most developments proposed for floodways caused an increase in flood stages and could not meet the no-rise criteria.

One local government recommended that the prohibition be retained on the grounds that it is expensive and uneconomic for private applicants to demonstrate that their structures would meet the no-rise criteria. This local government further recommended that conventional residences also be prohibited in floodways. FEMA believes that these requirements would be unnecessarily restrictive and that applicants should continue to have the option of demonstrating that their proposed developments would not adversely impact other properties. This option has been available for all other forms of development since the initial incorporation of floodway requirements into NFIP criteria. FEMA's purpose in making this change is so that the same limitations are placed on manufactured homes as on other forms of housing.

Three State offices disagreed with the proposed deletion. One State believed that local enforcement of flood plain management ordinances was inadequate and to delete the prohibition would place many people in life-threatening situations during a flood. FEMA believes that this is a compliance issue that should be addressed through monitoring enforcement of the standards by communities, providing technical assistance, and applying program sanctions such as probation and suspension as appropriate. A second State cited opposition to the deletion because it believes that "mobile homes" are subject to greater damage based upon that State's evidence from its riverine damage assessments. This same State opposed the deletion in principle because it would consequently increase overall insurance rates. FEMA notes that "manufactured homes" already have higher rates and these rates reflect

the fact that riverine floods greater than the 100-year flood generally would result in higher damages to a "manufactured home" than to a comparable conventional house.

The third proposed change, which would treat "manufactured homes" the same as conventional housing, provides for the elimination of provisions which allow the replacement, new placement or substantial improvement of "mobile homes" in "existing mobile home parks and mobile home subdivisions" without elevation. All replacement, newly placed or substantially improved manufactured homes would have to be elevated to or above the base flood elevation regardless of the age or status of the manufactured home park or subdivision. Six respondents supported the proposed rule, seven respondents opposed the change and one respondent made a related comment. In the final rule this provision will appear unchanged except for the correction of several typographical errors and the insertion of an inadvertently omitted phrase.

Although this change was intended to apply NFIP flood plain management criteria uniformly to "mobile homes" and conventional homes, FEMA had additional reasons for this proposed change in the regulations. One anticipated result will be reduced flood losses to owners of "manufactured homes." This is particularly important since many owners and renters of "manufactured homes" have low or moderate incomes and would be least able to recover from a flood which destroyed their manufactured home and personal possessions. In addition there will be savings to the Federal government due to reduced flood insurance claims payments and other disaster assistance, such as the provision of temporary housing to the victims of floods. In the latter cases, post disaster Interagency Hazard Mitigation Teams, chaired by FEMA, have identified a number of instances where large numbers of "mobile homes" in "mobile home" parks were destroyed by floods, replaced by new non-elevated "mobile homes" which in turn were destroyed and subsequently replaced by similar structures. The new regulation intends to break that cycle of damage and loss.

Two States concurred with the proposal to remove the "grandfathering" provision. They were joined in this support by two local governments, one association and one Federal agency. Two associations, five local governments and one State opposed the elimination of the "grandfathering" provision because they believed that it may create economic hardships for park owners and future renters. The State felt that past discrimination against "mobile home parks" had forced the owners to locate them in unsuitable areas such as flood plains. In the supplementary information section of the proposed rule, FEMA pointed out that the rationale for the "grandfather" provision was to allow "mobile home park" operators to amortize their investments in park infrastructures. FEMA believes that these "mobile home park" operators have had sufficient time to amortize their costs. In addition, FEMA believes that the costs following flooding of these "mobile parks" are such that continuation of the "grandfather provision" is contrary to the interests of the individual owners and renters of "manufactured homes," the community, and the Federal government.

Any cost of these parks should be no more significant than the cost of developing any property in a flood plain. FEMA recognizes the possibility that some park owners might have to eliminate some sites and would incur additional costs in order to comply with the elevation requirements. However, these costs are not unlike those associated with the construction of conventional housing. In addition, there are elevation techniques available which require no more area than an at-grade installation and which are economical.

The manual, "Manufactured Home Installation in Flood Hazard Areas," published by FEMA in September 1985, provides information on appropriate techniques for different flood areas.

Two associations objected to the elimination of the "grandfathering" provision on the grounds of aesthetic appearances. They both urged a phasing sequence for this regulation and the use of the variance procedure as a flexible alternative. FEMA believes that the potential damages, from the flooding of a non-elevated manufactured home, and the consequences in terms of losses to the manufactured home owner or renter as well as to the Federal government through flood insurance claims payments and disaster assistance, are such that use of a phasing sequence or a variance procedure based solely on aesthetic grounds could not be justified.

Two of the States which supported the proposed rule made recommendations for placing additional restrictions on "manufactured homes." The first State recommended that a freeboard factor be included in addition to requiring the elevation of the lowest floor to the base flood elevation. The second State recommended that "manufactured homes" be spaced at least 20 feet apart to prevent a manufactured home, that is dislodged from its foundation by floodwaters, from damaging adjacent manufactured homes. These issues were not addressed in the proposed rule and, as a result, it would be inappropriate for them to be considered for this final rule. FEMA notes that the latter problem should not occur if the "manufactured home" were properly anchored to its foundation system in accordance with § 60.3(b)(8).

One State recommended retention of the provision at § 60.3(b)(9) requiring evacuation plans for "mobile homes" in "mobile home parks and subdivisions" which was to be deleted. FEMA decided to delete this requirement for a number of reasons. First, the final rule requires that all newly placed, and replacement "manufactured homes" be elevated regardless of the age or status of the "manufactured home parks or subdivision." This should, over time, reduce the need for evacuation plans. Furthermore, it is difficult to evacuate "manufactured home parks and subdivisions" given the permanent nature of many installations, the general lack of sufficient haulers, and competing demands on local officials and road systems. Such an action would only be advisable where extended flood warning times are available. Although FEMA would encourage such plans where practicable, a general requirement for evacuation plans is not warranted.

Mechanical and Utility Equipment

The proposed rule provision covering this topic clarified the current requirement in § 60.3(a)(3)(iii) by the addition of a new provision at (iv) which specifically requires that mechanical and utility equipment be designed and/or elevated to prevent water from entering or accumulating in its components. Of the eight responses to this topic, three State offices and one local government supported the proposed rule provision while three local governments and one State agency disagreed. Three of these respondents also made recommendations.

Two of the supporting State offices simply stated their support without detail while the third one encouraged FEMA to incorporate the use of freeboard to offset debris blockage and other factors not usually addressed in flood studies. Since NFIP criteria contain no freeboard requirements for the lowest floors of structures, there would be no reason to include such a requirement for mechanical and utility

equipment. However, State or local governments can adopt such requirements if they wish to do so. The local government indicated that the proposed rule would facilitate the implementation of the existing program.

The State office which disagreed with the proposed requirement did so on the grounds that base flood elevations (BFE) have not been provided to many NFIP communities. It feared that the proposed rule would create additional confusion for permit officials in the large number of communities which have Flood Hazard Boundary Maps (FHBM) or Flood Insurance Rate Maps (FIRM) with approximate A zones. FEMA's response to this State is that this requirement has always been at § 60.3(a)(iii) but it was not as clearly stated as in the proposed rule. The requirement has been that structures have utility equipment resistant to flood damage. If a BFE were available, it would be used as a basis to determine the amount of protection needed. If FEMA has not provided the community with BFE's and no other flood data are available, local officials must use their best judgement to determine to what degree of protection the permit applicant must provide.

One of the local governments that opposed this provision felt that enforcement of the proposed rule would be difficult and require additional time and cost. It cited the example of the addition of an outside air-conditioner unit to an older home and surmised that, according to the proposed rule, this air-conditioner would require the construction of a pedestal and submission of a certificate of elevation. This commentator also noted that permits are not required in all instances at present for the installation of an air-conditioner unit. It again should be noted that this is a clarification of a current requirement and not a new requirement. In addition the requirement would apply only to new construction and substantial improvements to existing construction. It would not apply to any alterations to existing structures which were not substantial improvements. For alterations to new construction, permits should already be required. Since an elevation certificate already has been prepared for the structure and should be on file, it should be relatively easy for community officials to verify that newly installed mechanical and utility equipment is compliant.

Another local government which opposed this provision also argued that it would be difficult to implement. It also recommended that the problem of damage to mechanical and utility equipment should be addressed through the insurance rate mechanism and not through the flood plain management requirements. FEMA does provide some coverage at additional cost for specified mechanical and utility equipment placed in enclosures or basements and it would be possible to individually rate structures which did not have their mechanical and utility equipment properly protected. However, FEMA does not believe that insurance rates alone would be effective in ensuring that mechanical and utility equipment is elevated or properly protected from flood damage. As FEMA indicated in the supplementary information in the proposed rule, much of this equipment is critical to the continued habitability of the structure after a flood. Even though the residence itself would not be damaged, it would not be habitable until the equipment was repaired or replaced. This would create hardships on the inhabitants of the structure and could increase Federal disaster assistance expenditures for temporary housing.

This same local government and another local government raised issues regarding specialized mechanical and utility equipment such as water pumps in pump houses and certain heat pumps used in a passive solar house. The requirement is that the equipment be designed and/or located so as to prevent water from entering or accumulating with the components. Generally, the preferred means of meeting these performance standards is elevation to or above the base flood elevation. However, there are other alternatives. For instance, many water pumps are submersible and only the switch and junction box servicing the pumps would have to be elevated. FEMA believes that the problems cited by these communities are design problems that can be overcome.

The second local government also stated that utility companies are opposed to placing electric meters above eye level and that current placement of the meters provides ample protection. FEMA has been informed that, if an electric meter were to be inundated by floodwaters, electrical service generally could not be provided to the house unless the meter were replaced. If a number of electric meters were damaged, large numbers of homes in a community could be without power for extended periods of time. FEMA's objective is that residences become habitable as soon as possible after a flood. This minimizes the adverse impact on families as well as demands for temporary housing provided by FEMA's disaster assistance programs. FEMA believes that, under most flood conditions, electric meters can be placed at eye level and still be above the base flood elevation. In some instances an access platform may have to be built or, if the local utility does not permit such platforms, the meter may have to be placed at the top of the stairs to the front or rear entrance to the house. Although this may cause some inconvenience to the readers of the meters, FEMA believes that this inconvenience should be limited as compared to the likelihood that the house could be without power for extended periods of time after a flood and not be habitable.

Finally, this same community argued that it would cost as much to elevate air-conditioner condensers and other equipment on platforms as the equipment is worth. FEMA has reviewed this issue and disagrees with the community's estimate of the cost of such platforms. These platforms are commonly used to elevate mechanical and utility equipment above floodwaters. For new construction, in particular, the platforms can be readily incorporated into the overall design of the structure. Furthermore, FEMA regards the major issue as the continued habitability of the structure after a flood and a rapid return to normalcy. This alone would justify costs required to meet the provision.

Start of Construction

The proposed rule modified the definition of start of construction so that structures built on piles or columns were treated the same as other types of structures and to be consistent with changes to the manufactured home provisions in NFIP criteria. Under the old definition, the actual start of construction for a pile or column structure occurred when the first permanent framing took place. For other structures, actual start occurred when the first placement of permanent construction took place on a site, such as the pouring of slabs or footings. FEMA does not believe that there is any rationale for distinguishing among those construction methods and therefore proposed changing the definition for the start of construction to read that "actual start" occurs when piles are installed or columns are constructed. For a "manufactured home," "actual start" will occur when it is placed on a site or foundation.

Three State offices and one local government commented on this proposed change. Two State offices agreed with the change because, according to one, it is "clearer and

easier for a community to regulate." The local government respondent thought that the proposed definition would permit piles to be installed on a site up to 180 days prior to issuance of building permits which, in its jurisdiction, violates the building code. This local official also surmised that this might be true nationwide. FEMA believes that this local government has misinterpreted the phrase "within 180 days of permit date." In fact, this phrase also appears in the current definition.

The definition requires that actual start of construction must begin within the 180-day period following the issuance of the building permit. Building permits are required for all development including the installation of piles or the construction of columns.

One State commented that there was no need for a special provision in the start of construction definition regarding "manufactured homes." FEMA believes that this is one instance where continuing to distinguish between "manufactured homes" and conventional housing is useful for the sake of clarity. If this provision were not included in this definition, "actual start" would occur when a "manufactured home" pad was poured. Each new placement of a "manufactured home" on this pad would then become a substantial improvement. In either case the "manufactured home" would have to be elevated to or above the base flood elevation. However, FEMA believes that the requirement would be more clearly understood if the definition specifically addressed the placement of a "manufactured home."

Functionally Dependent Uses

The proposed rule added a definition of "functionally dependent use" at § 59.1 and a special provision in NFIP variance criteria at § 60.6(a)(7) that provided for the issuance of variances by communities to accommodate the needs of functionally dependent uses if specified conditions are met. The intent of these changes is to clearly indicate to communities that there are instances in which variances for functionally dependent uses may be appropriate and to provide guidance on how FEMA will evaluate such variances when monitoring a community's flood plain management program.

Of the 11 specific responses received concerning this category, 7 of the 11 agreed with and supported the proposed revision. Of these respondents, three were State agencies, one was a specialized journal, one a Federal agency, one a local government and one a specialized local government entity—a port director. One of the supporting comments suggested that in the case of functionally dependent uses, wet-floodproofing be encouraged by giving a premium rate credit. It will take further study to determine the feasibility of such a procedure, particularly in light of FEMA's on-going effort to simplify the rating system.

Four of the respondents supported having special provisions in NFIP criteria for functionally dependent uses, but disagreed with FEMA's decision to use the variance procedure at § 60.6(a) to meet their needs. Instead, these comments generally recommended use of a conditional or special use procedure which still provided for a case-by-case review of each proposal. One local government called the variance process "inadequate" because of cost and time delays at the local level. An association disagreeing with the approach in the proposed rule stated that it had "hoped for specific revisions, not relief through the variance process because of the burden it places on local officials." This group felt that there were insufficient guidelines available for a process which could have notable impacts.

As indicated in the proposed rule supplementary information, FEMA decided against revising each individual provision in § 60.3 that could impact on functionally dependent uses because it believes that most functionally dependent uses should be able to fully comply with NFIP criteria (e.g. § 60.3). The inability to comply with one or more of these standards should be limited to a relatively small number of instances. For these reasons, it was decided that the variance procedure at § 60.6(a) was the appropriate mechanism for addressing the needs of individual functionally dependent uses. If FEMA chose to use the conditional or special use procedure as suggested in these comments, a detailed set of criteria would have to be developed and included in NFIP criteria. Furthermore, while nearly all NFIP communities have established variance boards, many do not use the conditional or special use procedures recommended by these comments. FEMA agrees that use of the variance procedure will result in some costs to communities and possibly some delay in the approval of development proposals. However, the case-by-case review required to properly implement a conditional or special use procedure would require similar costs and review time.

A State office objected to use of the variance process because it could directly conflict with existing case law which in its State expressly prohibits the granting of use variances. This comment also recommended the practice of conditional use permits instead. FEMA does not believe that variances to any of the NFIP criteria would constitute a use variance. NFIP criteria are performance standards and do not directly regulate the uses to which a property can be put. It is these performance standards which would be varied. The provisions in current NFIP criteria regulating use are § 60.3 (d)(4) and (e)(7), which prohibit the placement of manufactured homes in floodways and coastal high hazard areas (V-zones). This final rule deletes these provisions. FEMA will make no changes to this new provision in the final rule but will continue to monitor implementation of use of the variance procedure to address the needs of functionally dependent uses. If FEMA determines that this procedure does not work effectively, further changes will be considered.

A number of comments addressed the definition of functionally dependent use proposed by FEMA. The specialized journal, although supporting the proposed definition of functionally dependent uses because of its clarity regarding ports, cited its concern about seeming restrictions on storage and manufacturing facilities. They noted distance as a cost factor in the placement of these facilities. One local government asked if chemical/petroleum product-oriented industrial facilities were banned because they were not specifically mentioned. FEMA wishes to emphasize that the placement of storage and manufacturing facilities in flood plains is not prohibited by NFIP criteria provided that they meet the performance standards in § 60.3. The fact that these uses are excluded from the definition merely excludes them from the special variance provision at § 60.6(a)(7). These facilities generally involve high value mechanical equipment and contents. In addition the closing down of such facilities to repair flood damages can cause severe adverse economic impacts on the community. FEMA believes that these facilities can and should fully comply with NFIP criteria and that this usually can be achieved with minimal impacts on the conduct of such uses. For chemical/petroleum-related industries, FEMA believes that it is particularly important that these uses fully comply. Not only do these processes require high value mechanical and other equipment, they also pose potential threats to public safety if hazardous chemicals are released into floodwaters.

One comment from an association asked whether seafood processing facilities were included as docking facilities and if they would be a

functionally dependent use. FEMA regards facilities for the unloading and handling of fresh seafood for transshipment as port facilities necessary for the unloading of cargo. Such facilities would be included in the definition of functionally dependent use. However, any seafood processing beyond the amount necessary to transship fresh seafood after it is unloaded or which requires the use of expensive equipment would be considered related manufacturing and would not be included in the definition. These processing facilities should be able to perform their intended use while still meeting all NFIP criteria.

One comment cited the arbitrary limits imposed in many places on the amount of additional rise in flood levels that can be caused by structures. FEMA believes this comment refers to NFIP floodway requirements at § 60.3(d) (2) and (3). These provisions require communities to designate a floodway that causes no more than a one foot increase in upstream water surface elevations. Within this floodway, no development can be permitted which causes any increase in flood levels. As indicated in the supplementary information in the proposed rule, these requirements were intentionally excluded from the new variance procedures regarding functionally dependent uses due to the increase in flood damages to upstream property owners that could result from the increased flood stages. If a functionally dependent use has no option but to locate in a floodway, the applicant must either demonstrate that no increase in flood stages will result or must provide additional carrying capacity such as through channel improvements to ensure that no increase in flood stages will result. Communities should contact FEMA regional offices for technical assistance if they encounter situations where functionally dependent uses must locate in a floodway, but cannot meet the no-increase-in-flood-stage requirement.

Finally, a Federal agency encouraged FEMA to stipulate that inadequate floodproofing of "functionally dependent" short-term storage of possible water contaminants (noxious chemicals, oil, etc.) could constitute a threat to public safety if such contaminants were released in a flood. FEMA agrees that this could constitute a threat to public safety and advises communities that short-term storage of these contaminants without adequate safeguards would be inconsistant with the requirements at § 60.6(a)(7).

Probation and Suspension

This topic in the proposed rule covered the addition of three definitions to § 59.1 which further defined terms used in changes to §§ 59.24 (b) and (c) which became effective became on January 1, 1986. Definitions were included for "program deficiency," "violation" and "remedy a violation." Five comments were received on this subject. Two State agencies agreed with the proposed changes as did two associations. One of the associations also supported FEMA's acknowledgement that there should be a broad range of actions available to a community when violations are addressed.

FEMA alerts the public to the fact that it altered the definition of violation in this final rule based on internal review after the proposed rule was published. The definition of violation in the final rule will be amended to read ". . . without the elevation certificate, other certifications, or other evidence of compliance . . . ." The phrase "other evidence of compliance" was added because of references in the definition to requirements at §§ 60.3 (c)(10) and (d)(3). These provisions do not specifically require certifications but do require that the applicant can demonstrate compliance with certain performance standards. Generally, this will require submission of an analysis by a qualified engineer.

Use of Openings in Enclosures Below a Structure's Lowest Floor

In the proposed rule, FEMA intended to eliminate any confusion on the part of communities regarding the application of the requirement at § 60.3(a)(i) that structures be designed and adequately anchored to prevent flotation, collapse or lateral movement. This provision would be clarified to specify that the structure must be protected from hydrostatic and hydrodynamic loads, including the effects of buoyancy. Furthermore, at § 60.3(c)(5), a provision would be added which required the use of a specified set of openings in the walls of enclosures below the lowest floor of an elevated structure. These openings are intended to provide for the ingress and egress of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. As an alternative the permit applicant could submit a design certified by a registered engineer or architect. The final rule makes no change in these provisions.

Three State offices agreed with the proposed changes and a fourth made editorial suggestions regarding typographical errors, which have been corrected in the final rule. One of the agreeing States further commented that it thought that local officials will have difficulty with the technical aspects of the techniques available to facilitate these openings and suggested the issuance of a technical bulletin by FEMA. FEMA is preparing a bulletin on the use of these openings and will make it available to communities and individuals.

Another agreeing State office commented that it believed that the openings below a structure's lowest floor should be limited to existing buildings and not permitted for new construction. FEMA does not encourage the enclosure of areas below the lowest floor of an elevated structure. However, it recognizes that these enclosures are a common practice in areas which experience deep flooding. Provided that these enclosures are used only for parking, access, or limited storage, and they are properly constructed, FEMA believes that there is no reason to prohibit their construction. Since more restrictive State requirements would take precedence over NFIP criteria, this State could choose to place additional limitations on such enclosures.

An individual expressed great concern about the possibility of these enclosures being used for habitation. This respondent not only saw the potential for such occurrences continuing, but believes that the proposed rule may encourage them. This person then recommended that FEMA increase the required total area of the openings, increase the number of required openings from two to four, and impose a height limitation of five or six feet on any enclosure. As indicated in its response to the previous comment, FEMA does not believe there are sufficient reasons to prohibit construction of such enclosures. FEMA believes that its calculations of the areas of openings required are sufficient and that additional area or number of openings are not necessary.

Section 1316 Denial of Flood Insurance

The proposed rule included a new Part 73 which formalized procedures for implementing section 1316 of the National Flood Insurance Act of 1968. One of the provisions in that part provided that the State or community shall determine whether or not to declare a structure to be in violation and to submit that declaration to FEMA for the purpose of denial of insurance under Section 1316. Of the nine respondents who commented on this proposal, five State offices and two local governments supported the proposed rule.

Two of the States including one which supported the proposed rule recommended that the State Coordinating Agency in each State be given the authority to declare a property to be in violation of NFIP criteria or of local ordinances for the purpose of denial of flood insurance coverage under section 1316. Section 1316 specifically states that the property must be declared by a duly constituted State or local zoning authority, or other authorized public body, to be in violation of State, or local flood plain management laws, regulations, or ordinances. In most instances this property will also be built inconsistent with NFIP criteria. However, this is not always the case since the property could be in violation of a State or local requirement that is more restrictive. Section 1316 is clearly tied to the State or local law, regulation or ordinance, and not to NFIP criteria. A State agency may declare a property to be in violation of a State law, regulation, or ordinance, if it is authorized to do so. A State agency may not declare a property to be in violation of a local ordinance unless that agency is authorized to take such action by a State law or regulation.

A local government official queried the cost effectiveness of local enforcement of denials of insurance. FEMA responds that the National Flood Insurance Act of 1968 requires participating communities to adopt and enforce flood plain management regulations and, as a result, there is a concomitant cost of participating in the National Flood Insurance Program. These costs should be no greater than the costs associated with enforcing any local ordinance or code. Section 1316 is a tool to assist local government in this effort. Communities may choose not to utilize section 1316 denial of insurance, but must take other actions to remedy any violations to the maximum extent possible.

A Federal agency thought that it would be more appropriate for FEMA to promote section 1316 as a deterrent factor in the hopes of reducing the number of properties which are in violation of the regulations. This agency further recommended that FEMA stipulate that any failure on the part of a local government to use section 1316 under appropriate conditions would consititute a program deficiency for the community. As indicated in the supplementary information to the proposed rule, the community has the responsibility of ensuring that its flood plain management measures are enforced and that any violations are remedied to the maximum extent possible. FEMA believes that the preferred remedy for a violation is to modify the structure so that it is made compliant and can continue to be insured at affordable rates. Only when this cannot be done would application of section 1316 to the structure be the most effective remedial measure available. FEMA wishes to provide communities with the flexibility to take actions that they feel are most effective in ensuring that violations are remedied and do not re-occur. When FEMA evaluates a community's enforcement of its flood plain management measures, a community that chooses not to use section 1316 will have the opportunity to demonstrate that alternative remedial measures have been taken and that these measures remedy the violation to the maximum extent possible.

Use of Available Base Flood Data

The proposed rule clarified the existing requirement that communities obtain, review, and reasonably utilize base flood elevation data from Federal, State and other sources. It also specifically required the reasonable use of floodway data in addition to base flood elevation data as well as data from preliminary, draft, and final Flood Insurance Studies (FIS).

FEMA received eight responses which specifically commented on this topic. Four State offices agreed with the proposed rule. One State noted that the clarification language encouraged the use of available base flood data but pointed out that many local governments often do not know about or have access to data generated by State and Federal agencies. This same State office suggested a greater interagency effort to provide information for local officials that participate in the program. FEMA notes that it already participates in Federal level interagency efforts and encourages and supports efforts by other Federal agencies as well as States to provide technical assistance to NFIP communities.

Another responding State office indicated that the proposed changes should preclude "11th hour" permits from being issued by communities to escape having to enforce flood plain management requirements. This comment references the use of these data prior to the adoption of a Flood Insurance Rate Map (FIRM) by a community participating in the program.

A third State recommended the addition of a provision which would permit insurance agents and lenders to use preliminary Flood Insurance Rate Maps (FIRM) and flood profiles if that information is not outdated and if it is based on improved technical information. This same State also suggested allowing the use by insurance agents and lenders of flood data developed by communities for insurance purposes. The office cited instances where local agencies had better data than that which was available for the preparation of the FIRM. Lenders and agents are required to use the current effective Flood Hazard Boundary Map (FHBM) or FIRM when determining whether a property is in the special flood hazard area and for determining the applicable rates for flood insurance for a structure. The insurance aspects of the NFIP could not be properly administered if each agent or lender were permitted to use other data. However, FEMA does recognize that a preliminary, draft or final Flood Insurance Study (FIS) often will utilize more detailed information than the current effective flood map for a community. FEMA also recognizes that communities and individuals may have access to more detailed topographic and other data than were used in developing the communities' current FHBM or FIRM. In these situations an individual or community can obtain a map revision as provided for in Part 65 of NFIP criteria or a Letter of Map Amendment as provided for in Part 70.

One State agency commented that the requirement to use available base flood data did not provide for comparison of FEMA maps with the Sea, Land, Overland Storm and Hurricane (SLOSH) models developed by the National Oceanic and Atmospheric Administration (NOAA). Data generated by SLOSH models would constitute available data and should be used by communities where FEMA has not provided the community with base flood elevations. FEMA also recognizes that SLOSH models provide valuable information for community emergency management planning and encourages its use for these purposes.

One local government stated its agreement with the part of the proposed rule which stated the use of available flood elevation and floodway data but it considered it unfair to require a community to use these types of data from preliminary and draft Flood Insurance Studies (FIS) prior to the community's acceptance of the data. The purpose of specifically including use of data from preliminary draft, and final Flood Insurance Studies (FIS) was to clarify an already existing requirement. Subsequent to the publication of the proposed rule, FEMA determined that it was not necessary to single out this type of data for the purpose of the provision at § 60.3(b)(4). However, data from

preliminary, draft, and final Flood Insurance Studies will continue to constitute base flood data available from a Federal, State, or other source. Those data are to be used under § 60.3(b)(4) until such time as the community's Flood Insurance Rate Map (FIRM) becomes effective or the community adopts flood plain management measures compliant with § 60.3(c)(d), or (e) whichever comes first. In response to this community's comments, the requirement is that the community obtain, review and reasonably utilize this data. If the base flood elevations were currently being appealed on technical or scientific grounds by the community, the community would not be required to utilize the data provided that other measures were taken to minimize the structure's exposure to flood damages. FEMA notes that significantly lower flood insurance rates are available in those instances in which a structure has been elevated using available base flood data.

One of the responding States noted that inclusion of available floodway data was important but thought that its availablity was limited. This State also questioned the use of floodway data in communities which only have A-zones within their boundaries. Linking this with another State comment which thought it unnecessary to mandate the use of available floodway data, FEMA believes that the preservation of the carrying capacity of floodways is critical to achieving program objectives of reducing the Nation's overall flood damages since obstruction of floodways can significantly increase potentional flooding upstream. Although FEMA recognizes that floodway data will only occasionally be available from sources other than preliminary and draft Flood Insurance Studies, it is important that communities reasonably utilize this data.

One State also recommended that communities not be required to use floodway data which do not meet more restrictive State standards. FEMA notes that more restrictive State and local regulations would take precedence over NFIP criteria. If floodway data were available that met more restrictive State standards, that data would be utilized under § 60.3(b)(4). However, if no floodway data are available that meet State standards, the community would have to obtain, review, and reasonably utilize any other floodway data that are available.

Exceptions for Floodproofed Residential Basements

The proposed rule at § 60.3(c) provided for a new and separate category of exception for communities that wished to permit construction of residences with floodproofed basements. Based on a review of past exception requests, the current procedure and a special study that was conducted, FEMA determined that exceptions to allow construction of residential floodproofed basements will continue to be granted, but FEMA will use the new simplified procedure to do so. This procedure, designed solely for exceptions for floodproofed basements, would involve a technical review by FEMA to determine if flooding characteristics in the community met specified criteria and would no longer require a determination that there would be severe hardship or gross inequity for the community if the exception were not granted. The procedure would also not require preparation of an environmental assessment.

Eight respondents commented on this topic. One State office and one local government agreed in full with the proposed rule. The State office viewed the effect of the criteria at § 60.6(c)(1) as continuing to limit the number of exceptions that were granted. The local government commented that in many flood plain areas conditions discourage construction of basements but, that where feasible, their construction should be permitted.

One State office which adversely commented on the proposed rule felt that the new subpart (c) at § 60.6 represented a complex set of standards which communities would find difficult to implement. However, the purpose of § 60.6(c)(1) is to set criteria for FEMA to determine if a particular community has flooding characteristics that pose no special problems for floodproofed basements. Only § 60.6(c)(2) would have to be incorporated into local ordinances. If a community felt that it did not have the technical expertise to enforce these provisions, it should not apply for an exception.

Another State office opposed the granting of exceptions for floodproofed basements on the grounds that it felt that it had been documented that residential structures with basements suffer greater damages than residences without basements. This is no doubt true for basements that are not adequately floodproofed or where no additional freeboard has been provided to compensate for the catastrophic nature of the losses that would occur if the floodproofing measures were overtopped by floodwaters. However, FEMA believes that a residence with a floodproofed basement which meets the requirements at § 60.6(c) should be no more subject to flood damages than a residence built on a slab with its lowest floor at the base flood elevation. This is due both to the review criteria at § 60.6(c)(1) and the freeboard and other construction requirements at § 60.6(c)(2). Since publication of the proposed rule, FEMA has had the opportunity to evaluate the performance of floodproofed basements in a flood approximating a base flood in a community that had been previously granted an exception. These floodproofed basements sustained no damage.

One State commented that it did not believe that exceptions to allow construction of floodproofed basements should be granted to communities. Their concerns related to their feeling that most communities lack the technical expertise and resources necessary for inspections and for the enforcement of floodproofing requirements. FEMA agrees that adequately enforcing a local ordinance that allows for construction of floodproofed basements will require more technical expertise and resources at the local level than an ordinance which requires that residential structures have their lowest floor elevated above the base flood elevation. However, communities are responsible for adequately enforcing their ordinances. As indicated previously, if a community feels that it does not have the expertise or resources to ensure that basements are properly floodproofed, it should not apply for an exception. FEMA believes that by limiting exceptions to communities which meet the criteria at § 60.6(c)(1) the need for specialized expertise will be minimized since information provided in the FEMA publication, "Manual for the Construction of Residential Basements in Non-Coastal Flood Environs," can be directly applied in such situations.

A Federal agency questioned a statement by FEMA in the supplementary information in the proposed rule which appeared to indicate that floodproofed basements in areas subject to flash flooding or deep flooding were more likely to fail or to be overtopped by floods larger than the base flood. FEMA agrees that this statement was improperly phrased. This statement was intended to indicate that basements exposed to such conditions would be more likely to fail and that the consequences of these basements being overtopped in floods larger than the base flood would be greater. This is

because, if property owners could not be warned of impending floods, they may not be able to evacuate the basement or remove irreplaceable contents. Both of these factors would increase the risk.

FEMA also received a comment from a Federal agency which recommended retention of the requirement for an environmental assessment prior to granting basement exceptions to assess the impacts of such exceptions on the natural environment. FEMA's experience, in preparing 46 environmental assessments on exceptions granted to communities with similar flooding characteristics to those in the criteria at § 60.6(c)(1) of the final rule, indicates that most building sites would eventually be developed regardless of whether basement exceptions are granted. As a result there would be few if any differences in the impacts on the natural environment. The development in communities which have been granted exceptions has generally occurred in established town sites where the natural environment has already been disturbed. As a result FEMA believes that the continued preparation of the assessments would serve little purpose.

The final comment on this topic came from a local government that was concerned that the continuation of these exceptions would encourage marginal flood plain development and also that the reference to the 500-year flood in § 60.6(c)(1) meant that FEMA would eventually adopt that standard for all development. The 500-year flood elevation is to be used only to determine the amount of freeboard that would be required for a basement in a particular community. FEMA will continue to use the 100-year or base flood elevation as a basis for delineating flood plains and as the elevation to which other structures must be elevated or floodproofed.

State Coordination

The proposed rule revises § 60.25 to enable States to more effectively respond to the needs of their NFIP communities and to enhance and clarify the role of the coordinating agency of the NFIP within each State. FEMA received several comments relative to § 60.25. One commentator supported the revisions to § 60.25 in its entirety. Two commentators supported the revisions to § 60.25 (a) and (b) as appropriate activities for the State Coordinating Agencies to conduct.

Concerning § 60.25(c), five commentators questioned the necessity of requiring States to request the Administrator's approval prior to carrying out activities in the capacity of the State Coordinating Agency other than those referred to under § 60.25(b)(1) through (12). One commentator specifically expressed concern that the proposed rule could have the effect of eliminating or significantly reducing the kind of timely and appropriate responses needed for the diverse circumstances encountered in the implementation of the NFIP. Finally, two commentators asserted that the proposed language was inappropriate because FEMA cannot dictate what activities a State agency will carry out. FEMA, after considering these comments and concerns, has revised § 60.25(c) in the final rule. It is not FEMA's intention to limit those activities State agencies perform to fulfill needs they perceive regarding implementation of the NFIP in their State. However, because there are diverse NFIP issues and activities with which States might not be familiar and, in order to ensure that misinformation is not inadvertently provided to NFIP constituencies, FEMA asks in the final rule that, when acting in its capacity as State Coordinating Agency, a State notify FEMA prior to its undertaking such activities. The revision is also intended to avoid duplication of assistance to NFIP communities in order to ensure that resources are being utilized effectively.

After discovering a typographical error, FEMA revised § 60.25(d)(2) for the final rule by deleting the word "on" and replacing it with the word "or" under this subsection.

State Assistance Program Termination

Four commentators expressed concern over the removal of Part 76. Specifically, two commentators expressed concern that if the Community Assistance Program—State Support Services Element (CAP-SSSE) is not incorporated into Part 76, funding could be arbitrarily cut for the program. Also, specific concern was expressed over the formal termination of the State Assistance Program (SAP) and the failure to subsequently incorporate the CAP-SSSE into the regulations. It was asserted that this action indicates that FEMA is no longer concerned about the States' participation in NFIP coordination and that the action "would raise a veil of discretion and uncertainty" for future support and stability in the area of flood hazard reduction activities. One commentator suggested that Part 76 be retained for the purpose of developing new capabilities commensurate with the responsibilities outlined under the proposed rules changes for § 60.25.

FEMA responds by noting that the SAP was never designed to be an indefinite program, but to provide States the opportunity and financial support to strengthen their role in NFIP flood hazard mitigation activities and to develop and enhance their individual capabilities in order to eventually provide technical assistance services to communities. FEMA determined that the intent and objectives of this program had been met and that those implementing regulations were no longer applicable or necessary. Therefore, removal of Part 76 and its subsequent reservation is strictly a procedural action to reflect the SAP's termination on October 1, 1985.

FEMA developed a comprehensive Community Assistance Program to enable it to enter into specific agreements with other Federal agencies, States and the private sector to provide services to meet the identified technical assistance needs of the participating NFIP communities. The State Support Services Element of the CAP utilizes the existing capabilities of the States to provide needed technical assistance services to NFIP communities.

The SSSE funding is covered in FEMA's budget under an ongoing line item for Flood Hazard Reduction. The Flood Hazard Reduction line item provides a logical means of matching the assistance needs of NFIP communities with the appropriate resources available. This line item includes funding for all the Community Assistance Program Delivery Systems designed to provide needed services to NFIP communities as well as funding for specific flood loss reduction projects such as the development of technical guidance materials and providing technical assistance to States and local governments on flood loss reduction standards and techniques.

The formal termination of the State Assistance Program and subsequent rescission of its regulations does not indicate FEMA's lack of interest in the States' role in the NFIP's flood loss reduction efforts. To the contrary, FEMA recognizes that State involvement is most necessary to help ensure the proper implmentation and administration of NFIP flood plain management standards at the local level. Thus, the State Support Services Element becomes the cornerstone in a successful Community Assistance Program.

Standard Flood Insurance Policy

Comments on the changes in the Standard Flood Insurance Policy (SFIP) focused on four areas.

One of the areas receiving comments was the proposal to pay policy building

limits, where an insured building is flooded continuously for 90 days and it appears that flood damage will eventually reach those limits, without waiting for further damage to occur. One commentator supported the proposal without suggesting any change. A second commentator supported the proposal but suggested reducing the 90 days to 30 days or even applying this procedure to properties in imminent danger of being continuously flooded. FEMA continues to believe that the 90-day period is appropriate so no change has been made in this regard in the final rule. A third commentator understood this proposal to be intended to deal with repetitive flooding and suggested that flood plain management measures could help reduce flood damage. The situations FEMA has encountered that gave rise to this proposal did not involve repetitive flooding, and this is not what the proposal is intended to address. However, FEMA's Community Assistance Program is certainly available to assist communities with special flood plain management measures if needed. This commentator also questioned what would happen if the insured refused to sign the release provided for in the proposal. In that case, the procedure would not be available to that insured, and multiple claim payments would be made as new damage occurred (as is the case currently). This commentator also felt that the phrase "before the end of the policy term" in the last sentence needed to be clarified. FEMA believes that both references to the policy term in the last sentence of this provision clearly are to the policy term during which the continuous flooding began so that this clarification is not needed. The first sentence of the provision has been revised for clarity, including clarifying that it does not apply to erosion coverage, and has also been revised to take into account the possibility of an over-insured building.

A second area receiving a comment was the proposed addition of a definition of "base flood" to the SFIP. The commentator wrote, ". . . [this] definition of 'base flood' is misleading in that the freeboard requirement and, therefore, the base flood elevations used in § 65.10 'Mapping', is actually the computed base flood elevation with the expected probability adjustment." The definition of "base flood" in the proposed rule is the same as that given by § 59.1 of the existing regulations. The proposed rule was not redefining this definition but was merely adding the definition to the Standard Flood Insurance Policy. It is evident from the commentator's citation that the commentator had confused the definition of "base flood" with the procedure that is to be followed to account for hydrologic uncertainties when an exception is being sought to the freeboard requirements for levees to be recognized as providing protection from the base flood. Since these procedures have no bearing on the definition of "base flood," no changes have been made to this definition in the final rule.

A third area was the proposed deletion of coverage for the expenses incurred in the removal of an insured mobile (manufactured) home away from the peril of flood. Three commentators recommended continuing to provide this coverage, with two of them stating that removing a mobile home is a safer and less expensive method of preventing flood damage than sandbagging. FEMA has reconsidered and has decided not to delete removal expense coverage for mobile homes. While removal expense coverage will apply to all insured property removed because of the imminent danger of flooding, a limit will be imposed on the amount of removal expense that is reimbursable. However, no deductible will be applied to this reimbursement. Reasonable expenses incurred by the insured in the temporary removal and storage of insured property will be reimbursable for buildings up to the amount of the minimum building deductible (currently $500) and for contents up to the amount of the minimum contents deductible (also currently $500). This change will have a delayed effective date as explained below.

A fourth area receiving a comment was the need for printing new policy forms to reflect the changes being made to the SFIP. A private insurance company participating in the Write-Your-Own Program of the NFIP suggested handling these changes to the SFIP in a way that avoids the need for printing new policy forms. While FEMA understands the complications and expenses involved in printing new policy forms, it believes that this is, nonetheless, the best way to proceed to assure that policyholders receive notice of the changes to their flood insurance coverage. However, to allow more time for new policy forms to be printed, the effective date of the SFIP changes in this rule that restrict coverage has been delayed until January 1, 1987. The other SFIP changes in this rule—those that are liberalizations of coverage or are clarifications of coverage or are of an editorial nature—will be effective October 1, 1986. Under the Liberalization Clause of the SFIP (Article IX of the Dwelling Form and paragraph I of the GENERAL CONDITIONS AND PROVISIONS section of the General Property Form), these liberalizations of coverage will apply to all claims arising on and after October 1, 1986, regardless of the date of issue of the policy involved.

The following SFIP changes (and one related change to § 61.5) in Part 61 will be effective January 1, 1987 (corresponding changes to the Dwelling Form, the General Property Form, and § 61.5 are listed together):

1. The change to the definition of "Direct Physical Loss by or from Flood" in Article II—Definitions of Appendix A(1) (item 12.c of this rule) and to the DEFINITIONS section of Appendix A(2) (item 13.e of this rule).

2. The change to paragraph C of Article V—Property Not Covered of Appendix A(1) (item 12.k of this rule).

3. The change to paragraph D of Article V-Property Not Covered of Appendix A(1) (item 12.l of this rule) and the change to paragraph D of the PROPERTY NOT COVERED section of Appendix A(2) (item 13.l of this rule).

4. The removal of paragraph D of Article VI-Deductibles of Appendix A(1) (item 12.q of this rule); the removal of paragraph D of the DEDUCTIBLES section of Appendix A(2) (item 13.q of this rule); and the change to § 61.5(d) (item 9.a of this rule). These changes relate to the changes in 1 above.

5. The change to paragraph H of Article VIII-General Conditions and Provisions of Appendix A(1) (item 12.v of this rule) and the change to paragraph G of the GENERAL CONDITIONS AND PROVISIONS section of Appendix A(2) (item 13.r of this rule).

Mapping Changes in the Proposed Rule

Section 61.12 contains procedures for applying section 1307(e) (commonly referred to as the "Brooks Amendment") of the National Flood Insurance Act of 1968, as amended, which grants communities relief from insurance premiums based on adequate progress towards completion of federally funded flood protection systems. Adequate progress is defined in terms of project cost as 100 percent authorized, 60 percent appropriated, 50 percent expended, and 50 percent of physical feature construction completed. A complicating factor of § 61.12 is that it does not address the applicability of the flood plain management provisions of § 60.3. FIA has established the procedure of designating areas affected by § 61.12 determinations as Zone A99, which in effect reduces insurance premiums and relaxes flood plain

management criteria in recognition of the protection to be provided by the flood protection system under construction.

To support both the provisions of section 1307(e) of the Act and the provisions of the Act relating to actuarial soundness and effective flood loss reduction, determinations under § 61.12 should include a review of the construction status of all critical physical features within the flood protection system under consideration. Consideration of each critical physical feature will assure that unreasonable § 61.12 applications are not made for structures that will not provide flood protection for extended periods of time. To promote a reasonable and objective means of making decisions relating to § 61.12, FIA must further clarify the original requirement that a flood protection system's physical features be under construction and be 50 percent completed to mean that *all* of the critical features (i.e., physical features) comprising a flood protection system must be under construction and 50 percent completed. A critical feature was defined in the proposed rule as an integral and readily identifiable part of the flood protection system without which the flood protection provided by the entire system would be compromised.

For example, a large project such as a hurricane flood protection project often consists of many different features such as levee sections, flood walls, and flood gates. For such a system to be considered under the provisions of § 61.12, the proposed rule required that each of these critical features must be under construction and 50 percent complete. The approach of reviewing the completion status of each critical feature, instead of only assessing the entire flood protection system's construction completion level as a unit, will allow more structured decision making in § 61.12 applications; will assure that adequate progress is being made toward an effective flood protection system and will assure that the design level of protection will be achieved within a reasonable period of time after insurance rates are reduced and nonstructural flood plain management requirements are relaxed. This was the intention of section 1307(e) of the National Flood Insurance Act of 1968, as amended.

The flood risk data published in NFIP maps and Flood Insurance Study (FIS) reports form the technical basis for the administration of the NFIP in each flood-prone community in the nation. These data provide the basis for flood plain management measures required of each community participating in the NFIP, as well as the basis for actuarial flood insurance premiums. Although the preparation of NFIP maps and FIS reports is subject to rigorous technical standards, it is recognized that improvements in techniques used to estimate flood risks, changes in physical conditions in flood plains or watersheds, and availability of new technical data may necessitate revisions of the maps and studies.

In making such revisions, there must be adherence to the same engineering standards applied in the preparation of the original map and FIS report. When requesting changes to NFIP maps and FIS reports, adequate supporting data must be submitted. These data allow FEMA to review and evaluate the requests and to carry out its responsibility to ensure that the information to be presented is scientifically and technically correct.

A great deal of time and effort is expended by individuals, communities, and FEMA in obtaining the technical information needed to evaluate requests for changes to the NFIP maps. The proposed rule provided more detailed information on the types of supporting data that FEMA needs to review and evaluate requested map changes.

The granting of revisions to NFIP maps without specifications for the placement of fill has been a concern in the past. The basis of this concern is threefold. First, improperly protected fill can be subject to scour and erosion which can result in the exposure of the structure to damages due to undermining. Second, improperly compacted fill can settle. In extreme cases this could result in the fill surface subsiding below the base flood elevation (BFE) or in major structural damage to the building if differential settling occurs. Third, the removal of property from the flood plain permits the construction of homes with non-floodproofed basements. These basements can suffer significant damages due to hydrostatic pressure if the fill that is used is highly permeable or improperly compacted.

By establishing criteria requiring that fill be engineered to ensure its permanency, adverse impacts such as those mentioned will be minimized as a condition of granting a map revision. The proposed rule had requirements for compaction and density of fill layers, elevation of fill, and adequate protection of fill slopes. A certification from a community's NFIP permit official, a registered professional engineer, or an accredited soils scientist that these requirements have been met was required by the proposed rule.

The degree of protection afforded by a levee system is never known precisely because of the uncertainties involved in establishing the base flood elevations and the structural stability of the levee itself. Therefore, levee systems must meet certain requirements to be recognized by the NFIP as providing protection from the base flood. In this regard, the proposed rule provided requirements for the treatment of earthen riverine and coastal levees involving: (1) Design, including freeboard requirements, closures, embankment protection, stability, settlement, and interior drainage; (2) operation, including closures and interior drainage; and (3) maintenance.

Freeboard is required to offset the hazards that might arise from underestimation of the base flood elevations as a result of uncertainties in the hydraulic and hydrologic analyses. The freeboard must be sufficient to protect against overtopping and to ensure the structural stability of the levee system under the loading conditions expected to occur during the base flood.

Under the proposed rule, a levee system that involves closure devices would only be recognized if these devices are appropriately designed and are structurally a part of the levee system. Sandbags would not be recognized for this purpose. The design and operation of these devices must ensure the structural stability of the levee system.

The proposed rule also prescribed requirements for analyses which demonstrate that appreciable erosion of the levee embankment will not occur during the base flood; that seepage during loading conditions associated with the base flood will not jeopardize embankment or foundation stability; that the potential and magnitude of freeboard loss resulting from levee settlement is not critical; that facilities to eliminate flooding due to interior drainage are adequate; and that operation and maintenance requirements are sufficient to ensure continuation of the protection afforded by the levee as designed and constructed. Under the proposed rule, FEMA could require that other factors, in addition to those listed in the proposed rule, be considered in certain situations.

The accuracy of the flood plain boundaries shown on NFIP maps is limited by the scales at which maps are prepared and by the topographic data available to prepare them. These

limitations may result in structures or parcels of land being incorrectly included in an area of special flood hazard. When alteration of topography (i.e., earth fill) has not occurred since the effective date of the first NFIP map and it is demonstrated that the property has been inadvertently included in an area of special flood hazard, a Letter of Map Amendment may be granted removing the property from the area of special flood hazard.

The proposed rule clarified Part 70 by eliminating its application in situations where there has been alteration of topography since the effective date of the first NFIP map showing the property within the area of special flood hazard. Also, a statement was inserted referencing Part 65 if alteration of topography has occurred.

To further clarify the regulations, the definitions of "critical feature", "levee", and "levee system" were added. The definitions of "mean sea level" and "water surface elevation" were revised to include reference to the NGVD of 1929.

Comments on Mapping Changes

Of the 61 sets of comments received, 27 commentators addressed the proposed mapping changes in about 33 different areas. Comments received on the proposed mapping changes have been consolidated and are discussed below.

Comments on § 61.12

One commentator agreed with the proposed clarifications to § 61.12 and especially with the clarification provided on "critical features."

One commentator suggested that § 61.12 should also make allowance for relief from insurance premiums based on adequate progress toward completion of *locally* funded flood protection systems. Section 61.12 is based on Section 1307(e) of the National Flood Insurance Act of 1968, as amended. Public Law 93-383, which added paragraph (e) to section 1307, is more commonly known as the "Brooks Amendment." The Brooks Amendment requires the Federal Insurance Administrator to make allowances for relief from insurance premiums based on adequate progress toward completion of flood protection systems. The proposed rule did not add the limitation that considerations of adequate progress only be applied to federally funded flood protection systems. This requirement was specified by the regulations that existed prior to the proposed rulemaking and is consistent with the intent of Congress when it enacted the Brooks Amendment. As can be seen from a quote from the *Congressional Record* in a subsequent paragraph of this discussion, the Brooks Amendment was enacted to provide relief to a small district in Texas where a flood control project had been substantially completed at the time of the enactment of the Brooks Amendment. The flood control project alluded to in this quotation was federally-funded and the language of the amendment clearly applies to the Federal process of authorization and appropriation. To act as suggested by the commentator is not authorized by this statute.

Two commentators objected to the definition of adequate progress and saw no reason for granting any relief from insurance rates until the total project is 100% complete and certified as adequate by a registered professional engineer. The proposed rule did not add a definition of "adequate progress" as it had been previously defined by existing regulation. In addition, the Brooks Amendment provides the specific definitions the Federal Insurance Administrator shall use in making "adequate progress" determinations. To act differently, as was suggested, is not authorized by the Brooks Amendment.

One commentator took exception to the clarification proposed in § 61.12(b)(4) stating that the inclusion of the requirement for all critical features to meet the "adequate progress" definitions of the Brooks Amendment would violate its mandate and spirit. The mandate and spirit of the Brooks Amendment can be gleaned fro.n the following quote from the *Congressional Record* (House, June 20, 1974, page 20309) that was made by the sponsor of the Brooks Amendment prior to its enactment.

> This amendment will allow an area where a flood control project is substantially completed and which has not been delayed through any fault of the local sponsors to continue to receive flood insurance coverage at the subsidized rate.
>
> This problem arises in a unique case in my district in Texas. It is my understanding that this will not have any material effect on the proposed legislation or on the overall flood insurance program other than to prevent undue hardship to a small area of Texas.

A "critical feature" means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised. To permit the definition of "adequate progress" to be applied to a flood protection system without first determining that all critical features are substantially completed, as has been suggested by the commentator, would not be in keeping with the spirit and the letter of the Brooks Amendment in that such action would have a material effect on the flood insurance program. If the commentator's suggestion were implemented, the Federal Insurance Administrator would no longer have assurances that adequate progress is being made toward an effective flood protection system and that the design level of protection would be achieved within a reasonable period of time after insurance rates are reduced and nonstructural floodplain management requirements are eliminated. This is true because if the system were viewed only in the context of percentage completion without reference to critical components then credit could be given to such a system even though no progress was being made on critical components necessary to provide flood protection.

General Comments on Part 65

Two comments were received strongly supporting the requirements of the proposed rule for certification of fill and the inclusion of the requirements for revision of special flood hazard areas, base flood elevations, floodways, and the mapping of areas protected by levees. The commentators noted that the requirements of proposed rule are currently covered by operating procedures within the Agency.

Comments on Data Submissions

Two commentators expressed an opinion that communities should be responsible for notifying FEMA of any changes that affect flooding conditions regardless of when the information became available. The Agency shares the opinion that data should be submitted as early as possible but retained the phrase "within six months of the date that such information becomes available . . ." in the proposed rulemaking to establish a suspense date for receipt of this information to insure administrative efficiency. However, to clarify the intent of this regulation, the final rule will be changed to read:

> As soon as practicable, but not later than six months after the date that such information becomes available, a community shall notify . . .

Two commentators noted that § 65.4 provides communities with the right to request changes to an effective map because of changes in a community's corporate boundaries. These commentators expressed an opinion that the Agency should require communities to notify FEMA of any and all changes in their corporate boundaries. A mandatory reporting requirement on corporate boundary changes already

exists under § 60.2(f) and § 64.4(b) in the current regulations. Since this provision exists, there is no need to modify the language of § 65.4 to incorporate it.

Two commentators expressed the opinion, "where states have jurisdiction over the adoption and amendment of floodplain ordinances, including maps, state concurrence on these changes should be required as a condition of submittal." The Agency recognizes that where states or local communities have adopted floodplain management regulations that are more comprehensive than the minimum Federal criteria specified by Part 60, that these criteria take precedence. However, the delineation of areas of special flood hazard and the establishment of base flood elevations remain a FEMA responsibility and are based on the physical conditions existing at the time the map is created or revised. Since it is the responsibility of FEMA to assure that flood mapping accurately represents current risks, revisions to areas of special flood hazard or base flood elevations based on existing conditions cannot be held in abeyance pending reviews by other levels of government. Section 65.7(b)(3) does require state approval prior to floodway revisions where state jurisdiction is involved.

Comments on Revising Maps Without BFE Changes

Two commentators opined that § 65.5 should be expanded to allow communities to request map revisions based on topographic data where no physical changes have occurred in the floodplain. It was the Agency's intent to also permit this action when no fill has been placed and the natural grade is above the base flood elevation (BFE). The final rule incorporates this clarification.

One commentator asked for a clarification of the procedures FEMA follows in determining whether a parcel of land or a structure shall be excluded from the special flood hazard area (SFHA). The phrase, "special flood hazard area" means the same as "area of special flood hazard" which is defined at § 59.1. If a legally defined parcel of land is to be excluded from the SFHA, then the entire parcel of land must be at or above the BFE. If a structure is to be excluded from the SFHA, then the entire structure, including the basement, if any, must be at or above the base flood elevation. A determination of exclusion for a structure is made by comparing the elevation of the first floor and lowest adjacent grade to the structure with the elevation of the base flood. This clarification has been added to the final rule at §§ 65.5(a)(3), 65.5(a)(4), and 70.4.

Two commentators suggested that FEMA may wish to consider that changes to maps only be made where the physical changes resulting from a fill in the floodplain are contiguous to lands outside the floodplain. The Agency recognizes the concern for evacuation routes during periods of flooding implicit in the suggestion, but has no technical basis for distinguishing a difference in floodplain status between properties under these conditions.

One commentator recommended that the proposed rule include, in the placement of fill provision [§ 65.5(a)] that contact is made with the U.S. Army Corps of Engineers when discharges or dredged or fill material into regulated waters may be involved. The existing regulations, § 60.3(a)(2) already require the contact suggested by the commentator by requiring that the Chief Executive Officer of the community review all proposed developments to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or state law. Specific mention is made here of Section 404 of the Federal Water Pollution Control Act Amendments of 1972.

One commentator voiced agreement with the changes suggested by the proposed rule, specifically ". . . the strengthening of the policy on the use of fill."

One commentator noted that the requirement to certify the compaction of fill would make monitoring and enforcement unnecessarily difficult and imposes undue hardship on residents. The commentator remarked that it would mean extra cost to obtain a certified test and that there were many areas where this type of test cannot be locally obtained. The Agency recognizes that this is a valid concern and there may be instances where the certification of the compaction of fill may be expensive and difficult for an individual homeowner to obtain.

The requirements of § 65.5(a)(6) have been rewritten to provide an exemption to individual home or property owners who submit a request to gain exclusion from an area of special flood hazard for a single structure or a single lot that has been elevated by the placement of fill. These persons are encouraged to take note of the provisions of this section and are urged to reduce their vulnerability and exposure to flooding by voluntarily complying with the design standards specified therein to the extent possible.

Comments on Certification Requirements

Two commentators submitted several comments on the certification requirements of § 65.5(b), 65.6(f), 65.7(d), and 65.10(e) noting, among other things, that in some instances the certifications sought were "performance guarantees" and that the certifications should be limited to only the accuracy of the information provided.

In general, §§ 65.5(b), 65.6(f), 65.7(d), and 65.10(e) of the proposed rule state that the technical information submitted in support of a request for a revision to an effective FEMA map must be certified by a registered professional engineer or licensed land surveyor. This information, which usually consists of topographic maps, survey data, as-built plans, and engineering analyses, is usually submitted, not by disinterested parties, but rather by those who stand to gain in some way from the requested revisions. Given that FEMA is responsible for the information presented on its maps, and because this information is used for insurance purposes and for floodplain management decisions, FEMA must be assured that the information used to revise flood insurance maps is as accurate as possible. The required certification provides this assurance. It would be irresponsible of FEMA to proceed with map revisions in the absence of such certifications. Also, the lack of certifications could lead to extensive requests for corroborating information, therefore causing unnecessary delays and expenses in maintaining FEMA maps as accurate sources of flood risk information. Thus, the requirement for certification of the information submitted to support requests for map revisions is necessary, and should be included in the rule.

The intent of the requirement is not to extract from the person or agency providing the information a guarantee that flood protection structures will function as intended or that specific areas will not be subject to flooding. The intent, rather, is for FEMA to be assured that the person or agency provides data, analyses or other information in accordance with sound practices established by the engineering profession.

Section 62.2 has been amended to include a definition of certification for the intent and purposes Part 65. This definition is cross-referenced under §§ 65.5(c), 65.6(f), 65.7(d) and 65.10(e).

Revision of BFEs

Three commentators noted that the wording of § 65.6(a)(2) was difficult to understand regarding the tie-in to areas not affected by the revision. The Agency has rephrased § 65.6(a)(2) in the final rule to improve its readability.

One commentator concerned with the requirement that revision requests must demonstrate that topographic changes do not encroach in the floodway, asked about raising existing levees within the floodway. Before a community could encroach upon its floodway by adding fill materials to the existing levee, the community would first have to request a revision to its regulatory floodway and demonstrate that the loss of conveyance created by the additional fill materials is offset by other actions the community proposed to take to restore the lost conveyance.

One commentator expressed opposition to using "confidence limit" criteria just for discharges and stated that this should apply to the three foot levee freeboard requirement as well. The "confidence limit" approach is one measure of uncertainty. The proposed rule does not preclude a person seeking an exception from the three foot levee freeboard requirement from using this technique or any other valid measure to establish the level of uncertainty in the water surface elevation profile of the base flood.

Two commentators expressed a desire for the establishment of generalized criteria under which flood levels could be increased by more than the amount specified under the Agency's floodway regulations provided the rights of property owners affected by the increase are protected. This topic was not within the scope of the proposed rulemaking. The Agency has taken this matter under advisement and is formulating a position which could be the subject of future rulemaking during FY 1988.

Comments on Use of Original Computer Model

Sections 65.6(a)(8) and 65.7(c)(2)(i) of the proposed rule required the use of the same hydraulic computer model used in preparing the effective Flood Insurance Rate Map and Flood Boundary Floodway Map when revisions to these maps are proposed. More comments were received on this requirement than on any other portion of the proposed rulemaking on mapping changes. Commentators noted that the original model and data are sometimes not available or outmoded because of natural and man-made changes in the floodplain as well as because of improvements made in computational methodologies. These commentators were also concerned because the wording of the proposed rule also implied that the exact same computer model, not the same hydraulic model, must be used in preparing the revisions. The Agency recognizes these concerns. FEMA's intention in requiring the use of the original hydraulic computer model is to ensure consistency and to prevent the introduction of discrepancies that may be attributable to model differences. The final rule clarifies the Agency's intent with regard to the use of the original model and provides an alternative when it is no longer available.

Comments on Floodway Revisions

One commentator suggested that § 65.7(c)(2)(iii) of the proposed rule read as follows, "The floodway limits must be set so that the combined effects of past and *proposed* encroachments and the new floodway limits do not increase the effective base flood elevations by more than the amount specified in . . ." Once a new floodway is established any proposed encroachments must not result in any increase in flood levels or the entire purpose of a floodway would be defeated. No change has been made in the rule since such a change would circumvent the purpose of establishing floodways.

One commentator noted that the proposed rule at § 65.6(a)(3) stipulates that revisions of Base Flood Elevations (BFEs) cannot be made based on the effects of proposed projects or future conditions. This commentator apparently interpreted this language to preclude any highway activity that would result in a change in BFEs. The commentator misinterpreted these provisions. Section 65.6(a)(3) simply states that only those projects that are in place and effectively functioning can be used as the basis for a map revision. Proposed projects will only result in a map revision when they have achieved "as-built" status.

One commentator stated that § 65.7(c)(2)(iii) implies no increase to effective BFEs more than the limits stated and suggested that this section be crossed referenced to § 65.7(b) since the effective elevations could be in error. Since § 65.7(c) addresses only those changes not affecting base flood determinations, the Agency believes this to be an unnecessary cross reference.

Comments on Review and Response by the Administrator

One commentator suggested that the response time of the Administrator be limited to 30 days instead of the 90 days shown under § 65.9. All requests for revisions are processed by the Agency as expeditiously as possible. Many are granted within the 30 day period suggested by the commentator, but because of the complexity of the technical evaluation and the cartographic effort that must be expended in responding to these requests it is virtually impossible to process all of them within the suggested timeframe. No change has been made to the provisions of § 65.9 by the final rule.

Comments on Mapping of Areas Protected by Levees

Five commentators expressed objections to the criteria of § 65.10 noting in their opinion, that levees providing protection, albeit less than 100-year protection, mitigate flood losses and thought that these levees should be credited for insurance rating purposes. These comments are beyond the scope of the proposed rulemaking. The proposed rulemaking was limited to the specification of criteria for the recognition of levees that provide protection against the 100-year, or base flood for the purpose of identifying areas of special flood hazard. The proposed rulemaking does not address criteria or the establishment of actuarial rates for levees providing lesser degrees of protection. However, the Agency has taken this matter under advisement. It is in the process of considering individual community rating criteria that may incorporate consideration of levees that provide less than 100-year protection. Such criteria would be the subject of future rulemaking.

Four commentators opposed the three foot freeboard requirement for levees and stated that the proposed rule needs to be more flexible in addressing area-specific circumstances associated with an individual river system. Only a small percentage of all earthen levees built with crown elevations at the computed 100-year, or base flood, elevation can be expected to provide protection to the event that has a true one percent annual exceedance probability because of the uncertainty involved in establishing flood elevations, changing hydrologic and hydraulic conditions, and the possibility the levee will fail structurally before it is overtopped. The freeboard requirement is intended to compensate for these uncertainties. Recognizing a levee system as providing 100-year protection on an NFIP map has the net effect of removing all floodplain management requirements, lender notification requirements, and insurance purchase requirements within the area protected by the levee. It is because of these far-reaching impacts that the

Agency has established procedures to recognize only levees that are properly engineered, structurally sound, and have a reasonable expectation of providing the design level of 100-year protection. FEMA first promulgated the levee freeboard requirements in an interim levee policy dated February 10, 1981 and has been operating under that policy since that time. The requirement for a three foot freeboard is consistent with that specified by the Corps of Engineers in Engineering Manuals 1110–2–1913 and 1110–2–1601, Design and Construction of Levees and Hydraulic Design of Flood Control Structures, respectively. It is also consistent with the findings of the National Academy of Science report entitled, "A Levee Policy for the National Flood Insurance Program," wherein it was recommended that new levees should be recognized for the purpose of reducing insurance rates where they provide protection against 100-year or larger floods and where they meet specified structural design criteria including freeboard.

The rulemaking is flexible in addressing area-specific circumstances. These regulations specify an exception process whereby the freeboard requirements would be relaxed if the community or levee owner can demonstrate that protection from the 1 percent chance flood can be reasonably assured with a lesser freeboard. To do so, the party seeking the exception must demonstrate that the uncertainties in the base flood elevations and their impact on the structural stability of the levee itself are relatively small.

Also, the minimum freeboard requirements can be waived if a Federal agency with responsibility for levee design certifies that the levee has been adequately designed, constructed and maintained to provide protection against the base flood.

One commentator noted that the freeboard requirement for coastal levees would be difficult to establish and suggested the proposed rule be modified by either omitting the parenthetical phrase "whichever is higher" or by specifying an acceptable methodology for determining wave periods. The commentator then continued with a discussion of the relative merits of different methodologies. It is evident from the commentator's suggestion that the commentator does not have a problem with the criteria provided an acceptable methodology is used in establishing its parameters. The debate of alternative methodologies is beyond the scope of this rulemaking and the intent of the provision at § 65.10(b)(1)(iii). The Agency will establish or refine acceptable methodologies as it has in the past for other study aspects through coordination and consultation with entities having the cognizant expertise, or with the scientific and professional community.

One commentator suggested a revision to § 65.10(b)(6) to "include high ground water behind the levee system which results from prolonged flooding on the river side of the levee system, especially if damage from such high ground water is not eligible for flood insurance coverage." The Agency was unable to interpret this suggestion or to put it into context so that it could be evaluated for possible inclusion into the rulemaking.

One commentator thought it was inappropriate for FEMA to recognize a large structural project as providing protection from the base flood on NFIP maps and then to reduce insurance rates and eliminate floodplain management requirements in the protected area. The commentator based his supposition on the fact that hurricane flood protection projects are susceptible to damage and failure by coastal storms and erosion and that susceptibility to failure may be compounded by the long term maintenance needs of these projects which may be beyond the financial capabilities of most local governments. The Agency recognizes that such systems are susceptible to damage from coastal storms and the effects of wind, wave and water action and has included provisions in the design criteria to require that the system provides adequate protection. Included in these criteria are requirements for analyses that demonstrate that no appreciable erosion of the levee embankment can be expected during the base flood, as a result of either water currents or waves, and that the anticipated erosion will not result in the failure of the levee embankment or foundation. The rule also requires an officially adopted maintenance plan before a levee will be recognized as providing protection from the base flood. The maintenance activities to be performed must be under the jurisdiction of a Federal or state agency, an agency created by Federal or state laws, or an agency of a community participating in the NFIP.

The same commentator cited recent studies that predict sea level rises in the range of 3 to 6 feet over the next 100 years and expressed the concern that proposed rule appeared to be treating coastal levees as if sea level rise is not occurring. The Agency recognizes that most authorities agree that the sea level will rise during the next century, but also recognizes that there is much disagreement when it comes to quantifying the expected rise. The values cited by the commentator are the greatest expected. The Agency is limited to mapping conditions as they exist at the time of the study because the studies are used to establish actuarial insurance rates that must reflect the existing risk for the area in question. The Agency has a maintenance program of keeping flood risk data current and accurate through map revisions and restudies. Even if restudies were conducted for an area once every 20 years, the restudy process will be sufficient to keep flood hazard identifications current with the slowly changing risk induced by sea level rise.

Comments on Mapping Definitions

One commentator suggested that the term "accepted engineering standards" to be found in § 59.1 under the proposed definitions for "Levee" and "Levee System" needs to be clarified, referenced and better specified—especially regarding the freeboard issue. Clarification regarding the freeboard requirements have been provided elsewhere in the section addressing comments received on the proposed rule. The terms "accepted engineering standards" and "sound engineering practices" appear in the literature with the latter being cited more frequently when the intent is to convey that the actions of a registered professional engineer would pass the scrutiny of, or meet with, the approval of a peer board of review. Since the latter is slightly more favored by the literature, the definitions of "Levee" and "Levee System" will be revised by the final rule to incorporate the phrase "sound engineering practices."

One commentator voiced the concern that the revised definition of "mean sea level" to be the National Geodetic Vertical Datum of 1929 (NGVD) or other datum could possibly lead to confusion if the "other datum" is not specified on the Flood Insurance Rate Map (FIRM). The FIRM always specifies the datum to which the Base Flood Elevations (BFEs) are referenced. In the vast majority of instances, the FIRM is referenced to NGVD. In those rare instances when a FIRM is referenced to another datum, particular care is taken to ensure that the FIRM bears a reference to the datum used in a prominent and conspicuous place.

Changes in the Final Rule From the Proposed Rule for Mapping

The final rule contains the following changes in regard to the mapping changes described in §§ 59.1 and 61.12

and Parts 65 and 70 of the proposed rule published on March 28, 1986:

1. The definitions of "Levee" and "Levee System" of § 59.1 have been refined by replacing the phrase "accepted engineering standards" with "sound engineering practices" which is more commonly used in the literature.

2. The requirement to submit new technical data under § 65.3 was changed to read "As soon as practicable, but in no event later than six months after the date that information becomes available . . ." This change was made to place emphasis on the administrative need for the timely submission of data.

3. A new paragraph (b) was added to § 65.5 and the paragraph (b) of the proposed rule was redesignated (c). This addition was made to provide communities with an opportunity to request map revisions that are solely based on new or improved topographical maps.

4. Sentences have been added to §§ 65.5(a)(3), 65.5(a)(4), and 70.4 to describe how determinations will be made as to whether entire parcels of land or structures should be excluded from the area of special flood hazard (100-year floodplain).

5. A definition of "certification" by a registered professional engineer or other party has been added to § 65.2 and is incorporated by reference in §§ 65.5(c), 65.6(f), 65.7(d), and 65.10(e).

6. The Agency has added language to the rule at § 65.5(a)(6) to alleviate the economic burden individual home and property owners would have otherwise incurred in complying with the design criteria for the placement of fill.

7. The Agency has added a new paragraph (7) to § 65.5(a). This change was necessary to be consistent with § 65.6(a)(10) which denies map revision requests when it is demonstrated that topographic changes in the floodplain have caused an encroachment of the floodway.

8. Section 65.6(a)(8) has been revised to provide the map revision requestor with an alternative to using the original hydraulic computer model which may no longer be available.

9. Section 65.7(c)(2)(ii) has been revised to provide the map revision requestor with an alternative to using the original hydraulic computer model which may no longer be available or is inappropriate to use.

10. The Agency has revised § 65.10(b) to clarify its intent in specifying design criteria.

In addition to the changes described above the final rule also made a few minor editorial or typographical corrections to the proposed rule.

Three commentators took exception to FEMA's finding that the establishment of levee design criteria by the proposed rule would not have a significant economic impact. Two of these three commentators also took exception with the finding that the rule does not have significant environmental impact and requested that an environmental impact statement be prepared and circulated for public comment. The basic reason cited for taking exception to FEMA's findings would be the costs these three communities might incur in implementing the levee design criteria to have a levee recognized as providing 100-year flood protection.

The rule does not advocate or encourage levee construction. Nor does it set any mandatory requirements for levee construction. It provides criteria for evaluating when existing or new levees should be recognized as providing protection from the 100-year flood for purposes of identifying areas of special flood hazard on NFIP maps.

FEMA recently completed a levee inventory of about 12,200 communities. These were all the communities that had an effective FIRM. About 6.7% of these communities, or 816, had levee systems providing 100-year or greater flood protection. This percentage would support FEMA's finding that, even though the rule does not advocate construction of flood protection systems and compliance with the criteria is voluntary, the rule does not have a significant economic impact on a substantial number of entities and, therefore, a regulatory flexibility analysis is not required.

In addition to the changes discussed above that this final rule made to the proposed rule, some changes of an editorial nature were also made.

FEMA has determined, based upon an Environmental Assessment, that this rule does not have significant impact upon the quality of the human environment. As a result, an Environment Impact Statement will not be prepared. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

This rule does not have a significant economic impact on a substantial number of small entities and has not undergone regulatory flexibility analysis.

This rule is not a "major rule" as defined in Executive Order 12291, dated February 27, 1981, and, hence, no regulatory analysis has been prepared.

FEMA has determined that this rule does not contain a collection of information requirement as described in section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Parts 59, 60, 61, 65, 70, 73, and 76

Flood insurance, Flood plains, Grant programs, National resources, Intergovernmental relations.

Accordingly, 44 CFR Chapter 1, Subchapter B is amended as follows:

PART 59—GENERAL PROVISIONS

1. The authority citation for Part 59 continues to read as follows and all authority citations to individual sections are removed:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 59.1 [Amended]

2. Section 59.1 is amended as follows:

a. By adding, alphabetically, a definition of "Critical feature" to read as follows:

* * * * *

"Critical feature" means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

* * * * *

b. By removing the definition of "Existing mobile home park or mobile home subdivision."

c. By removing the definition of "Expansion to an existing mobile home park or mobile home subdivision."

d. By adding, alphabetically, a definition of "Functionally dependent use" to read as follows:

* * * * *

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

* * * * *

e. By adding, alphabetically, a definition of "Levee" to read as follows:

* * * * *

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of

water so as to provide protection from temporary flooding.

* * * * *

f. By adding, alphabetically, a definition of "Levee system" to read as follows:

* * * * *

"Levee System" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

* * * * *

g. By adding, alphabetically, a definition of "Manufactured home" to read as follows:

* * * * *

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

* * * * *

h. By adding, alphabetically, a definition of "Manufactured home park or subdivision" to read as follows:

* * * * *

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

* * * * *

i. By revising the definition of "Mean sea level" to read as follows:

* * * * *

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

* * * * *

j. By removing the definition of "Mobile home."

k. By removing the definition of "Mobile home park or mobile home subdivision."

l. By removing the definition of "New mobile home park or mobile home subdivision."

m. By adding, alphabetically, a definition of "Program deficiency" to read as follows:

* * * * *

"Program deficiency" means a defect in a community's flood plain management regulations or administrative procedures that impairs effective implementation of those flood plain management regulations or of the standards in §§ 60.3, 60.4, 60.5, or 60.6.

* * * * *

n. By adding, alphabetically, a definition of "Remedy a violation" to read as follows:

* * * * *

"Remedy a violation" means to bring the structure or other development into compliance with State or local flood plain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

* * * * *

o. By revising the definition of "Start of construction" to read as follows:

* * * * *

"Start of Construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

* * * * *

p. By removing in the definition of "Structure" the phrase "mobile home" both times it appears and adding in its place both times the phrase "manufactured home" and by adding before the word "foundation" the words "a permanent".

q. By adding, alphabetically, a definition of "Violation" to read as follows:

* * * * *

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

* * * * *

r. By adding, alphabetically, a cross reference from "V zone" to "Coastal high hazard area" to read as follows:

* * * * *

"V Zone"—see "coastal high hazard area."

* * * * *

s. By revising the definition of "Water surface elevation" to read as follows:

* * * * *

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

3. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 60.3 [Amended]

4. Section 60.3 is amended in the following particulars:

a. By removing in paragraph (a)(1) the phrase "mobile homes" and adding in its place the phrase "manufactured homes".

b. By revising paragraph (a)(3) to read as follows:

* * * * *

(a) * * *

(3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads,

including the effects of buoyancy, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

* * * * *

c. By adding in the first sentence of paragraph (a)(4) between the words "development" and "to" the phrase ", including manufactured home parks or subdivisions,".

d. By removing in paragraphs (b)(1) and (b)(8) (twice) the phrase "mobile homes" and adding in its place the phrase "manufactured homes".

e. By revising paragraphs (b)(3) through (b)(5) to read as follows:

* * * * *

(b) * * *

(3) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data;

(4) Obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including data developed pursuant to paragraph (b)(3) of this section, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community's FHBM or FIRM meet the standards in paragraphs (c)(2), (c)(3), (c)(5), (c)(6), (d)(2) and (d)(3) of this section;

(5) Where base flood elevation data are utilized, within Zone A on the community's FHBM or FIRM:

(i) Obtain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures, and

(ii) Obtain, if the structure has been floodproofed in accordance with paragraph (c)(3)(ii), the elevation (in relation to mean sea level) to which the structure was floodproofed, and

(iii) Maintain a record of all such information with the official designated by the community under § 59.22 (a)(9)(iii);

* * * * *

f. By removing paragraph (b)(9).

g. In paragraph (c)(2), by removing the phrase "and/or storm cellars" and also by removing the phrase "§ 60.6(b)(3) and (b)(4)" and adding in its place the phrase "§ 60.6 (b) or (c)".

h. By revising paragraphs (c)(5) and (c)(6) to read as follows:

* * * * *

(c) * * *

(5) Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(6) Require that all manufactured homes to be placed or substantially improved within Zones A1–30, AH, and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of paragraph (b)(8) of this section.

* * * * *

i. By removing paragraph (d)(4).

j. By removing paragraph (e)(7) and redesignating paragraph (e)(8) as (e)(7).

§ 60.6 [Amended]

5. Section 60.6 is amended in the following particulars:

a. By adding paragraph (a)(7) to read as follows:

(a) * * *

(7) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria of (a)(1) through (a)(4) of this section are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

* * * * *

b. By removing paragraphs (b)(3) and (b)(4).

c. By adding paragraph (c) to read as follows:

* * * * *

(c) A community may propose flood plain management measures which adopt standards for floodproofed residential basements below the base flood level in zones A1–30, AH, AO, and AE which are not subject to tidal flooding. Nothwithstanding the requirements of paragraph (b) of this section the Administrator may approve the proposal provided that:

(1) The community has demonstrated that areas of special flood hazard in which basements will be permitted are subject to shallow and low velocity flooding and that there is adequate flood warning time to ensure that all residents are notified of impending floods. For the purposes of this paragraph flood characteristics must include:

(i) Flood depths that are five feet or less for developable lots that are contiguous to land above the base flood level and three feet or less for other lots;

(ii) Flood velocities that are five feet per second or less; and

(iii) Flood warning times that are 12 hours or greater. Flood warning times of two hours or greater may be approved if the community demonstrates that it has a flood warning system and emergency plan in operation that is adequate to ensure safe evacuation of flood plain residents.

(2) The community has adopted flood plain management measures that require that new construction and substantial improvements of residential structures with basements in zones A1–30, AH, AO, and AE shall:

(i) Be designed and built so that any basement area, together with attendant utilities and sanitary facilities below the floodproofed design level, is watertight with walls that are impermeable to the passage of water without human intervention. Basement walls shall be built with the capacity to resist hydrostatic and hydrodynamic loads and the effects of buoyancy resulting from flooding to the floodproofed design level, and shall be designed so that minimal damage will occur from floods that exceed that level. The floodproofed design level shall be an elevation one foot above the level of the base flood where the difference between the base flood and the 500-year flood is three feet or less and two feet above the level of the base flood where the difference is greater than three feet.

(ii) Have the top of the floor of any basement area no lower than five feet below the elevation of the base flood;

(iii) Have the area surrounding the structure on all sides filled to or above

the elevation of the base flood. Fill must be compacted with slopes protected by vegetative cover;

(iv) Have a registered professional engineer or architect develop or review the building's structual design, specifications, and plans, including consideration of the depth, velocity, and duration of flooding and type and permeability of soils at the building site, and certify that the basement design and methods of construction proposed are in accordance with accepted standards of practice for meeting the provisions of this paragraph;

(v) Be inspected by the building inspector or other authorized representative of the community to verify that the structure is built according to its design and those provisions of this section which are verifiable.

6. Section 60.25 is revised to read as follows:

§ 60.25 Designation, duties, and responsibilities of State Coordinating Agencies.

(a) States are encouraged to demonstrate a commitment to the minimum flood plain management criteria set forth in §§ 60.3, 60.4, and 60.5 as evidenced by the designation of an agency of State government to be responsible for coordinating the Program aspects of flood plain management in the State.

(b) State participation in furthering the objectives of this part shall include maintaining capability to perform the appropriate duties and responsibilities as follows:

(1) Enact, whenever necessary, legislation enabling counties and municipalities to regulate development within flood-prone areas;

(2) Encourage and assist communities in qualifying for participation in the Program;

(3) Guide and assist county and municipal public bodies and agencies in developing, implementing, and maintaining local flood plain management regulations;

(4) Provide local governments and the general public with Program information on the coordination of local activities with Federal and State requirements for managing flood-prone areas;

(5) Assist communities in disseminating information on minimum elevation requirements for development within flood-prone areas;

(6) Assist in the delineation of riverine and coastal flood-prone areas, whenever possible, and provide all relevant technical information to the Administrator;

(7) Recommend priorities for Federal flood plain management activities in relation to the needs of county and municipal localities within the State;

(8) Provide notification to the Administrator in the event of apparent irreconcilable differences between a community's local flood plain management program and the minimum requirements of the Program;

(9) Establish minimum State flood plain management regulatory standards consistent with those established in this part and in conformance with other Federal and State environmental and water pollution standards for the prevention of pollution during periods of flooding;

(10) Assure coordination and consistency of flood plain management activities with other State, areawide, and local planning and enforcement agencies;

(11) Assist in the identification and implementation of flood hazard mitigation recommendations which are consistent with the minimum flood plain management criteria for the Program;

(12) Participate in flood plain management training opportunities and other flood hazard preparedness programs whenever practicable.

(c) Other duties and responsibilities, which may be deemed appropriate by the State and which are to be officially designated as being conducted in the capacity of the State Coordinating Agency for the Program, may be carried out with prior notification of the Administrator.

(d) For States which have demonstrated a commitment to and experience in application of the minimum flood plain management criteria set forth in §§ 60.3, 60.4, and 60.5 as evidenced by the establishment and implementation of programs which substantially encompass the activities described in paragraphs (a), (b), and (c) of this section, the Administrator shall take the foregoing into account when:

(1) Considering State recommendations prior to implementing Program activities affecting State communities;

(2) Considering State approval or certifications of local flood plain management regulations as meeting the requirements of this part.

PART 61—INSURANCE COVERAGE AND RATES

7. The authority citation for Part 61 continues to read as follows and all authority citations to individual sections are removed:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 61.3 [Amended]

8. Section 61.3 is amended by removing the last sentence.

§ 61.5 [Amended]

9. Section 61.5 is amended as follows:

a. In paragraph (d), by removing in the second sentence the semicolon after "$500.00" the second time that amount appears and adding in its place a period, and by removing the remainder of that sentence.

b. By revising paragraph (f)(2) to read as follows:

* * * * *

(f) * * *

(2) A building, and its contents, located entirely in, on, or over water or seaward of mean high tide, if the building was newly constructed or substantially improved on or after October 1, 1982.

* * * * *

c. By removing in paragraph (f)(4) the words "paved or poured".

d. In paragraph (f)(8), by removing the word "mobile" both times it appears and adding in its place both times the phrase "manufactured (i.e., mobile)" and by removing the words "and affixed to a permanent site" and adding in their place the words "to a permanent foundation" and by adding before the words "foundation continuously" the word "permanent".

e. By removing paragraph (f)(9) and redesignating paragraphs (f)(10) and (f)(11) as (f)(9) and (f)(10) respectively.

f. In newly designated paragraph (f)(9), by removing the word "mobile" and adding in its place the word "manufactured"; by adding after the words "on all sides" the phrase "(except for drywalls and sheetrock walls and ceilings, whether finished or unfinished, all only to the extent of replacing them with unfinished (i.e., nailed to framing but not taped or otherwise finished with paint or other covering) drywall or sheetrock ceilings or walls, and except for fiberglass insulation)"; by adding after the words "gas tanks" the words "and the gas in them"; by adding after the word "freezers" the words "and the food in them"; and by adding to the end of the paragraph, before the period, the words "and for elevators and relevant equipment, except for such relevant equipment located below the base flood elevation if such relevant equipment was installed on or after October 1, 1987".

§ 61.11 [Amended]

10. Paragraph (e) of § 61.11 is amended by removing in both the third and fourth sentences the words "at the NFIP" and by removing in the fifth

sentence the words "by the NFIP" and adding in their place each of the three times the words "at the office of the NFIP".

§ 61.12 [Amended]

11. Section 61.12 is amended by revising paragraph (b)(4) to read as follows:

* * * * *

(b) * * *

(4) All critical features of the flood protection system, as identified by the Administrator, are under construction, and each critical feature is 50 percent completed as measured by the actual expenditure of the estimated construction budget funds; and

* * * * *

Appendix A(1) of Part 61—[Amended]

12. Appendix A(1) of Part 61, Standard Flood Insurance Policy, is amended as follows:

a. Article II—Definitions is amended by adding, alphabetically, a definition of "Base flood" to read as follows:

* * * * *

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

* * * * *

b. In Article II—Definitions, the definition of "Building" is amended by adding a comma after the word "tank" and by removing the words "mobile home on" and adding in their place the words "manufactured (i.e., mobile) home on a permanent".

c. In Article II—Definitions, the definition of "Direct Physical Loss by or from Flood" is amended by removing the phrase "(building or personal property contents)" and adding in its place the phrase "(building or contents (personal property))"; by removing the phrase "the property shall necessarily be removed" and adding in its place the phrase "the insured property shall necessarily be removed"; and by removing the phrase "your insured property away from the peril of flood and storing your property at the temporary location shall be reimbursed to you." and adding in its place the phrase "any of your insured property temporarily away from the peril of flood and storing this property at the temporary location (not exceeding 45 days) shall be reimbursed to you for buildings in an amount up to the amount of the minimum building deductible and for contents in an amount up to the amount of the minimum contents deductible. This policy's deductible amounts, as provided for at Article VI, shall not be applied to this reimbursement, but shall be applied to any other benefits under this policy's coverage."

d. Article II—Definitions is amended by removing the definition of "Doublewide Mobile Home".

e. Article II—Definitions is amended by adding, alphabetically, a definition of "Manufactured home" to read as follows:

* * * * *

"Manufactured home" means a building transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles. To be eligible for coverage under this policy, a manufactured home must be on a permanent foundation and if located in a FEMA designated Special Flood Hazard Area, must meet the requirements of paragraph H of Article V.

* * * * *

f. Article II—Definitions is amended by adding, alphabetically, a definition of "Mobile home" to read as follows:

* * * * *

"Mobile home" means a manufactured home.

* * * * *

g. In Article III—Losses Not Covered, paragraph B is amended by removing paragraph 1 and redesignating paragraphs 2 through 7 as 1 through 6 respectively and by removing the word "internationally" and adding in its place the word "intentionally" in newly designated paragraph B.4.

h. In Article IV—Property Covered, paragraph A is amended by removing in paragraph 1 the words "or, as described in the Application as a residence designed for principal use as a dwelling place for no more than one family, we cover your dwelling unit in a condominium building, along with your insurable tenant in common interest in the building's common elements" and adding in its place the words "or we cover your dwelling unit in a condominium building, along with your insurable tenant in common interest in that building's common elements, if your dwelling unit is a residence designed for principal use as a dwelling place for no more than one family and if it is so described in the Application" and by adding paragraphs 6 and 7 to read as follows:

* * * * *

6. A building in the course of construction before it is walled and roofed subject to the following conditions: (i) The amount of the deductible for each loss occurrence before the building is walled and roofed is two times the deductible which is selected to apply after the building is walled and roofed; (ii) coverage is provided before the building is walled and roofed only while construction is in progress, or if construction is halted, only for a period of up to 90 continuous days thereafter, until construction is resumed; and (iii) there is no coverage before the building is walled and roofed where the lowest floor, including basement floor, of a non-elevated building or the lowest elevated floor of an elevated building is below the base flood elevation in Zones AH, AE or A1–30 or is below the base flood elevation adjusted to include the effect of wave action in Zones VE or VI–30. The lowest floor levels are based on the bottom of the lowest horizontal structural member of the floor in Zones VE or V1–30 and the top of the floor in Zones AH, AE or A1–30.

7. When the insurance under this policy covers a building, the reasonable expenses incurred by you for the purchase of (i) sandbags, including sand to fill them and plastic sheeting and lumber used in connection with them, (ii) fill for temporary levees, (iii) pumps, and (iv) wood, all for the purpose of saving the building due to the imminent danger of a flood loss, including the value of your own labor at prevailing Federal minimum wage rates, are a covered loss in an aggregate amount up to the amount of the minimum building deductible. The policy's building deductible amount, as provided for at Article VI, shall not be applied to this reimbursement, but shall be applied to any other benefits under the policy's building coverage. For reimbursement under this paragaraph 7 to apply, the following conditions must be met:

(i) The insured property must be in imminent danger of sustaining flood damage; and

(ii) The threat of flood damage must be of such imminence as to lead a person of common prudence to apprehend flood damage; and

(iii) A general and temporary condition of flooding in the area must occur, even if the flooding does not reach the insured property, or a legally authorized official must issue an evacuation order or other civil order for the community in which the insured property is located calling for measures to preserve life and property from the peril of flood.

* * * * *

i. In Article IV—Property Covered, paragraph C is amended by removing the heading "Limitation" and adding in its place the heading "Limitations".

j. In Article V—Property Not Covered, paragraph B is revised to read as follows:

* * * * *

B. A building, and its contents, located entirely in, on, or over water or seaward of mean high tide, if the building was newly constructed or substantially improved on or after October 1, 1982.

* * * * *

k. In Article V—Property Not Covered, paragraph C is amended by removing the word "outdoor".

l. In Article V—Property Not Covered, paragraph D is amended by removing the words "paved or poured".

m. In Article V—Property Not Covered, paragraph F is amended by removing the word "mobile" and adding in its place the words "manufactured (i.e., mobile)"; by adding after the words "on all sides" the phrase "(except for drywalls and sheetrock walls and ceilings, whether finished or unfinished, all only to the extent of replacing them with unfinished (i.e., nailed to framing but not taped or otherwise finished with paint or other covering) drywall or sheetrock ceilings or walls, and except for fiberglass insulation)"; by adding after the words "gas tanks" the words "and the gas in them"; and by adding after the word "freezers" the words "and the food in them"; and by adding to the end of the paragraph, before the period, the words "and for elevators and relevant equipment, except for such relevant equipment located below the base flood elevation if such relevant equipment was installed on or after October 1, 1987".

n. In Article V—Property Not Covered, paragraph H is amended by removing the word "mobile" both times it appears and adding in its place both times the words "manufactured (i.e., mobile)" and by removing the words "and affixed to a permanent site" and adding in their place the words "to a permanent foundation" and by adding before the words "foundation continuously" the word "permanent".

o. Article V—Property Not Covered is amended by removing paragraph J and redesignating paragraph K as J.

p. In Article VI—Deductibles, paragraph B is revised to read as follows:

* * * * *

B. The loss deductible shall apply separately to each building loss and contents (personal property) loss including, as to each, any appurtenant structure loss and debris removal expense.

* * * * *

q. Article VI—Deductibles, is amended by removing paragraph D.

r. In Article VII—Replacement Cost Provisions, paragraph G is amended by removing the words "mobile home" and adding in their place the words "manufactured (i.e., mobile) home which when assembled is not at least 16 feet wide or does not have an area within its perimeter walls of at least 600 square feet".

s. In Article VIII—General Conditions and Provisions, paragraph D is amended by removing in the last sentence the words "without the consent of the Administrator".

t. In Article VIII—General Conditions and Provisions, paragraph F is amended in the last sentence of paragraph 1.d thereof by removing the comma after the word "year" and adding in its place a closing parenthesis and by removing the closing parenthesis before the semicolon.

u. In Article VIII—General Conditions and Provisions, paragraph G is amended by removing in the sixth sentence the words "received by the NFIP prior" and adding in their place the words "received at the office of the NFIP prior" and by removing in the seventh sentence both times they appear the words "by the NFIP" and adding in their place both times the words "at the office of the NFIP".

v. In Article VIII—General Conditions and Provisions, paragraph H is amended by adding in the first sentence after the word "time" and before the following comma the words "and at your own expense" and by removing the remainder of paragraph H after the first sentence.

w. In Article VIII—General Conditions and Provisions, paragraph I is amended by removing paragraph 2 and redesignating paragraphs 3 through 7 as 2 through 6 respectively.

x. In Article VIII—General Conditions and Provisions, paragraph O is amended by removing the word "items" in the first paragraph and adding in its place the word "coverage".

y. Article VIII—General Conditions and Provisions is amended by adding paragraph S to read as follows:

* * * * *

S. Continuous Lake Flooding: Where the insured building has been inundated by rising lake waters continuously for 90 days or more and it appears reasonably certain that a continuation of this flooding will result in damage, reimbursable under this policy, to the insured building equal to or greater than the building policy limits plus the deductible or the maximum payable under the policy for any one building loss, we will pay you the lesser of these two amounts without waiting for the further damage to occur if you sign a release agreeing (i) to make no further claim under this policy, (ii) not to seek renewal of this policy, and (iii) not to apply for any flood insurance under the National Flood Insurance Act of 1968, as amended, for property at the property location of the insured building. If the policy term ends before the insured building has been flooded continuously for 90 days, the provisions of this paragraph S still apply so long as the first building damage reimbursable under this policy from the continuous flooding occurred before the end of the policy term.

Appendix A(2) of Part 61—[Amended]

13. Appendix A(2) of Part 61, Standard Flood Insurance Policy, is amended as follows:

a. The first paragraph following the heading "GENERAL PROPERTY FORM" in Appendix A(2) is amended by removing the misspelled word "resonable" and adding in its place the word "reasonable"; by removing the phrase "loss. Without" and adding in its place the phrase "loss, without"; by removing the word "only" and adding in its place the word "any"; and by removing the phrase "*direct loss by or from 'flood'*" and by adding in its place the phrase "*'direct loss by or from flood'*".

b. The first sentence of the second paragraph following the heading "GENERAL PROPERTY FORM" in Appendix A(2) is amended by adding after the word "policy" the phrase ", in writing," and by adding after the word "allowed" the phrase "upon transfer of title except for (i) a contents only policy and (ii) a policy issued to cover a building in the course of construction."

c. The DEFINITIONS section is amended by adding, alphabetically, a definition of "Base flood" to read as follows:

* * * * *

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

* * * * *

d. In the DEFINITIONS section, the definition of "Building" is amended by adding a comma after the word "tank" and by removing the words "mobile home on" and adding in their place the words "manufactured (i.e., mobile) home on a permanent".

e. In the DEFINITIONS section, the definition of "Direct physical loss by or from flood" is amended by removing the phrase "(building or personal property contents)" and adding in its place the phrase "(building or contents (personal property))"; by removing the phrase "the property shall necessarily be removed" and adding in its place the phrase "the insured property shall necessarily be removed"; by adding after the phrase "against loss)" and before the period the words "in which case the reasonable expenses incurred by the Insured in moving any of the insured property temporarily away from the peril of flood and storing this property at the temporary location (not exceeding 45 days) shall be reimbursed to the Insured for buildings in an amount up to the amount of the minimum building deductible and for contents in an amount up to the amount of the minimum contents deductible. This policy's deductible amounts, as provided for herein under "DEDUCTIBLES", shall not be applied to this reimbursement, but shall be applied to any other benefits under this policy's coverage."; and by removing after the word "ordinance" and before

the word "regulating" the words "or repair".

f. The DEFINITIONS section is amended by removing the definition of "Double-wide mobile home".

g. The DEFINITIONS section is amended by adding, alphabetically, a definition of "Manufactured home" to read as follows:

* * * * *

"Manufactured home" means a building, transportable in one or more section, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles. To be eligible for coverage under this policy, a manufactured home must be on a permanent foundation and if located in a FEMA designated Special Flood Hazard Area, must meet the requirements of paragraph H of PROPERTY NOT COVERED.

* * * * *

h. The DEFINITIONS section is amended by adding, alphabetically, a definition of "Mobile home" to read as follows:

* * * * *

"Mobile home" means a manufactured home.

* * * * *

i. The PERILS EXCLUDED section is amended by removing paragraph F and redesignating paragraphs G through K as F through J respectively.

j. In the PROPERTY COVERED section, paragraph A is amended by adding after the phrase "A. Building." the number "1." and by adding paragraphs 2 and 3 to read as follows:

* * * * *

2. When the insurance under this policy covers a building in the course of construction, such insurance shall apply before the building is walled and roofed subject to the following conditions: (i) The amount of the deductible for each loss occurrence before the building is walled and roofed is two times the deductible which is selected to apply after the building is walled and roofed; (ii) coverage is provided before the building is walled and roofed only while construction is in progress, or if construction is halted, only for a period of up to 90 continuous days thereafter, until construction is resumed; and (iii) there is no coverage before the building is walled and roofed where the lowest floor, including basement floor, of a non-elevated building or the lowest elevated floor of an elevated building is below the base flood elevation in Zones AH, AE or A1–30 or is below the base flood elevation adjusted to include the effect of wave action in Zones VE or VI–30. The lowest floor levels are based on the bottom of the lowest horizontal structural member of the floor in Zones VE or V1–30 and the top of the floor in Zones AH, AE or AI–30.

3. When the insurance under this policy covers a building, the reasonable expenses incurred by the Insured for the purchase of (i) sandbags, including sand to fill them and plastic sheeting and lumber used in connection with them, (ii) fill for temporary levees, (iii) pumps, and (iv) wood, all for the purpose of saving the building due to the imminent danger of a flood loss, are a covered loss in an aggregate amount up to the amount of the minimum building deductible. The policy's building deductible amount, as provided for herein under "DEDUCTIBLES," shall not be applied to this reimbursement, but shall be applied to any other benefits under the policy's building coverage. For reimbursement under this paragraph 3 to apply, the following conditions must be met:

(i) The insured property must be in imminent danger of sustaining flood damage; and

(ii) The threat of flood damage must be of such imminence as to lead a person of common prudence to apprehend flood damage; and

(iii) A general and temporary condition of flooding in the area must occur, even if the flooding does not reach the insured property, or a legally authorized official must issue an evacuation order or other civil order for the community in which the insured property is located calling for measures to preserve life and property from the peril of flood.

* * * * *

k. In the PROPERTY NOT COVERED section, paragraph B is revised to read as follows:

* * * * *

B. A building, and its contents, located entirely in, on, or over water or seaward of mean high tide, if the building was newly constructed or substantially improved on or after October 1, 1982.

* * * * *

l. In the PROPERTY NOT COVERED section, paragraph D is amended by removing the words "paved or poured".

m. In the PROPERTY NOT COVERED section, paragraph F is amended by removing the word "mobile and adding in its place the word "manufactured (i.e., mobile)"; by adding after the words "on all sides" the phrase "(except for drywalls and sheetrock walls and ceilings, whether finished or unfinished, all only to the extent of replacing them with unfinished (i.e., nailed to framing but not taped or otherwise finished with paint or other covering) drywall or sheetrock ceilings or walls, and except for fiberglass insulation)"; by adding after the words "gas tanks" the words "and the gas in them", by adding after the word "freezers" the words "and the food in them"; and by adding to the end of the paragraph, before the period, the words "and for elevators and relevant equipment, except for such relevant equipment located below the base flood elevation if such relevant equipment was installed on or after October 1, 1987".

n. In the PROPERTY NOT COVERED section, paragraph H is amended by removing the word "mobile" both times it appears and adding in its place both times the words "manufactured (i.e., mobile)" and by removing the words "and affixed to a permanent site" and adding in their place the words "to a permanent foundation" and by adding before the words "foundation continuously" the word "permanent".

o. The PROPERTY NOT COVERED section is amended by removing paragraph J and redesignating paragraph K as J.

p. In the DEDUCTIBLES section, paragraph B is amended by removing the phrase ", the reasonable expenses incurred by the Insured pursuant to paragraph 'F' of Perils Excluded," and by removing the word "coverage" and adding in its place the words "expenses covered".

q. The DEDUCTIBLES section is amended by removing paragraph D.

r. In the GENERAL CONDITIONS AND PROVISIONS section, paragraph G is amended in the first sentence by removing the words "Permission is granted to" and adding in their place the words "The Insured may, at the Insured's own expense," and by removing between the words "and" and "complete" the word "to" and is further amended by removing the remainder of paragraph G after the first sentence.

s. In the GENERAL CONDITIONS AND PROVISIONS section, paragraph J is amended by removing in the sixth sentence the words "received by the NFIP prior" and adding in their place the words "received at the office of the NFIP prior" and by removing in the seventh sentence both times they appear the words "by the NFIP" and adding in their place both times the words "at the office of the NFIP".

t. In the GENERAL CONDITIONS AND PROVISIONS section, paragraph M is amended by removing the word *"items"* in the italics heading and adding in its place the word *"coverage"*.

u. In the GENERAL CONDITIONS AND PROVISIONS section, paragraph P is amended by removing the phrase "protect the property from further damage," in the first sentence.

v. The GENERAL CONDITIONS AND PROVISIONS section is amended by adding paragraph W just above the sentence which reads in part "IN WITNESS WHEREOF . . ." to read as follows:

* * * * *

W. Continuous Lake Flooding: Where the insured building has been inundated by rising lake waters continuously for 90 days or more and it appears reasonably certain that a continuation of this flooding will result in damage, reimbursable under this policy, to

the insured building equal to or greater than the building policy limits plus the deductible or the maximum payable under the policy for any one building loss, the Insurer will pay the Insured the lesser of these two amounts without waiting for the further damage to occur if the Insured signs a release agreeing (i) to make no further claim under this policy, (ii) not to seek renewal of this policy, and (iii) not to apply for any flood insurance under the National Flood Insurance Act of 1968, as amended, for property at the property location of the insured building. If the policy term ends before the insured building has been flooded continuously for 90 days, the provisions of this paragraph W still apply so long as the first building damage reimbursable under this policy from the continuous flooding occurred before the end of the policy term.

Appendix C of Part 61—[Removed]

14. Part 61 is amended by removing Appendix C.

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

15. The authority citation for Part 65 is revised to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978; E.O. 12127.

16. Sections 65.2, 65.3, and 65.4 are revised to read as follows:

§ 65.2 Definitions.

(a) Except as otherwise provided in this part, the definitions set forth in Part 59 of this subchapter are applicable to this part.

(b) For the purpose of this part, a certification by a registered professional engineer or other party does not constitute a warranty or guarantee of performance, expressed or implied. Certification of data is a statement that the data is accurate to the best of the certifier's knowledge. Certification of analyses is a statement that the analyses have been performed correctly and in accordance with sound engineering practices. Certification of structural works is a statement that the works are designed in accordance with sound engineering practices to provide protection from the base flood. Certification of "as built" conditions is a statement that the structure(s) has been built according to the plans being certified, is in place, and is fully functioning.

§ 65.3 Requirement to submit new technical data.

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Administrator of the changes by submitting technical or scientific data in accordance with this part. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

§ 65.4 Right to submit new technical data.

(a) A community has a right to request changes to any of the information shown on an effective map that does not impact flood plain or floodway delineations or base flood elevations, such as community boundary changes, labeling, or planimetric details. Such a submission shall include appropriate supporting documentation in accordance with this part and may be submitted at any time.

(b) All requests for changes to effective maps, other than those initiated by FEMA, must be made in writing by the Chief Executive Officer of the community (CEO) or an official designated by the CEO. Should the CEO refuse to submit such a request on behalf of another party, FEMA will agree to review it only if written evidence is provided indicating the CEO or designee has been requested to do so.

17. Part 65 is amended by adding §§ 65.5, 65.6, 65.7, 65.8, 65.9, 65.10, and 65.11 to read as follows:

§ 65.5 Revision to special hazard area boundaries with no change to base flood elevation determinations.

(a) *Data requirements for topographic changes.* In many areas of special flood hazard (excluding V zones and floodways) it may be feasible to elevate areas with earth fill above the base flood elevation. Scientific and technical information to support a request to gain exclusion from an area of special flood hazard of a structure or parcel of land that has been elevated by the placement of fill shall include the following:

(1) A copy of the recorded deed indicating the legal description of the property and the official recordation information (deed book volume and page number) and bearing the seal of the appropriate recordation official (e.g., County Clerk or Recorder of Deeds).

(2) If the property is recorded on a plat map, a copy of the recorded plat indicating both the location of the property and the official recordation information (plat book volume and page number) and bearing the seal of the appropriate recordation official. If the property is not recorded on a plat map, copies of the tax map or other suitable maps are required to aid FEMA in accurately locating the property.

(3) If a legally defined parcel of land is involved, a topographic map indicating present ground elevations and date of fill. FEMA's determination as to whether a legally defined parcel of land is to be excluded from the area of special flood hazard shall be based upon a comparison of the ground elevations of the parcel with the elevations of the base flood. If the ground elevations of the entire legally defined parcel of land are at or above the elevations of the base flood, the parcel may be excluded from the area of special flood hazard.

(4) If a structure is involved, a topographic map indicating structure location and ground elevations including the elevations of the lowest floor (including basement) and the lowest adjacent grade to the structure. FEMA's determination as to whether a structure is to be excluded from the area of special flood hazard shall be based upon a comparison of the elevation of the lowest floor (including basement) and the elevation of the lowest adjacent grade with the elevation of the base flood. If the entire structure and the lowest adjacent grade are at or above the elevation of the base flood, the structure may be excluded from the area of special flood hazard.

(5) Data to substantiate the base flood elevation. If FEMA has completed a Flood Insurance Study (FIS), that data will be used to substantiate the base flood. Otherwise, data provided by an authoritative source, such as the U.S. Army Corps of Engineers, U.S. Geological Survey, U.S. Soil Conservation Service, state and local water resource departments, or technical data prepared and certified by a registered professional engineer may be submitted. If base flood elevations have not previously been established, hydraulic calculations may also be requested.

(6) Where fill has been placed to raise the ground surface to or above the base flood elevation and the request to gain exclusion from an area of special flood hazard includes more than a single structure or a single lot, it must be demonstrated that fill will not settle below the elevation of the base flood, and that the fill is adequately protected from the forces of erosion, scour, or differential settlement as described below:

(i) Fill must be compacted to 95 percent of the maximum density obtainable with the Standard Proctor Test method issued by the American Society for Testing and Materials (ASTM Standard D–698). This

requirement applies to fill pads prepared for residential or commercial structure foundations and does not apply to filled areas intended for other uses.

(ii) Fill slopes for granular materials are not steeper than one vertical on one-and-one-half horizontal unless substantiating data justifying steeper slopes is submitted.

(iii) Adequate protection is provided fill slopes exposed to flood waters with expected velocities during the occurrence of the base flood of five feet per second or less by covering them with grass, vines, weeds, or similar vegetation undergrowth.

(iv) Adequate protection is provided fill slopes exposed to flood waters with velocities during the occurrence of the base flood of greater than five feet per second by armoring them with stone or rock slope protection.

(7) A revision of flood plain delineations based on fill must demonstrate that any such fill has not resulted in a floodway encroachment.

(b) *New topographic data.* The procedures described in paragraphs (a)(1) through (5) of this section may be also followed to request a map revision when no physical changes have occurred in the area of special flood hazard, when no fill has been placed, and when the natural ground elevations, as evidenced by new topographic maps, more detailed or more accurate than those used to prepare the map to be revised, are shown to be above the elevation of the base flood.

(c) *Certification requirements.* The items required in paragraphs (a)(3) and (4) and (b) of this section shall be certified by a registered professional engineer or licensed land surveyor. Items required in paragraph (a)(6) of this section shall be certified by the community's NFIP permit official, a registered professional engineer, or an accredited soils engineer. Such certifications are subject to the provisions of § 65.2 of this subchapter.

(d) *Submission procedures.* All requests shall be submitted to the appropriate FEMA Regional Office servicing the community's geographic area.

§ 65.6 Revision of base flood elevation determinations.

(a) *General conditions and data requirements.* (1) The supporting data must include all the information FEMA needs to review and evaluate the request. This may involve the requestor's performing new hydrologic and hydraulic analysis and delineation of new flood plain boundaries and floodways, as necessary.

(2) To avoid discontinuities between the revised and unrevised flood data, the necessary hydrologic and hydraulic analyses submitted by the map revision requestor must be extensive enough to ensure that a logical transition can be shown between the revised flood elevations, flood plain boundaries, and floodways and those developed previously for areas not affected by the revision. Unless it is demonstrated that it would not be appropriate, the revised and unrevised base flood elevations must match within one-half foot where such transitions occur.

(3) Revisions cannot be made based on the effects of proposed projects or future conditions. Section 65.8 of this subchapter contains provisions for obtaining conditional approval of proposed projects that may effect map changes when they are completed.

(4) The datum and date of releveling of benchmarks, if any, to which the elevations are referenced must be indicated.

(5) Maps will not be revised when discharges change as a result of the use of an alternative methodology or data for computing flood discharges unless the change is statistically significant as measured by a confidence limits analysis of the new discharge estimates.

(6) In order for an alternative hydraulic or hydrologic methodology to be accepted, any computer program used must be accepted for general use by a governmental agency or notable scientific body, must be well documented including a user's and programmer's manual, and must be available to the general user.

(7) A revised hydrologic analysis for flooding sources with established base flood elevations must include evaluation of the same recurrence interval(s) studied in the effective FIS, such as the 10-, 50-, 100-, and 500-year flood discharges.

(8) A revised hydraulic analysis for a flooding source with established base flood elevations must include evaluation of the same recurrence interval(s) studied in the effective FIS, such as the 10-, 50-, 100-, and 500-year flood elevations, and of the floodway. Unless the basis of the request is the use of an alternative hydraulic methodology or the requestor can demonstrate that the data of the original hydraulic computer model is unavailable or its use is inappropriate, the analysis shall be made using the same hydraulic computer model used to develop the base flood elevations shown on the effective Flood Insurance Rate Map and updated to show present conditions in the flood plain. Copies of the input and output data from the original and revised hydraulic analyses shall be submitted.

(9) A hydrologic or hydraulic analysis for a flooding source without established base flood elevations may be performed for only the 100-year flood.

(10) A revision of flood plain delineations based on topographic changes must demonstrate that any topographic changes have not resulted in a floodway encroachment.

(11) Delineations of flood plain boundaries for a flooding source with established base flood elevations must provide both the 100- and 500-year flood plain boundaries. For flooding sources without established base flood elevations, only 100-year flood plain boundaries need be submitted. These boundaries should be shown on a topographic map of suitable scale and contour interval.

(b) *Data requirements for correcting map errors.* To correct errors in the original flood analysis, technical data submissions shall include the following:

(1) Data identifying mathematical errors.

(2) Data identifying measurement errors and providing correct measurements.

(c) *Data requirements for changed physical conditions.* Revisions based on the effects of physical changes that have occurred in the flood plain shall include:

(1) *Changes affecting hydrologic conditions.* The following data must be submitted:

(i) General description of the changes (e.g., dam, diversion channel, or detention basin).

(ii) Construction plans for as-built conditions, if applicable.

(iii) New hydrologic analysis accounting for the effects of the changes.

(iv) New hydraulic analysis and profiles using the new flood discharge values resulting from the hydrologic analysis.

(v) Revised delineations of the flood plain boundaries and floodway.

(2) *Changes affecting hydraulic conditions.* The following data shall be submitted:

(i) General description of the changes (e.g., channelization or new bridge, culvert, or levee).

(ii) Construction plans for as-built conditions.

(iii) New hydraulic analysis and flood elevation profiles accounting for the effects of the changes and using the original flood discharge values upon which the original map is based.

(iv) Revised delineations of the flood plain boundaries and floodway.

(3) *Changes involving topographic conditions.* The following data shall be submitted:

(i) General description of the changes (e.g., grading or filling).

(ii) New topographic information, such as spot elevations, cross sections grading plans, or contour maps.

(iii) Revised delineations of the flood plain boundaries and, if necessary, floodway.

(d) *Data requirements for incorporating improved data.* Requests for revisions based on the use of improved hydrologic, hydraulic, or topographic data shall include the following data:

(1) Data that are believed to be better than those used in the original analysis (such as additional years of stream gage data).

(2) Documentation of the source of the data.

(3) Explanation as to why the use of the new data will improve the results of the original analysis.

(4) Revised hydrologic analysis where hydrologic data are being incorporated.

(5) Revised hydraulic analysis and flood elevation profiles where new hydrologic or hydraulic data are being incorporated.

(6) Revised delineations of the flood plain boundaries and floodway where new hydrologic, hydraulic, or topographic data are being incorporated.

(e) *Data requirements for incorporating improved methods.* Requests for revisions based on the use of improved hydrologic or hydraulic methodology shall include the following data:

(1) New hydrologic analysis when an alternative hydrologic methodology is being proposed.

(2) New hydraulic analysis and flood elevation profiles when an alternative hyrologic or hydraulic methodology is being proposed.

(3) Explanation as to why the alternative methodologies are superior to the original methodologies.

(4) Revised delineations of the flood plain boundaries and floodway based on the new analysis(es).

(f) *Certification requirements.* All analysis and data submitted by the requester shall be certified by a registered professional engineer or licensed land surveyor, as appropriate, subject to the definition of "certification" given at § 65.2 of this subchapter.

(g) *Submission procedures.* All requests shall be submitted to the appropriate FEMA Regional Office servicing the community's geographic area.

§ 65.7 Floodway revisions.

(a) *General.* Floodway data is developed as part of FEMA Flood Insurance Studies and is utilized by communities to select and adopt floodways as part of the flood plain management program required by § 60.3 of this subchapter. When it has been determined by a community that no practicable alternatives exist to revising the boundaries of its previously adopted floodway, the procedures below shall be followed.

(b) *Data requirements when base flood elevation changes are requested.* When a floodway revision is requested in association with a change to base flood elevations, the data requirements of § 65.6 shall also be applicable. In addition, the following documentation shall be submitted:

(1) Copy of a public notice distributed by the community stating the community's intent to revise the floodway or a statement by the community that it has notified all affected property owners and affected adjacent jurisdictions.

(2) Copy of a letter notifying the appropriate State agency of the floodway revision when the State has jurisdiction over the floodway or its adoption by communities participating in the NFIP.

(3) Documentation of the approval of the revised floodway by the appropriate State agency (for communities where the State has jurisdiction over the floodway or its adoption by communities participating in the NFIP).

(4) Engineering analysis for the revised floodway, as described below:

(i) The floodway analysis must be performed using the hydraulic computer model used to determine the proposed base flood elevations.

(ii) The floodway limits must be set so that neither the effective base flood elevations nor the proposed base flood elevations if less than the effective base flood elevations, are increased by more than the amount specified under § 60.3 (d)(2). Copies of the input and output data from the original and modified computer models must be submitted.

(5) Delineation of the revised floodway on the same topographic map used for the delineation of the revised flood boundaries.

(c) *Data requirements for changes not associated with base flood elevation changes.* The following data shall be submitted:

(1) Items described in paragraphs (b) (1) through (3) of this section must be submitted.

(2) Engineering analysis for the revised floodway, as described below:

(i) The original hydraulic computer model used to develop the established base flood elevations must be modified to include all encroachments that have occurred in the flood plain since the existing floodway was developed. If the original hydraulic computer model is not available, an alternate hydraulic computer model may be used provided the alternate model has been calibrated so as to reproduce the original water surface profile of the original hydraulic computer model. The alternate model must be then modified to include all encroachments that have occurred since the existing floodway was developed.

(ii) The floodway analysis must be performed with the modified computer model using the desired floodway limits.

(iii) The floodway limits must be set so that combined effects of the past encroachments and the new floodway limits do not increase the effective base flood elevations by more than the amount specified in § 60.3(d)(2). Copies of the input and output data from the original and modified computer models must be submitted.

(3) Delineation of the revised floodway on a copy of the effective NFIP map and a suitable topographic map.

(d) *Certification requirements.* All analyses submitted shall be certified by a registered professional engineer. All topographic data shall be certified by a registered professional engineer or licensed land surveyor. Certifications are subject to the definition given at § 65.2 of this subchapter.

(e) *Submission procedures.* All requests that involve changes to floodways shall be submitted to the appropriate FEMA Regional Office servicing the community's geographic area.

§ 65.8 Review of proposed projects.

A community, or individual through the community, wishing FEMA's comments on whether a proposed project, if built as proposed, would justify a map revision may request a Conditional Letter of Map Amendment or Revision in accordance with Part 72 of this subchapter. The data required to support such requests are the same as those required to support requests for revisions in accordance with §§ 65.5, 65.6, and 65.7, except as-built certification is not required.

§ 65.9 Review and response by the Administrator.

If any questions or problems arise during review, FEMA will consult the Chief Executive Officer of the community (CEO), the community official designated by the CEO, and/or

the requester for resolution. Upon receipt of a revision request, the Administrator shall mail an acknowledgment of receipt of such request to the CEO. Within 90 days of receiving the request with all necessary information, the Administrator shall notify the CEO of one or more of the following:

(a) The effective map(s) shall not be modified;

(b) The base flood elevations on the effective FIRM shall be modified and new base flood elevations shall be established under the provisions of Part 67 of this subchapter;

(c) The changes requested are approved and the map(s) amended by Letter of Map Revision (LOMR);

(d) The changes requested are approved and a revised map(s) will be printed and distributed;

(e) The changes requested are not of such a significant nature as to warrant a reissuance or revision of the flood insurance study or maps and will be deferred until such time as a significant change occurs;

(f) An additional 90 days is required to evaluate the scientific or technical data submitted; or

(g) Additional data are required to support the revision request.

§65.10 Mapping of areas protected by levee systems.

(a) *General.* For purposes of the NFIP, FEMA will only recognize in its flood hazard and risk mapping effort those levee systems that meet, and continue to meet, minimum design, operation, and maintenance standards that are consistent with the level of protection sought through the comprehensive flood plain management criteria established by § 60.3 of this subchapter. Accordingly, this section describes the types of information FEMA needs to recognize, on NFIP maps, that a levee system provides protection from the base flood. This information must be supplied to FEMA by the community or other party seeking recognition of such a levee system at the time a flood risk study or restudy is conducted, when a map revision under the provisions of Part 65 of this subchapter is sought based on a levee system, and upon request by the Administrator during the review of previously recognized structures. The FEMA review will be for the sole purpose of establishing appropriate risk zone determinations for NFIP maps and shall not constitute a determination by FEMA as to how a structure or system will perform in a flood event.

(b) *Design criteria.* For levees to be recognized by FEMA, evidence that adequate design and operation and maintenance systems are in place to provide reasonable assurance that protection from the base flood exists must be provided. The following requirements must be met:

(1) *Freeboard.* (i) Riverine levees must provide a minimum freeboard of three feet above the water-surface level of the base flood. An additional one foot above the minimum is required within 100 feet in either side of structures (such as bridges) riverward of the levee or wherever the flow is constricted. An additional one-half foot above the minimum at the upstream end of the levee, tapering to not less than the minimum at the downstream end of the levee, is also required.

(ii) Occasionally, exceptions to the minimum riverine freeboard requirement described in (b)(1)(i) above may be approved. Appropriate engineering analyses demonstrating adequate protection with a lesser freeboard must be submitted to support a request for such an exception. The material presented must evaluate the uncertainty in the estimated base flood elevation profile and include, but not necessarily be limited to an assessment of statistical confidence limits of the 100-year discharge; changes in stage-discharge relationships; and the sources, potential, and magnitude of debris, sediment, and ice accumulation. It must be also shown that the levee will remain structurally stable during the base flood when such additional loading considerations are imposed. Under no circumstances will freeboard of less than two feet be accepted.

(iii) For coastal levees, the freeboard must be established at one foot above the height of the one percent wave or the maximum wave runup (whichever is greater) associated with the 100-year stillwater surge elevation at the site.

(iv) Occasionally, exceptions to the minimum coastal levee freeboard requirement described in (b)(1)(iii) may be approved. Appropriate engineering analyses demonstrating adequate protection with a lesser freeboard must be submitted to support a request for such an exception. The material presented must evaluate the uncertainty in the estimated base flood loading conditions. Particular emphasis must be placed on the effects of wave attack and overtopping on the stability of the levee. Under no circumstances, however, will a freeboard of less than two feet above the 100-year stillwater surge elevation be accepted.

(2) *Closures.* All openings must be provided with closure devices that are structural parts of the system during operation and design according to sound engineering practice.

(3) *Embankment protection.* Engineering analyses must be submitted that demonstrate that no appreciable erosion of the levee embankment can be expected during the base flood, as a result of either currents or waves, and that anticipated erosion will not result in failure of the levee embankment or foundation directly or indirectly through reduction of the seepage path and subsequent instability. The factors to be addressed in such analyses include, but are not limited to: Expected flow velocities (especially in constricted areas); expected wind and wave action; ice loading; impact of debris; slope protection techniques; duration of flooding at various stages and velocities; embankment and foundation materials; levee alignment, bends, and transitions; and levee side slopes.

(4) *Embankment and foundation stability.* Engineering analyses that evaluate levee embankment stability must be submitted. The analyses provided shall evaluate expected seepage during loading conditions associated with the base flood and shall demonstrate that seepage into or through the levee foundation and embankment will not jeopardize embankment or foundation stability. An alternative analysis demonstrating that the levee is designed and constructed for stability against loading conditions for Case IV as defined in the U.S. Army Corps of Engineers (COE) manual, "Design and Construction of Levees" (EM 1110–2–1913, Chapter 6, Section II), may be used. The factors that shall be addressed in the analyses include: Depth of flooding, duration of flooding, embankment geometry and length of seepage path at critical locations, embankment and foundation materials, embankment compaction, penetrations, other design factors affecting seepage (such as drainage layers), and other design factors affecting embankment and foundation stability (such as berms).

(5) *Settlement.* Engineering analyses must be submitted that assess the potential and magnitude of future losses of freeboard as a result of levee settlement and demonstrate that freeboard will be maintained within the minimum standards set forth in paragraph (b)(1) of this section. This analysis must address embankment loads, compressibility of embankment soils, compressibility of foundation soils, age of the levee system, and construction compaction methods. In addition, detailed settlement analysis using procedures such as those

described in the COE manual, "Soil Mechanics Design—Settlement Analysis" (EM 1100–2–1904) must be submitted.

(6) *Interior drainage.* An analysis must be submitted that identifies the source(s) of such flooding, the extent of the flooded area, and, if the average depth is greater than one foot, the water-surface elevation(s) of the base flood. This analysis must be based on the joint probability of interior and exterior flooding and the capacity of facilities (such as drainage lines and pumps) for evacuating interior floodwaters.

(7) *Other design criteria.* In unique situations, such as those where the levee system has relatively high vulnerability, FEMA may require that other design criteria and analyses be submitted to show that the levees provide adequate protection. In such situations, sound engineering practice will be the standard on which FEMA will base its determinations. FEMA will also provide the rationale for requiring this additional information.

(c) *Operation plans and criteria.* For a levee system to be recognized, the operational criteria must be as described below. All closure devices or mechanical systems for internal drainage, whether manual or automatic, must be operated in accordance with an officially adopted operation manual, a copy of which must be provided to FEMA by the operator when levee or drainage system recognition is being sought or when the manual for a previously recognized system is revised in any manner. All operations must be under the jurisdiction of a Federal or State agency, an agency created by Federal or State law, or an agency of a community participating in the NFIP.

(1) *Closures.* Operation plans for closures must include the following:

(i) Documentation of the flood warning system, under the jurisdiction of Federal, State, or community officials, that will be used to trigger emergency operation activities and demonstration that sufficient flood warning time exists for the completed operation of all closure structures, including necessary sealing, before floodwaters reach the base of the closure.

(ii) A formal plan of operation including specific actions and assignments of responsibility by individual name or title.

(iii) Provisions for periodic operation, at not less than one-year intervals, of the closure structure for testing and training purposes.

(2) *Interior drainage systems.* Interior drainage systems associated with levee systems usually include storage areas, gravity outlets, pumping stations, or a combination thereof. These drainage systems will be recognized by FEMA on NFIP maps for flood protection purposes only if the following minimum criteria are included in the operation plan:

(i) Documentation of the flood warning system, under the jurisdiction of Federal, State, or community officials, that will be used to trigger emergency operation activities and demonstration that sufficient flood warning time exists to permit activation of mechanized portions of the drainage system.

(ii) A formal plan of operation including specific actions and assignments of responsibility by individual name or title.

(iii) Provision for manual backup for the activation of automatic systems.

(iv) Provisions for periodic inspection of interior drainage systems and periodic operation of any mechanized portions for testing and training purposes. No more than one year shall elapse between either the inspections or the operations.

(3) *Other operation plans and criteria.* Other operating plans and criteria may be required by FEMA to ensure that adequate protection is provided in specific situations. In such cases, sound emergency management practice will be the standard upon which FEMA determinations will be based.

(d) *Maintenance plans and criteria.* For levee systems to be recognized as providing protection from the base flood, the maintenance criteria must be as described herein. Levee systems must be maintained in accordance with an officially adopted maintenance plan, and a copy of this plan must be provided to FEMA by the owner of the levee system when recognition is being sought or when the plan for a previously recognized system is revised in any manner. All maintenance activities must be under the jurisdiction of a Federal or State agency, an agency created by Federal or State law, or an agency of a community participating in the NFIP that must assume ultimate responsibility for maintenance. This plan must document the formal procedure that ensures that the stability, height, and overall integrity of the levee and its associated structures and systems are maintained. At a minimum, maintenance plans shall specify the maintenance activities to be performed, the frequency of their performance, and the person by name or title responsible for their performance.

(e) *Certification requirements.* Data submitted to support that a given levee system complies with the structural requirements set forth in paragraphs (b)(1) through (b)(7) of this section must be certified by a registered professional engineer. Also, certified as-built plans of the levee must be submitted. Certifications are subject to the definition given at § 65.2 of this subchapter. In lieu of these structural requirements, a Federal agency with responsibility for levee design may certify that the levee has been adequately designed and constructed to provide protection against the base flood.

§ 65.11 List of communities submitting new technical data.

This section provides a cumulative list of communities where modifications of the base flood elevation determinations have been made because of submission of new scientific or technical data. Due to the need for expediting the modifications, the revised map is already in effect and the appeal period commences on or about the effective date of the modified map. An interim rule, followed by a final rule, will list the revised map effective date, local repository and the name and address of the Chief Executive Officer of the community. The map(s) is (are) effective for both flood plain management and insurance purposes.

PART 70—PROCEDURES FOR MAP CORRECTION

18. The authority citation for Part 70 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 70.1 [Amended]

19. Section 70.1 is amended by removing the last two sentences and by adding the following two sentences in place thereof:

* * * These procedures shall not apply when there has been any alteration of topography since the effective date of the first NFIP map (i.e., FHBM or FIRM) showing the property within an area of special flood hazard. Appeals in such circumstances are subject to the provisions of Part 65 of this subchapter.

§ 70.3 [Amended]

20. Section 70.3 is amended in the following particulars:

a. In paragraph (b)(2)(i) by adding after the word "contours" and before the comma the words "in relation to the National Geodetic Vertical Datum (NVGD) of 1929".

b. By removing the last sentence of paragraph (b)(4).

§ 70.4 [Amended]

21. Section 70.4 is amended by adding after the word "that" and before the colon the words "either the ground elevations of an entire legally defined

parcel of land or the elevation of the lowest adjacent grade to a structure have been compared with the elevation of the base flood and that".

22. Part 70 is amended by adding § 70.9 to read as follows:

§ 70.9 Review of proposed projects.

An individual who is proposing to build on that portion of a property that may be inadvertently included in an area of special flood hazard may request a Conditional Letter of Map Amendment in accordance with Part 72 of this subchapter. The data required to support such requests are the same as those required to support requests for final Letters of Map Amendment in accordance with 70.3, except as-built certification is not required.

23. Part 73 is added to 44 CFR Chapter 1, Subchapter B to read as follows:

PART 73—IMPLEMENTATION OF SECTION 1316 OF THE NATIONAL FLOOD INSURANCE ACT OF 1968

Sec.

73.1 Purpose of part.
73.2 Definitions.
73.3 Denial of flood insurance coverage.
73.4 Restoration of flood insurance coverage.

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 73.1 Purpose of part.

This part implements Section 1316 of the National Flood Insurance Act of 1968.

§ 73.2 Definitions.

(a) Except as otherwise provided in this part, the definitions set forth in Part 59 of this subchapter are applicable to this part.

(b) For the purpose of this part a "duly constituted State or local zoning authority or other authorized public body" means an official or body authorized under State or local law to declare a structure to be in violation of a law, regulation or ordinance.

(c) For the purpose of this part, "State or local laws, regulations or ordinances intended to discourage or restrict development or occupancy of flood-prone areas" are measures such as those defined as "Flood plain management regulations" in § 59.1 of this subchapter. Such measures are referred to in this part as State or local flood plain management regulations.

§ 73.3 Denial of flood insurance coverage.

(a) No new flood insurance shall be provided for any property which the Administrator finds has been declared by a duly constituted State or local zoning authority or other authorized public body, to be in violation of State or local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

(b) New and renewal flood insurance shall be denied to a structure upon a finding by the Administrator of a valid declaration of a violation.

(c) States and communities shall determine whether to submit a declaration to the Administrator for the denial of insurance.

(d) A valid declaration shall consist of:

(1) The name(s) of the property owner(s) and address or legal description of the property sufficient to confirm its identity and location;

(2) A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation or ordinance;

(3) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;

(4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

(5) A clear statement that the declaration is being submitted pursuant to section 1316 of the National Flood Insurance Act of 1968, as amended.

§ 73.4 Restoration of flood insurance coverage.

(a) Insurance availability shall be restored to a property upon a finding by the Administrator of a valid rescission of a declaration of a violation.

(b) A valid rescission shall be submitted to the Administrator and shall consist of:

(1) The name of the property owner(s) and an address or legal description of the property sufficient to identify the property and to enable FEMA to identify the previous declaration;

(2) A clear and unequivocal statement by an authorized public body rescinding the declaration and giving the reason(s) for the rescission;

(3) A description of and supporting documentation for the measures taken in lieu of denial of insurance in order to bring the structure into compliance with the local flood plain management regulations; and

(4) A clear statement that the public body rescinding the declaration has the authority to do so and a citation to that authority.

PART 76—[REMOVED AND RESERVED]

24. By removing and reserving Part 76.

Dated: August 18, 1986.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 86-18999 Filed 8-22-86; 8:45 am]

BILLING CODE 6718-05-M

Monday
August 25, 1987

Part III

Department of Education

Research in Education of the Handicapped Program; Notice Inviting Applications for New Awards and Proposed Biennial Funding Priorities

DEPARTMENT OF EDUCATION

Notice Inviting Applications for New Awards under the Research in Education of the Handicapped Program for Fiscal Year 1987 (CFDA 84.023)

Purpose: To assist research and related purposes, and to conduct research, surveys, or demonstrations, relating to the education of handicapped children.

Applications Available: August 29, 1986.

Applicable Regulations: (a) The Research in Education of the Handicapped Program Regulations, 34 CFR Part 324, (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78, and (c) when adopted in final form, the Biennial Funding Priorities for this program. A notice of proposed biennial funding priorities is published in this issue of the **Federal Register**. Applicants should prepare their applications based on the proposed priorities. If there are any changes made when the final annual funding priorities are published, applicants will be given the opportunity to amend or resubmit their applications.

Priorities: The Secretary proposes to establish, pursuant to 34 CFR 75.105(c)(3) and 34 CFR 324.30, the following priorities for fiscal year 1987. The Secretary intends to give an absolute preference to applications that meet any of these priorities.

CFDA No.	Priority	Closing date	Project period	Available funds	Estimated No. of awards
84.023C	Field initiated research projects	10/14/86	Up to 60 mo.	$2,500,000	25
84.023B	Student initiated research projects	02/27/87	Up to 18 mo.	150,000	20
84.023H	Research implementation and demonstration (cooperative agreements).	12/01/86	Up to 48 mo.	1,926,000	13
84.023K	Educating learning disabled and mildly handicapped students in general education classrooms (cooperative agreements).	02/27/87	Up to 36 mo.	1,200,000	8
84.023M	Research for educating seriously emotionally disturbed students (cooperative agreements).	10/24/86	Up to 36 mo.	1,200,000	4
84.023R	Synthesis, validation, and dissemination of research methods for mainstreamed settings (cooperative agreement).	10/14/86	Up to 24 mo.	$300,000	1

For Applications or Information Contact: Linda Glidewell, U.S. Department of Education, Office of Special Education Programs, Division of Innovation and Development, 400 Maryland Avenue SW., (Switzer Building, Room 3511–M/S 2313), Washington, DC 20202. Telephone: (202) 732–1099.

Program Authority: 20 U.S.C. 1441–1444.

Dated: August 20, 1986.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 86–19136 Filed 8–22–86; 8:45 am]

BILLING CODE 4000–01–M

Office of Special Education and Rehabilitative Services

Research in Education of the Handicapped

AGENCY: Department of Education.

ACTION: Notice of proposed biennial funding priorities.

SUMMARY: The Secretary proposes biennial funding priorities for the Research in Education of the Handicapped program. To ensure wide and effective use of program funds, the Secretary proposes to select from among ten priorities in order to direct funds to the areas of greatest need for fiscal years 1987 and 1988. A separate competition will be established for each selected priority.

DATE: Comments must be received on or before October 24, 1986.

ADDRESS: Comments should be addressed to Linda Glidewell, Division of Educational Services, Special Education Programs, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 3511—M/S 2313), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Linda Glidewell. Telephone: (202) 732–1099.

SUPPLEMENTARY INFORMATION: The Research in Education of the Handicapped program, authorized by sections 641–644 of Part E of the Education of the Handicapped Act (20 U.S.C. 1441–1444), supports research, surveys, and demonstration projects relating to the educational needs of handicapped children. Under this program, the Secretary makes awards to eligible parties for research and related activities, to assist special education personnel, related services personnel, and other appropriate persons, including parents, in improving the education and related services for handicapped children and youth, and to conduct research, surveys, or demonstrations relating to the education of handicapped children and youth. Research and related activities supported under this program must be designed to increase knowledge and understanding of handicapping conditions and services for handicapped children and youth, including physical education or recreation.

The Education of the Handicapped Act Amendments of 1983, Pub. L. 98–199, included amendments to the provisions of section 641 of the Act. Under section 641(c) of the Act, the Secretary is expressly required to publish proposed research priorities in the **Federal Register** every two years, to analyze and consider any public comments received, and then to publish final research priorities. In accordance with this requirement, the Secretary proposes to select from among the following priorities to make fiscal year 1987 and fiscal year 1988 new awards.

Priorities

(a) Field-Initiated Research Projects

This priority would provide support for a broad range of field-initiated research projects focusing on the education of handicapped children and youth consistent with the purpose of the program as stated in 34 CFR 324.1.

(b) Student-Initiated Research Projects

This priority would provide support to postsecondary students to initiate and direct a broad range of research and research-related projects focusing on the education of handicapped children consistent with the purpose of the program as stated in 34 CFR 324.1.

(c) Research Implementation and Demonstration

This priority would support projects which involve collaboration between local educational agencies and researchers in translating validated research findings into new or improved approaches for educating school-aged handicapped children. This translation would include the development and verification of information and materials necessary to implement these new approaches, and would determine the effectiveness and applicability of these approaches in various settings and among subgroups of handicapped children. The translation of research findings into demonstrable practice must provide the informational bridge necessary to move research into schools and classrooms and reduce the time lag

between research and practice. These projects would disseminate and make visible new or innovative approaches and provide the information necessary for other educational agencies to incorporate those advancements into their administrative and instructional practices. Applications submitted under this priority must present the specific research findings that will be used to develop new approaches for educating handicapped students.

(d) Educating Learning Disabled and Mildly Handicapped Students in General Education Classrooms

Projects supported under this priority must study the effect of modified classroom instruction and management practices on mildly handicapped and learning disabled students in general education classrooms. Such studies must include: (1) A translation of research findings into classroom instruction and management practice; (2) a strategy for modifying current classroom instruction or management practice to deliver the special education and related services needed by mildly handicapped and learning disabled students within the general education classroom; and (3) identification of the types of mildly handicapped and learning disabled students for whom the modified classroom instruction or management practice is effective. Outcome measures for the projects must include measures of progress in meeting the goals and objectives in the individualized education plans (IEPs). Applications submitted under this priority must provide a conceptual framework that is based on previous research and shows the relationship among the following: (1) Characteristics of mildly handicapped and learning disabled children; (2) special education needs of mildly handicapped and learning disabled children; (3) instructional and management characteristics of the general education classroom; (4) requisite special education services; and (5) anticipated outcomes for handicapped and non-handicapped students. Though applications should propose specific research variables, measures, and instruments, it is anticipated that all projects funded under this priority will be required to adopt certain common variables, measures, and instruments in order to facilitate the synthesis of results among projects.

(e) Research for Educating Seriously Emotionally Disturbed Students

This priority would support research projects that develop and test intervention strategies or components for educating seriously emotionally disturbed students (pre-adolescents), and translate research findings into demonstrable practices. Strategies would be developed within general education settings. Outcome measures for the projects would include successful integration of seriously emotionally disturbed students into general education programs. Applications submitted under this priority must provide a conceptual framework, based on previous research, that shows the validated and hypothesized relationships between the intervention variables and the outcome measures included in the proposed research activities.

(f) Synthesis, Validation, and Dissemination of Research Methods for Mainstreamed Settings

This priority would support a project whose goal is to obtain consensus among researchers on variables, measures, and instrumentation for researching the effective education of mildly handicapped and learning disabled students in general education settings. This consensus would then be used as the basis for common measures that projects under Priority (d) would be required to include in their studies. A project under this priority (f) must: (1) Synthesize current practice in measurement and instrumentation relevant to the research area; (2) provide a strategy for obtaining agreement or consensus on common variables, measurement, and instrumentation; and (3) provide a strategy to disseminate information regarding the variables, measures, and instrumentation to projects under Priority (d) as well as other researchers. This strategy should include on-site assistance, if needed, to projects funded under Priority (d).

(g) Extant Data Base Projects

This priority would support projects that use existing records and information as the subject of research focusing on issues related to the education of handicapped children. Applications submitted under this priority must provide documentation regarding the availability, completeness, and usefulness of existing records for the proposed research.

(h) Home and School Cooperation in Social and Motivational Development

This priority would support research projects that identify strategies and experiences to promote the social and personal development of handicapped students in the elementary grades. Projects would explore practices and experiences at home, in school, and in the community that result in the development of self-esteem, feelings of self-confidence and independence which have been found to be related to the achievement of handicapped students. Projects would research the cooperative involvement of parents, educational personnel, and guidance and other related service personnel in planning and implementing those strategies and experiences. Applications submitted under this priority must provide a conceptual frame work, based on previous research, that shows the hypothesized relationships between the home, school, and community practices and experiences to be studied and the development of self-esteem, self-confidence, and independence by handicapped students. Procedures and instruments that will be used to measure self-esteem, self-confidence and independence must also be specified.

(i) The Impact of Effective School Reforms on Handicapped Students

This priority would support projects that examine the effects on handicapped children in general education classes of: (a) Instructional practices that research has shown as effective in general education, or (b) changes to more rigorous curricula and graduation requirements. Applications submitted under this priority must identify the specific instructional, curricular, and graduation practices that will be studied, and must provide a research design that allows effects on handicapped students to be attributed to the specified practices.

(j) Research on Special Education and Related Service Personnel Shortages

This priority would support research projects that use demographic statistics from multiple State or local educational agencies to identify and validate patterns, and explanations for patterns associated with special education and related service personnel entering, remaining in, and exiting employment in educational agencies. These projects would be designed to enhance the effectiveness of educational agencies in the recruitment and retention of special education and related service personnel, or to provide information useful in directing resources toward relieving shortages of personnel. Applications submitted under this priority must document the completeness and reliability of the demographic statistics that will be used for the research.

Invitation to Comment

Interested persons are invited to submit comments and recommendations

regarding the proposed biennial funding priorities.

All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in room 3522, Switzer Building, 330 C Street, SW., Washington, DC between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(20 U.S.C. 1441–1444)

(Catalog of Federal Domestic Assistance Number 84.023; Research in Education of the Handicapped)

Dated: August 20, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86–19137 Filed 8–22–86; 8:45 am]

BILLING CODE 4000–01–M

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[3] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[4] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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